1844-019 SOUTHAMPTON COUNTY CHANCERY PAPERS

PRETLOW'S ADMINISTRATOR vs. SCOTT'S ADMINISTRATOR

S/18411

See also: Several suits styled Pretlow, Scott etc. re: disposition of property after their Murders in 1840.

N.B. Several sheets pasted together and folded.

other surnames: Drake, Peele, Jones, Spurk, Britt, Seabrell, Sebrell, Wester, Westre, Ricks, Moore, Drewry, Massenburg, Peel, Holmes, Devany, Jordan, Bailey

Prettows adm.
v. } Papers
Scotts adm.

1841
March 23. Bill filed & Sp.a ss.d
Comm. iss.d to take dep.s of Matt.
Drake. de bene esse &c.
Aff.t Sp.a Executed
Sep.t answer filed by consent 2. Rep.s
Ex.d J. Dicey for acc.t
1842 Mar.h 5 Report
" " 21 Exceptions by Aff.t to Rep.t
" Aff.t Exceptions withdrawn - Dicey for Pet.rs
1843. Oct. Dicey for addl. account.
1844 May Dicey fin.l

Douglas pgs

Preston's Admstr
vs
Scott's Admstr

Bill
&
Exhibits

Filed March 25. 1841.
Spa. ps.
L R Edwards

(1236 words)

To the Hon: Richard A Baker Judge of the Cir: Supr: Court of Law & Ch: in & for the County of Southampton

Humbly complaining Sheweth unto your Honour your Ora=
=tor Thomas J Pretlow administrator of Ann Pretlow decd. That James Scott, of the County of Southampton, was in his life time; and at the time of his death, possessed of, interested in, and well entitled unto a considerable Personal estate. Consisting of ready money, money out at interest upon bonds, mortgages & other securities, and divers other goods and effects; to a considerable amount in value, & greatly more than sufficient to satisfy & pay all his just debts & funeral expenses; and being so possessed, interested, and entitled, he the said James Scott, did in and about the month of December in the year 1840. depart this life, after having first made & published a last will & testament, by which he gave, devised, & bequeathed unto his Sister Ann Pretlow, all of his estate both real & personal, to her & her heirs forever; which said last will & testament has been duly admitted to Probat, and recorded in the Clerks office of the County of Southampton; all of which will more fully appear by a Copy of said will hereunto filed & prayed to be taken as a part of this bill — Your Orator moved also shew unto your honour; that the said Ann Pretlow did in and about the month of December 1840 depart this life intestate having survived her said brother James Scott, but before she took upon herself the duties of his Executrix to which she was appointed by his last will & testament; and that your Orator duly obtained Letters of administration & qualified as her administrator in the County of Southampton, and as such is justly entitled to all the personal estate, rights & Credits, of which said Ann Pretlow died seized, possessed, interested & entitled: And your Orator would further shew unto your honour, that sometime after the death of said Testator James Scott, and before it was known he had left a last will & testament, Alfred J Bailey obtained Letters of administration of his goods & Chattles, rights and Cre=
=dits to be granted to him by the Worshipful County Court of South=
=ampton County; and did by virtue thereof possess himself of the said personal estate of the said Testator James Scott; to

a large amount in value, and greatly more than sufficient to pay & satisfy all his just debts: (for in truth & in fact no debts were outstanding against the said Testator James Scott) with a large surplus or residue which residue your Orator contends and charge, under the last will & Testament of said Testator James Scott, should come to the hands of your Orator, he being justly and legally entitled to it, as the administrator of Ann Pretlow dec'd who was the sole Legatee & entitled to all the estate of said Testator James Scott, and who survived the said Testator, James Scott. Your Orator moved also shew unto your honour, that after the production of the will of said James Scott, the first qualification of said Alfred S Bailey as his administrator was on motion set aside, but that the said Alfred S Bailey was permitted to qualify as administrator de bonis, non with the will annexed on the estate of said Testator James Scott, and in virtue of this second qualification, the said Alfred S Bailey still continues to hold possession of the personal estate of which the said Testator James Scott died seized, possessed & entitled & which by his last will & Testament he bequeathed, gave & devised to his sister Ann Pretlow, of whose estate your Orator is the Legal representative, having qualified as her administrator — Your Orator moved also shew unto your honour that being so entitled as aforesaid to the personal estate, rights & Credits of which said Testator James Scott died possessed &c (as the administrator of Ann Pretlow dec'd) he has made frequently & in a friendly manner applied to the said Alfred S Bailey administrator as aforesaid, and requested him to come to an account with your Orator for the personal estate of which the said Testator James Scott, died seized & possessed & entitled; and to pay the same into the hands of your Orator as administrator of Ann Pretlow dec'd, who was sole Legatee under the will of the said Testator James Scott, & legally & justly entitled to all his personal estate; And your Orator will hoped the said Alfred S Bailey administrator as aforesaid would have complied with such his reasonable request, as in Equity & Justice he ought to have done. But now so it is, the said Alfred S Bailey administrator as aforesaid, combining & confederating with others

(Copies of which qualification Marked No 1 & 2 are herewith filed)

pretends that James Scott survived his Sister Ann Pretlow, and that the Legacy to the said Ann Pretlow is lapsed, null, and void, the Contrary whereof your Orator expressly charge to be true All of which actings, doings and pretences are contrary to equity and good Conscience, and tend to the manifest wrong and injury of your Orator in the premises. In Tender Consideration whereof and forasmuch as your Orator is remediless in the premises, at and by the direct and strict rules of the Common Law, and cannot have adequate relief save in a Court of Equity where matters of this and the like nature are properly Cognizable & Relievable. To the end therefore that justice may be done touching the premises; Your Orator prays your honour that Alfred S Bailey administrator De bonis non with the will annexed of James Scott dec'd, may be made a party Defendant to this Bill, and that the said Defendant may upon his Corporal oath, full, true & perfect answer make to all & singular the matters hereinbefore stated & charged, and that the said Alfred S Bailey administrator as aforesaid, may set forth, a true and particular inventory & account of all & singular the personal estate & effects which have come to his hands as administrator de bonis non with the will annexed of James Scott & that an account may be also taken of the debts (if any) of the said Testator James Scott, and that yr honour would decree the residue after the payment of the debts of said testator, to be paid into the hands of your Orator as the administrator of Ann Pretlow dec'd, to whom the same was devised, given & bequeathed by the last will & Testament of said Testator James Scott; and that your Orator may have such other and general relief, the premises considered, as to your honour may seem just & proper, & which may be consistent with the rules of this honourable Court: & that your honour will be pleased to grant yr Orator the Com: mit of Sp:na: to be directed to the said Defendant Commanding him to stand to & abide such order & decree therein as to yr honour shall seem agreeable to Equity & good Conscience & yr Orator shall ever pray &c.

Samuel James Douglas Esq

Pacific Ins. Co.
vs
Scott's admr.
In Chy

Answer of C. S. Bailey
admr. of James Scott.

This answer may be
filed by consent.
S. A. Douglas

1841 Aug: 16th

In the Chancery Court of South Ampton.

To the Hon. Richard H Baker, judge, the answer of Alfred J Bailey admr de bonis non with the will annexed of James Scott dec.d to a bill of bill exhibited in this Court against him by Thos J Pretlow admr of Ann Pretlow dec.d

This respondent, saving &c. for answer to so much of the Compl.t bill, as he is advised, it is material for him to answer, says, that he admits the various qualifications, as set forth in the bill. he admits, that his testator left considerable estate, both personal, and real - that this respondent as admr has taken possession of the personal estate; and is progressing, as fast as the interest of his Testators estate, and his duty as admr, require him, to close his administration - that it is also true, the estate of James Scott, is not in debt - This respondent also admits directly, as he has before indirectly, that James Scott left a last will and testament, as is charged in the Compl.ts bill. But this respondent positively denies the right of the compl.t to call upon him, having to render an account, and pay over the estate of James Scott to him as the admr of Ann Pretlow dec.d: The compl.t well knowing, that his intestate

has no claim whatever to the legacy to her, contained in James Scotts will, unless she (his intestate) survived him, charges expressly in his bill, that she (the Sd Ann Pattow) survived the Sd James Scott. This allegation, this respondent, most positively and unequivocally denies, and calls for strict proof. This respondent also respectfully shows to the court, that James Scott (never having himself married) left various nephews and nieces - to wit - the children of Jos Pattow, the children of Sarah Bailey and the children of Joseph Scott.

That these relations are his heirs at law, and entitled to his estate, unless some one shall show to this court, that they or she is entitled under the will of James Scott to receive it; and your respondent is advised, that in order to do this, he or she so claiming, must prove clearly and unequivocally, by living witnesses that he or she so claiming (this their representative) was in existence, when he (Sd James Scott) departed this life - that unless such proof is exhibited, the legacy lapses, and becomes the property of the heirs at law - that against the heirs at law, there are no presumptions. The necessity of such proof this complt acknowledges, and has as before stated, expressly charged in his bill, that his intestate did survive James Scott - For strict and full proof of which charge, this respondent again calls -

This respondent has been informed, and thereupon states, that James Scott and Ann Pattow were both murdered in the dead of night in Decr 1840 - no human being present save their murderer - that they were both found dead on the premises; and it is impossible for any human being to say, which died first, and such being the state of the facts, your respondent is advised, that the complt as adm. of Ann Pattow, must fail in his claim.

Your respondent will be ready as adm. de bonis non, to abide any order or decree of this court. And having answered he prays to be hence dismissed with his costs &c

Parker & Gholson
p.q. defdt

Southampton County, to wit

This day Alfred S. Bailey personally appeared before me a justice of the peace for the county aforesd and made oath, that the foregoing answer contains the truth to the best of his knowledge and belief given under my hand this 16th day of August 1841 Jos T Lane J.P.

Pillow's adress.

" Dicey.

Scott's adress.

To be enclosed

Richd. H. Baker

Puttons admr
vs
Scott admr } Decree.

by consent of parties

This cause came on this day to be heard on the papers formerly read, and the report of the commissioner made pursuant to an order of November Term 1841. to which there is no exception (the exceptions of the Plff having been withdrawn) and was argued by counsel. On consideration whereof, the court confirming the said report, and being of opinion, that Ann Puttons, the intestate of the Plff, survived James Scott, the testator of the defendt. doth adjudge order and decree that the defendt Alfred I Bailey admr de bonis non of Jas. Scott pay to Thos Puttons admr of Ann Puttons &c. the sum of ~~$ 29444 43~~ twenty nine thousand eight hundred and seventy four dollars and twenty two cents - principal and interest with interest on twenty eight thousand six hundred and forty one dollars and thirteen cents part thereof from the 31st day of December 1841 till paid, and with interest on eight hundred and three dollars and twenty seven cents, the residue of the principal from 21 Feby 1842 till paid - And liberty is hereby reserved to the Plff to ask hereafter any further decree which may be necessary in relation to the maladministered estate of the testator James Scott. But the Plff is not to have the benefit of this decree until he or some person for him shall enter into bond with ~~good~~ sufficient security payable to Alfred I. Bailey admr with the will annexed of Jas Scott in a penalty double the amount hereby decreed conditioned ~~to account~~ upon ~~to pay~~ or answer any debts which may of the said assets appear ~~and be established~~ against

the estate of James Scott dec'd and all matters attending the recovery thereof.

Partout oder
es
heißt oder

Leute

Nov. 1943

Pattons adms

vs

Tevis adms.

In this cause it appearing to the satisfaction of the court that since the suit came the defendant Alfred T Bailey adms. of James Tevis dec'd has departed this life and that administration of his estate has been granted to a certain Timothy Atkinson by consent of parties the suit is revived and conte nued against the said Atkinson adms. as aforesaid and the cause coming on to be heard on the papers formerly read and on argument by counsel on consideration whereof the court doth adjudge order and decree that the said Timothy Atkinson as such adm. be forthwith A Edmunds who is hereby appointed commissioner to state and settle account of the said Bailey transactions in the estate of the said Tevis up to the time of his death which said commissioner is required to and do state & settle and report the same to the court with any matter deemed pertinent by him or required by the parties

I acknowledge due service of the within notice. March the 9th 1844

Robert L. Pretlow

Pretlow con:
vs
Sivis & Jettie
Scotts com

To be executed on Robert L. Pretlow
attn: de bonis non cum Bretton dec'
Ye Sheriff: de bonis non &c of James
Scott dec'

Southampton County to wit. This day Harrison D Morris made oath before me a Justice of the Peace for said County that Robert L Pretlow acknowledged due service of the within notice on the 9th day of March 1844. Given under my hand this 9th day of March 1844.

Lem D Nicholson JP

At a Circuit Superior Court of Law and Chancery held for the County of Southampton on the 2d day of November 1843.

Thomas J. Pitillow administrator of Ann Pitillow dec'd Pltff

against

Alfred S. Bailey administrator de bonis non with the will annexed of James Scott Defts

} In Chancery

In this Cause it appearing to the satisfaction of the Court that since the last term the defendant Alfred S. Bailey administrator of James Scott dec'd has departed this life and that administration of his estate has been granted to a Certain Timothy Atkinson by Consent of parties the said is revived and Continued against the said Atkinson administrator as aforesaid and the Cause Coming on again to be heard on the papers formerly read was argued by Counsel: On Consideration whereof the Court doth adjudge order and decree that the said Timothy Atkinson do render before Littleton R. Edwards who is hereby appointed Commissioner an additional account of the said Baileys transactions on the estate of the said Scott up to the time of his death which account the said Commissioner is required to audit state and settle and report the same to the Court with any matters deemed pertinent by himself or required by the parties

A Copy

Teste L R Edwards Clk

Jerusalem March 1st 1844.

I have appointed the 23rd day of March instant to take the account directed by the foregoing decree on which day by 11 O'Clock A.M. the parties are requested to attend at Jerusalem with such vouchers, evidence &c as will enable me to take the said account.

L R Edwards Com.

Petitions ordered
to
Lots ordered
be sent

To be entered
RHB

1844 May Term

Thos J Patton admr of Anne Patton dec'd

vs

Timothy Athens admr of Alfred J Bailey dec'd

This cause is which it appears that since the last term Robert J Patton has become admr de bonis non of Anne Patton dec'd and is by consent revived and entitled in his name, and the cause coming on to be heard on the papers formerly read and on the report of the Comr made in pursuance to the decree of the 2nd Nov 1843 the court confirming said report do order and decree that Timothy Athens admr of Alfred J Bailey dec'd do pay to the said Robert J Patton admr de bonis non of Anne Patton dec'd the sum of two hundred and ninety dollars and 15 cts with interest on $294.31 from the 3rd Oct 1843 till paid and that the costs of this suit be paid by the said

Robert & Patton admr. &c
The court doth permit on
the same day the the
said Timothy Atkinson admr
& said Alfred & Railey do come
& deliver to the said
Robert & Patton admr &c
~~former~~ all the monies
bills and evidences &
debts which came to the
possession of the said Alfred
& Railey as admr & the said
former & to the said

Southampton County to wit:

This day personally appeared before me a justice of the peace Elijah J Williams and made oath that he delivered a True copy of the within notice to Alfred I Bailey administrator de bonis non with the will annexed of James Scott on Saturday the 27th day of March 1841

Given under my hand ~~this~~ this 31st day of March 1841

A. T. Smith (J.P.)

Notice
Scott's Exr
Filed March 31/1841

A copy of the within served the 27th of march 1841

Elijah J Williams

To Alfred J Bailey administrator de bonis non with the Will annexed of James Scott decd

Please take notice that I shall on Wednesday the 31st (thirty first) day of March 1841, at the Jail in the ~~County~~ town of Jerusalem, County of Southampton and State of Virginia: between the hours of nine Oclock in the morning and six Oclock in the evening, in pursuance of a commission issued from the Clerk's office of the Circuit Supr. Court of Law & Chancery of Southampton County, proceed to take the Depositions of Mathew Drake to be read de bene esse, in a chancery suit now pending, & in which the bill is filed, in the Circuit Supr. Court of Law & Chancery in said County of Southampton. In which suit I am as the administrator of Ann Pretlow decd Plaintiff & you are, as administrator ~~of James Scott~~ de bonis non with the will annexed of James Scott decd Defendant, at which time & place you may attend if you think proper.

Thomas J Pretlow administrator
of Ann Pretlow decd

6.S.6

Pretlows adm

vs Sfa. in Lehy

Scotts adm

1841 April Term

Executed by delivering
a true copy of the
within to Alfred
S Bailey on the
27th Inst February
Ed White Shff
SCC

This Sfa. was returned to the Office
March 29. 1841. executed
R R Edwards

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of ~~Southampton~~ Surry County, Greeting:

We command you that you summon Alfred S Bailey administrator de bonis non with the will annexed of James Scott dec^d

before the Judge
to appear ~~at the Clerk's Office~~ of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the ~~Rules to be holden for the said Court~~ Court house of said County on the first ~~Monday in~~ day of the next, Term to answer a Bill in Chancery exhibited against him in the said Court by

Thomas J Pretlow administrator of Ann Pretlow dec^d

And unless he shall answer the said Bill within ~~four~~ Two months thereafter, the Court will take the same for confessed, and decree accordingly. And this he shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the 25 day of April 1841, in the 65th year of the Commonwealth.

L R Edwards Cl^k

[*One Copy to be delivered each Defendant.*]

This day personally appeared before me Jas. A. Ashburn Deputy of Thomas Portlow Sheff of Southampton County and made oath that Thos. J. Portlow Admr. of Ann Portlow decd. acknowledge Service of the within notice on May 19th 1841.
Given under my hand this 21st day of June 1841.
Thos Ridley J. P.

Thos. J. Portlow Admr. of Ann Portlow decd. }
vs. } Petition
Ann Portlow & others }

Petitions & Exhibits

Petitions & Exhibits

Scotts Admr.

Answer of Defendants Sparks Gentes & Peebles with depositions of A. M. Ashwell. Thos. C. Jones. Thos. Brooks. Edmd. Britt. Wm. Ashwell & Sparks. July 26. 1841
J. H. Edmonds

Dec. Answer & Exhibits
March 19/1842

To Thomas Pritlow administrator of Anne Pritlow dec'd —

Take notice that on Tuesday the 22nd day of June 1841, between the hours of 9 A.M. & 6 P.M. at the office of Parker & Williamson on the Town of Jerusalem & County of Southampton, I shall proceed to take the depositions of Thomas G Jones & others, to be read as evidence in a suit now depending in the circuit superior court of law and chancery for the county of Southampton, on the chancery side of the said court wherein you in your character as administrator of Anne Pritlow are plaintiff and I as administrator de bonis non of James Scott with the will annexed am defendant

Yours &c

Alfred D Bailey

May 18th 1841

Petition of Edmund
to Legislature.
Petition of Edmund

Filed July 1841.

To Alfred I Bailey administrator de bonis
non with the will annexed of James Scott decd -
Sir

Take notice that I shall on Wednesday
the seventh day of July next, between the hours
of seven in the morning & seven in the evening
at the store house of James J Williams in the County
of Southampton State of Virginia, proceed to
take the deposition of Jesse Drewry, Dan
Bevers, James D Mapsenory & perhaps others
to be read as evidence in a Chancery
suit now pending & undetermined, in the
circuit Superior Court of Law & Chancery, direc-
-ted & held to be holden for the said County
of Southampton, in which suit Jane as the
administratrix of Ann Pretlow decd. Plain-
-tiff & you are as the administrator de
bonis non with the will annexed of James
Scott decd. the Defendant - And the said
Deposition not be completed on that day, the
taking of the same will be continued from
day to day, at the same time & place, until
finished

Yours
Thos. J Pretlow administ
-rator of Ann Pretlow decd

June 24th 1844

Southampton County to wit:

This day personally appeared before me Elijah J
Williams and made oath that he delivered
a true copy of the above notice to Alfred I Bailey
admr de bonis non &c with the will annexed
of James Scott decd on Saturday the 22d day of June
1844 Given under my hand this 7th day of July 1844.

J D Mapsenory J.P.

Prestons adm

v } notice

Scotts adm

Filed July 19/1841

To Dexter Thomas J. Prettlow admrs. of Ann Prettlow deceased.

Sir

Take notice, that I shall proceed on the 19th day of July 1841, between sunrise and prospect of that day, at Parker and Williamson's office in the Town of Jerusalem and County of Southampton, to take the Deposition of Maria Drake and Mary, to be read as evidence in a suit now pending in the circuit Superior court of Law and Chancery for the County of Southampton on the Chancery side of the said Court in which you as the Administrator of the said Ann Prettlow are plaintiff, and I as the administrator de bonis non with the Will annexed of James Scott deceased am ~~plaintiff~~ defendant, and if the said Depositions are not completed on that day, I shall proceed to take them on the next day, at the same place and between the said hours and so from day to day until the same are completed.

Yours

Alfred F Bailey

July 8th 1841 — administrator de bonis non with the Will annexed of James Scott dec'd

Southampton County to wit—

This day William Griffin personally appeared before me a Justice of the Peace of the County aforesaid, and made oath, that he did on the 8th day of July 1841, deliver to Thos. J. Prettlow, a true Copy of the above notice — Given under my hand this 19. day July 1841

Jacob Barnes, J.P.

1/

Prentiss acr.

n ⅗ Notice

Scotts com

Filed October 28/1841

To Alfred S Bailey administrator de bonis non with the will annexed of James Scott decd

Sir

Please take notice that I shall on Wednesday the 27 day of October at the house of James J Williams in the County of Southampton State of Virginia between the hours of eight in the morning and six in the evening proceed to take the Depositions of Benjamin Devany and others to be red as evidence in a Chancery Suit now pending and undetermined in the Circuit Supr Court of Law & Chancery for Southampton County in which suit I am as the administrator of Ann Pretlow decd Plaintiff and you are as the administrator de bonis non with the will annexed of James Scott decd the Defendant The Depositions are taken at the instance of the plaintiff

Yrs &

Thomas J Pretlow

October 18th 1841

Personally appeared before me this day Elijah J Williams Admstr of Ann Pretlow decd & made oath that he had delivered the above notice to Alfred S Bailey on the 19th of Oct 1841

Jesse D Nicholson J P

6 N 20th 1841

Prellons a/m

v 3 Nobre

Pellos a/m

Ilica October 29/1841

To Thomas J. Prettow Administrator of Ann Prettow decd

Sir

Take notice that I shall, on tuesday the 26th day of October at the house of William Peel in the County of Southampton State of Virginia, between the hours of eight in the morning and five in the evening proceed to take the Deposition of Elizabeth F Peel and perhaps others, to be read as evidence in a Chancery suit now pending and undetermined in the circuit superior court of Law & Chancery for Southampton County, in which I am (as the admin= =istrator de bonis non with the Will annexed of James Scott deceased) the Defendant, & you are (as the Administrator of Ann Prettow deceased) Plaintiff the deposition taken at the instance of the Defendant

yours &c

October 20th 1841

Alfred S Bailey

Admr de bonis non with the Will annexed of

James Scott decd

Prettows adm

v Notice

Scotts com

Southampton Circuit Superior Court November 5th 1841.

Thomas J Pretlow administrator of Ann Pretlow decd. Pff.
vs
Alfred D Bailey administrator de bonis non with the will annexed of James Scott decd. Deft. } In Chancery

This cause in which it was agreed by Counsel on both sides that the Court should decide the same without directing an issue to be tried by a jury, came on this day to be heard on the bill of the plaintiff, the answer of the defendant and replication thereto, examination of witnesses and exhibits filed and was argued by Counsels: On consideration whereof the Court doth adjudge, order and decree that Littleton R Edwards who is hereby appointed a Special Commissioner for that purpose do audit, State and settle an account of the transactions of the defendant as administrator of James Scott decd. and report the same to the Court together with any matters specially stated deemed pertinent by himself or required by the parties to be so stated

A Copy Teste L R Edwards Clk

The parties will take notice that I have appointed the 22d day of February inst for their attendance before me at the Courthouse of Southampton County on which day by ten O'Clock A M they are desired to attend, with their accounts and the evidence necessary to enable me to perform the duties required by the foregoing decree.
January 22d 1842.

L R Edwards Spl Comr

Surry County to wit:

This day Charles H Kinnucan personally appeared before me a Justice of the Peace for the County aforesaid and made oath that he delivered a true copy of the above decree and notice to Alfred D Bailey on the 5th day of February 1842. Given under my hand this 10th day of February 1842.

Bolling Jones J.P.

Petitioners notice

vs.

Conrs Notice

Petts & Atty

I acknowledge the service of the within notice

Feby. 9th 1842 — ——— J.G. Norton

Southampton Circuit Superior Court. November the 5th 1841.

Thomas J Pretlow administrator of Ann Pretlow dec^{d} Pff } In Chancery
against
Alfred B Bailey administrator de bonis non with the will annexed of James Scott dec^{d} Dft. }

This cause in which it was agreed by Counsel on both sides that the Court should decide the same without directing an issue to be tried by a jury, came on this day to be heard on the bill of the plaintiff, the answer of the defendant and replication thereto, examinations of witnesses and exhibits filed and was argued by Counsel: On consideration whereof the Court doth adjudge, order and decree that Littleton R Edwards who is hereby appointed a Special Commissioner for that purpose do audit, state and settle an account of the transactions of the defendant as administrator of James Scott deceased and report the same to the Court together with any matters deemed pertinent by himself or required by the parties to be so stated.

A Copy. Teste L R Edwards C C

The parties will take notice that I have appointed the 22^{d} day of February next for their attendance before me at the Courthouse of Southampton County, on which day by ten O Clock A M. they are desired to attend with their accounts and the evidence necessary to enable me to perform the duties required by the foregoing decree.

January 22^{d}. 1842

L R Edwards S^{t}. Com^{r}.

Pretlows adm.

v. } Comr. Notice

Scotts adm

At a Circuit Superior Court of Law and Chancery held for the County of Southampton on the 2nd day of November 1843.

Thomas J Pretlow administrator of Ann Pretlow dec'd Pltff } In Chancery
against
Alfred S Bailey administrator de bonis non with the will annexed of James Scott dec'd. Defft

In this cause it appearing to the satisfaction of the Court that since the last Term the defendant Alfred S Bailey administrator of James Scott dec'd. has departed this life and that administration of his estate has been granted to a certain Timothy Atkinson by consent of parties the suit is revived and continued against the said Atkinson administrator as aforesaid. And the cause coming on again to be heard on the papers formerly read was argued by Counsel: On consideration whereof the Court doth adjudge order and decree that the said Timothy Atkinson do render before Littleton R Edwards who is hereby appointed Commissioner an additional account of the said Baileys transactions on the estate of the said Scott up to the time of his death. which account the said Commissioner is required to audit State and Settle and report the same to the Court with any matters deemed pertinent by himself or required by the parties

A Copy
Teste. L R Edwards Clk

Jerusalem March 1st 1844.

I have appointed the 23d day of March instant to take the account directed by the foregoing decree. on which day by 11 O'Clock A.M. the parties are requested to attend at Jerusalem with such vouchers, evidence &c as will enable me to take the said account

L R Edwards Com'r

Surry County to wit:

This day John R. Cabaniss appeared before me a Justice of the Peace for the County aforesaid and made oath that he delivered to Timothy Atkinson on the 19th day of March 1844 a true copy of the above decree and notice. Given under my hand this 27th day of March 1844.

E S Clarke J.P.

Prettows arr

& offs

Scotts arr.

1841 March 25

Southampton Circuit Superior Court. Clerks Office March 25th 1841.

Thomas J Prettlow administrator of Ann Prettlow dec'd. made oath before me Clerk of the Circuit Superior Court of Law and Chancery for the County of Southampton that Matthew Drake is a material witness for his behalf in a suit in Chancery depending in the said Court wherein the said Thomas J Prettlow administrator of Ann Prettlow deceased is plaintiff and Alfred S Bailey administrator de bonis non with the will annexed of James Scott dec'd is Defendant, to prove a single fact to wit the Survivorship of Ann Prettlow which he believes cannot be proved by any other person that he the said Matthew Drake is charged with murder has been sent on by an examining Court and will be for trial for his life at the next Circuit Superior Court to be held for the County aforesaid on the 1st day of april next. Wherefore he the said Thomas J Prettlow administrator of Ann Prettlow dec'd prays a Commission to take the said Drakes deposition de bene esse &c which is awarded him &c.

L R Edwards Clk

Def

Prothons dor

vs } Depo:

Scotts dem

Came to hand Sealed March
31st 1841. L. R. Edwards

The foregoing deposition was this day sworn to and subscribed at the time and place mentioned in the caption before me a justice of the peace for the County of Southampton Given under my hand this 31st day of march 1841

H. T. Smith (J P)

The Commonwealth of Virginia: To Henry T. Smith ~~Edward Hayward~~ ~~To~~ a Justice of the peace for the County of Southampton Greeting:

Know ye that we trusting in your fidelity and provident circumspection in diligently examining Matthew Drake a witness for the plaintiff in a Suit in Chancery depending in the Circuit Superior Court of Law and Chancery for the County of Southampton wherein Thomas J Pretlow administrator of Ann Pretlow deceased is plaintiff and Alfred H Bailey administrator de bonis non with the will annexed of James Scott deceased Defendant

command you, ~~or any two or more of you~~, that at such day and place as you shall appoint, you assemble yourself~~s~~, and the witness aforesaid before you, you call and cause to come, and diligently examine on the Holy Evangelist (To be read de bene esse) of Almighty God, and his examination into our said Court distinctly and plainly without delay you send and certify enclosed returning also this writ. Witness, ~~James Rochelle~~ Littleton R Edwards, Clerk of our said Court, at the Courthouse this 25th day of March 1841. in the 65th year of the Commonwealth.

L R Edwards CC

Southampton County to Wit

The depositions of Mourning Drake taken in pursuance of a commission issued from the Clerks office of the Circuit Sup. Court of Law & Chancery between the hours of nine o'clock in the morning and six o'clock in the evening on Wednesday the thirty first day of March in the year one thousand eight hundred forty one at the Jail of the county of Southampton & State of Virginia to be read as evidence in a cha= =ncery suit now pending in the Circuit Sup. Court of Law & Chancery in said county of Southampton in which Thomas J. Pretlow administrator of Ann Pretlow dec'd is Plaintiff and Alfred S. Barley administrator de bonis non with the will annexed of Jesse Scott dec'd is defendant. The said deposition is taken at the instance of the Plaintiff

The deponent being first duly sworn on the Holy Evangelist deposes & says as follows that he knows Mr. James Scott & knew the negro they which [illegible] was carriage hire a negro woman at the Butchers by some person the woman said to come from Mrs. Then went on the then great Road & I passed him after getting in to the house the Mrs Ann Pretlow appeared before me & the negro woman just before her I think I knew the white woman one black after then the Black woman went into the back chamber room & I followed her we sat together there and when we rose we were in the same room where I knew the white woman near the fire place after I came to myself I found the child

in the same room with my Mother
dead but I do not know how I
struck it

Question by Plaintiffs Counsel. When you
left the House of Mr. Jas Scott ~~dec'd~~ he
or on the evening he was killed did he
or did he not accompany you to the Gate
answer After going to his house & staying
a while I started home and Mr. Scott
walked out some few steps from the door
& stopped I walked on to the gate & went thro
= a. & he hailed me and I stopped & he came
on to the gate & sat down on the inside
in the yard he sat there some time and then
came through the gate to me I do not recall
= collect the conversation exactly but think it
was something about the Key I had come
thro in my Basket he took them all out
& looked at them some pips one of which had
some Brandy & one some vinegar then he
gave me after that had took hold of the
pestle and asked me what I was going to do
with it I do not recollect the answer but
think I told him I carried it to knock
things with

Question by Same. did or did you not see
Mr. Scott down at the Gate
answer I believe I thought him down
near the gate

Question by same Do you or do you not
suppose Mr. James Scott must have died
immediately from the effect of the blows
Answer I think it highly he died pretty
soon afterwards

Question by same. When you left Mr. Jas.
Scott did you or did you not go to
kitchen

Answer Yes I went on to the Kitchen

Question by Same, How long do you think
it was after you left Mr. James Scott
before you went to the Jewellery House
when Mrs Ann Pratton was
answer I cannot say but about think
it was over five minutes

Question by Same. Did any conversation
or words pass between Mrs Ann Pratton
& yourself after you got to the House
Answer Not that I recollect of

Question by Same. Was or was not Mrs
Ann Pratton alive and on her feet
when you went into the Jewellery
House

answer She was standing up on her
feet when I struck her

Question by Same. Do you or do you not
think Mr. James Scott was most probably
dead at the time you reached the
Jewellery House when Mrs Ann Pratton
was & before you struck her

answer I do not know he might be
dead or might not

Question by Same Do you or do you not
think the blows you gave Mr. James Scott
caused his instant death

answer I think he died as quick as a
man could die

Question by Same How many blows did
you give Mr James Scott and how many
Mrs Ann Pratton

Answer I gave Mr James Scott two and I
have no recollection of giving Mrs Ann Pratton
but one and further this deponent saith
not

Matthew Drake

The deposition of Dr. Nicholas M. Seabell taken at the office of Wm. B. Parker & J. H. Corbin Esqrs. in the town of Jerusalem on the 22. June 1841, according to notice to be read as evidence, in a suit now pending and undetermined in the Circuit Superior Court of Law and Chancery for the County of Southampton, in which Thos. Pretlow admr. of Ann Pretlow is Pltff. and Alpheus T. Baily admr. de bonis non &c of Jas Scott (with the will annexed) is defdt. The said Seabell being first duly sworn, deposes & says that he acted as Coroner upon the body of James Scott who came to his death by divers wounds inflicted upon the front part of the head & upon the face. The os frontis was fractured, also the bones of the face, he also acted as Coroner upon the body of Ann Pretlow who came to her death by a wound inflicted on the back part of the head a little above the neck which wound was three inches in breadth.

Question by Counsel for defdt. What was the character of the wounds inflicted upon James Scott, and what the character of the wound inflicted upon Ann Pretlow, and what the general consequences of such blows?

Answer. The general consequences of such wounds would be death in every instance, but it is supposed by Anatomist where the Spinal marrow (particularly near the head) is injured, death instantly ensues.

Question by same, does or does it not frequently occur that wounds are inflicted which fracture the skull and yet the patients get well?

Answer. There are great many instances well authenticated by Surgical Writers of very extensive fractures of the Skull, & even where portions of the brain have been removed where the patients have recovered.

Question by same: When death is produced by injuries inflicted upon the Spine does or does it not follow instantaneously? Was from the injury or wound inflicted upon Ann Pretlow, is or is not your opinion as a Physician that she expired immediately?

Where the Spinal Marrow is severely injured near the head, death is apt to ensue immediately, but there are instances where the Spine is injured & the patient even disabled to move & speech & recovery takes place. But in the instance of Ann Pretlow as the wound or injury inflicted was very contiguous to the juncture of the head & neck & that wound or injury was such an extensive one, it would seem to me that death must have ensued almost immediately

Question by same. ~~Is or is it~~. What is your opinion of the wounds inflicted upon James Scott's ~~Hospital~~ they were inflicted might or might not be have lingered some time before dying?

Answer. As regards the Wounds inflicted upon James Scott I think they must have depended in a short time, but as I have remarked before, there are instances of very extensive Wounds of the head, where the patient has lingered for hours. I am not prepared to say whether James Scott died instantly or whether he lingered from the Wounds inflicted.

Question by same. State your knowledge of the health & constitution of James Scott & his age. Answer. James Scott was never in the best health, during my acquaintance with him, which was about ten or eleven years, as ever I heard of, his constitution seems to me must of been of the very best from the fact that he always enjoyed good health, even up to his death which occured at the advanced age of sixty four or seven.

Questions by plaintiffs counsel

What was the number and description of the persons killed on the occasion alluded to.

Answer. James Scott above alluded to, Ann Pittens an aged lady, a little girl by the name of Sarah E. Pittens aged about six or seven years, a middle aged coloured woman & a coloured child about one or two years old

Were these persons dressed as usual, or were any of them found in their night dress? If so who?

Answer. As regards James Scott, he was dressed I believe as usual. Ann Pittens & Sarah E Pittens seemed to be in their night dress relative to the negroes they appeared to have been dressed as usual

Where did you find the bodies?

Answer. All in the dwelling house except the negro child (James Scott had been removed from the yard & had been injured.

Was there any appearance of a struggle in the house between the deceased and their murderer?

Answer. The room where the bodies were lying seemed to be quite bloody, as the floor. The room adjoining seemed to indicate some appearance of a struggle, as the bed was turned over & the other furniture disarranged. Some blood on the bed & clothing

Did you see the weapon with which the blows were inflicted on the heads of Jas. Scott and Ann Pittens - if so describe it

Answer. I saw a sugarcane hand-mill about two feet in length & weighing about seven pounds, it was bloody

Do you think Scott's skull being fractured - was it a mere fracture or was it crushed by the blows inflicted

Answer. The os frontis was seperated transversely & the brain exposed near the face, the bone was forced in or depressed

Were not these wounds sufficient to produce instant death?

Answer. I can't say as to instant death, but I considered them most unquestionably mortal

Question by the same. Was an examination made to see if the spinal marrow of Ann Pittens effected, and might not the spinal marrow of James Scott be injured by the blows inflicted on his head?

Answer. There was no examination made to ascertain whether or not the spinal marrow of Ann Pittens was injured - the spinal marrow of James Scott might or might not have been injured - I think it is doubtful.

Question by the same. When wounds are inflicted on the skull, does or does not their mortality depend on the extent of the injury, as well as the part injured?

Answer. Extensive injuries are always more dangerous than small ones inflicted on similar parts - but as there are parts more essential to life than others, therefore wounds inflicted on these essential parts, though small, are more dangerous than larger ones inflicted in other parts.

Question by the same. In the case of James Scott & Ann Pittens, state which wounds were the most extensive and effect the greatest surface of the head and greatest

injury to the brain?

Answer: The wounds were most extensive on Scott, but as regard the head there was no great difference in the size of the wounds to the injury sustained by the brain. I am not enabled to say which sustained the greatest.

Question by the same: Is there ~~not~~ a difference as to the fatal consequences between a Fissure & a Fracture? If so which is most fatal and dangerous? Were the wounds on the head of James Scott & Ann Pattow both alike; that is to say — both Fissures or both fractures. If there was a difference, state in which case?

Answer:

A fissure of the skull as seems to me, is a fracture where the bone is simply seperated, therfore a fissure is a fracture & I know no difference — The wounds were different in some respects as the wound on the head of Ann Pattow seem to have had the bone more depressed than the wound or wounds on Scott though there was a depression in Scott's case.

Question by the same — Did the wounds on the head of James Scott communicate with the brain, & would you not say that most usually, and probably, injuries like those done to the head & brain of James Scott produce speedy death though the possibility is otherwise?

Answer: The brain was exposed & will say as I have before that such injuries will produce death most inevitably, but can't say how speedily.

Question by the same — Would or would not a violent blow on the face with a heavy mawl or pestle, such as the one accused by James Scott in many instances produce death by effecting the Cranium —

Answer: Yes

Question by Defdts counsel. You have been asked, if the injuries inflicted upon James Scott might not have effected the spinal marrow of D. Scott. Is or is it not your opinion, from the wounds inflicted upon Ann Pattow, that her death was produced by the injury to her spinal marrow?

Ans: It is probable that the Spinal Marrow was sufficiently injured to cause death, as the wound inflicted was so near the Spine.

The above deposition subscribed, taken & sworn to before me. N. M. Selvidge

Ex Recorder

The deposition of Thos. & Jno Patton at the same time & place, to be read in the same case - Who being first duly sworn - deposes & says -

This deponent says that the morning after Jas Scotts death - that the body of said Jas. Scott was found by me in the house: as also the body of Mrs Ann Pretlow. The front part or forehead of the head of said Scotts and jaws, was fractured: and he saw a wound on the back of the head of Ann Pretlow & he did did not examine the the wounds of either - the deponent Jas Scott was decd. Mrs Pretlow was in her night clothes, about a week after Mathew Drake was confined in Jail, he acknowledged that he committed the murder, the day after & about 2 after making this confession this deponent went to the Jail, and asked said Drake to give him the whole particulars of the murder of Scott and family, he was cool and deliberate and that d. Drake told this deponent that he prepared himself with a dogwood - club - for the purpose of killing Scott - he went to Scotts house, remained there sometime - on leaving the house Scott followed to the gate where the Clerk had been left a conversation ensued and Scott stooped down to pick up or find a wedge or to fasten the gate, at which time the d. Drake struck him down with the club, and this deponent d. you kill him I left him on the spot Drake replied - no I left him making a groaning - noise - The d. Drake said he then went to the Kitchen: a scuffle ensued between him and the Colour. Woman, he cut her throat with a knife - but did not kill her she escaped from him and came to the house he followed and in the passage door entering the house Mrs Pretlow, she Mrs Pretlow put her hands on his shoulders and said dont Mathew at that moment he knocked Mrs Pretlow down stooped over her and went into the adjoining room after the negro in killing the negro woman he supposes he killed the little girl - from the gate to the Kitchen I suppose to be from 50 to 75 yards & from the Kitchen to the dwelling house to be the same distance - I have known Jas Scott & Ann Pretlow from my infancy - Scott was about twenty years old, I think he was a remarkable healthy man

and during my acquaintance with him I do not recollect I ever heard of or knew him to be sick, he was a hale, strong, healthy man and walked all over the neighbourhood and frequently to Jerusalem — and plow: every summer. Mrs Pillow was also a healthy woman, some years older than her brother J Scott she was smaller & more delicate — but never knew her to be unhealthy — has not known her to be off of the plantation for the last ten years — in o? Drake's conversation to this deponent this deponent asked Drake if he returned to J Scott, he replied after setting in the door half an hour he did return to him — he asked o? Drake if he struck him again to which he made no answer: Drake in the first conversation with this deponent justified himself for killing Scott ~~that he was sorry for killing the little fire~~ — and ~~[illegible]~~ said he not —

o/c Jones

The above deposition taken before me
June 22. 1841.

Wm Alspark J.P.

The deposition of Thos. Drake taken at the same time and place to be used in the same case — Who being first duly sworn deposes & says — That he went to the Jail where Mathew Drake was. Told him I understood they were going to take his ~~deposition~~ evidence. he ask me what account I had of him which die first he said a the old lady die first. ~~Before~~ making the statement given above ~~I~~ advised him to give no evidence as it would make against him. He did not tell me which he struck first. ~~[illegible]~~

Question by Plaintiff counsel. Who was going to take his evidence. He said he did not know he supposed some of the parties, it was might-have-been how upon.

Question by Plaintiffs Counsel — From your knowledge of yr brothers Mathew Drake's reputation for truth would you have believed him on oath?

Ans. Mathew always have been a man of candour I never knowed him to tell any thing that was not true of any importance. I would have believed him on oath before he was carried to Jail.

Question by same. What reason did he give for saying & the old lady die first. I cannot tell you; I suppose it was his style of answering

Question by defendant counsel. When he said & the old lady die first did he appear to be sincere and did you believe him. He appeared to be sincere and I had no right to believe or to disbelieve him.

Question by plaintiff counsel

Have you never told any one that you believed your brother was joking when he told you — the old lady die first? No I have not. I told Mr Thos Pillow he made those remarks; I did not know whether he was joking or not. The conversation with Mr Pillow commenced by his asking me what I knew to whom Walton Scott had been for the purpose of getting evidence in relation to this matter. ~~[illegible]~~

Question by same. Was this conversation with your Brother before or after his deposition was taken. It was before his deposition was taken some days, how long after he was put in Jail I cannot say, but more than two weeks. further this deponent saith not.

Thos H [illegible] Drake
his mark

The above deposition was taken and sworn to before me a Justice of the peace for the Co: of So: aforesaid June 22. 1841.

Wm Alspark J.P.

The deposition of Wm A Spark taken at the same time and place to be read in the same Case. who being first duly sworn deposeth and says. That Injuries inflicted on the posterior portion of the cranium near to and adjoining its connection with the vertibra would be more liable to produce immediate death than an injury to the same extent upon any other portion of the head. Although it would require more violence to produce an injury to the same extent on the posterior of the head than probably on any other part of it. It does not necessarily follow that when any portion of the skull is fractured that death must necessarily ensue. I have myself seen two instances in which the Skull was fractured and somewhat depressed the last case which occured was in this County. The membranes were ruptured and a small portion of the Brain escaped through the fissure. The Patient recovered with little difficulty. The injury was on the side of the head. The other patient also recovered.

Wm A Spark

Sworn to before this 23rd June 1821.

N. M. Selleck J.P.

The deposition of Clem: Britt taken at the same time and place to be read in the same case who being first duly sworn deposeth & says.

The deponent says that he has read the deposition of Thos L Jones. That in Sunday conversation with Drake the said Drake made in substance the same statement related by the Jones with the single exception that this deponent understood Drake to say. That he cut the Womans throat after he got into the House and not before. And further this deponent says not.

Clem. Britt

Sworn to before me and subscribed the same day & year above Written

Wm A Spark J.P.

Page

Bartlows adm

vs } Deposition of
Jesse Drewry

Scotts adm

Came to hand sealed July 8/1841
LRC.

3. B

Chap. the papers

The foregoing deposition of Jesse Drewry was taken sworn to & subscribed at the time & place mentioned in the caption, before me a Justice of the Peace for the County of Southampton - Given under my hand ~~& seal~~ this seventh day of July in the year 1841

S. W. Mapsonburg J.P.

The Deposition of Jesse Drewry Taken between the hours of seven O'clock in the morning, and Seven O'clock in the evening on Wednesday the Seventh day of July in the year One thousand eight hundred & forty one at the Store house of James J. Williams in the County of Southampton & State of Virginia to be read as Evidence in a Chancery suit now pending & undetermined in the Circuit Superr Court of Law & Chancery for the County of Southampton in which said Thomas J. Prettlow as the administrator of Ann Prettlow dec'd is Plaintiff; and Alfred D. Bailey as administrator de bonis non with the will annexed of James Scott dec'd is Defendant. The said Deposition is taken at the instance of the Plaintiff.

The Deponent being first duly sworn on the Holy Evangelists, deposes & says as follows.— I was called on about two o'clock at night on Tuesday morning the 15th day of December last by a negro and requested to go to Levi Bell's, he stated that the house Drake was killing the family, I went immediately in company with old Charles Butts, when we got to the house ground, a small negro child intercepted us the yard but discovered no sign of violence on it, I went near the kitchen door and looked up a pole which was a wood at which time old Butts said there was something at the gate, I went to it and found old James Scott lying dead which informed him of at this moment, I turned my head towards the door and saw a light in the house, and observed to him they the murderers are in the house, at this time we drew to the negro & directed him to stand on the outside until I went in, and made an examination, which was done, where the bodies of Ann Prettlow Sarah A. Prettlow and Sylvia a negro woman were lying with their heads on the hearth, and seemed to be placed in that position and the house Set on fire between the heads of Ann Prettlow & the negro woman, which had burnt a hole

in the floor and and burnt parcel of the clothing of the dead
Mrs. & Mr James Scott was lying at the gate on his back
perfectly straight with his hands lying on the lower part of
the body. in the position they would have been in in pulling
up the waistband of his breeches, with a violent blow on the
right side of the head near the temple which broke the
bone and jaw and a blow on the left side of the face
and forehead which fractured the scull and bones of
the nose, there seemed to be no sign of blood
except what had run from the wound on the forehead
and that in a straight line from the wound to the
ground, and no sign of struggling or moving of the
head, or body near the place there was small
marks of wood on the ground where the body
was lying, — Mrs Scott was dressed in the clothes he usually
wore in the day. Mrs Pattison in her night dress — and
the child Sarah. in her night dress. the negro in her clothing
usually worn in the day, the clothing of the negro Child
was near the kitchen door and there were marks of
scuffling on the ground near the ash hopper were blood
and hair of the same colour as the child were found near
the kitchen door. in the house there was blood on the
floor. in front chamber. near where the bodies were lying
blood on the hearth which extinguished the fire made
by the head in the chamber where Mr Scott usually slept.
was turned upside down. and blood on both sides of
the bed both ends and several spots on the floor
the bed stead was upside down there seemed to have been
considerable struggle in that room. the mark was made by a brown
Dogwood. which was weighed and measured and which
weighed seven pounds three ounces and measured three feet
two inches, and was made a blow from which by a strong
man. I have no doubt would produce death immediately
if given on any part of the head Mr James Scotts
the body of Mr Scott was forty eight yards from Mr Pattisons
from Mr Scotts body to the kitchen door was twenty eight yards
from the kitchen to the dwelling house was forty six yards
a negro Girl about fifteen years of age a member of the
family escaped, and I overlook her in going to the place she

I suppose they had been murdered two or three hours before
I got to the house in the morning we made an examination and
found a drawer belonging to a bureau that seemed to have been
forced, in it a small bag of Silver change and valuable
papers. which seemed to have been thrown up and
scattered, in confusion, the other drawers in the bureau
contained money. to the amount of about Six thousand
Dollars,

Interrogated by prisoners counsel.

When you the first person arrived
came to Scotts and where you
found Scotts dead on you say did
you then know whether Mrs.
Ann Pattison were dead or alive?
Answer

I went to When Mr Charles Bailey and myself arrived at Mr
Scotts, we saw no living person, when I first saw Mr
Scott I did not then know that Mrs Pattison was killed
Or
Answer

Do you know whether Jas Scott
was in the habit of keeping or
using fire arms?

Ans. he had a loaded gun in the house at the time. with
setting in the corner of the room, and we found
ammunition in the drawer of the bureau

By the same Now. Jas Scott are we
true aware of his age and pass-
ing ordinary strength & body
and, he was.

By the same? Were you acquainted
with Jas Scott would he or
would he not have suffered him-
self to be robbed and his fam-
ily murdered without resistance
or using his gun in defence?

To this question the counsel for
the defendant objected

Answer over

[illegible] in the course of the [illegible] and [illegible] a few moments
which time he said it made him sorry to look at the
old man. and think of what he was about to do. he then
returned to him and they had half an hours conversation
in relation to time [illegible] other matters when Mr Scott bid
him good night and they parted but as he Mr Scott went
through the gate he called to him and asked him to
come and find his wedge or tool to the gate, he return-
ned, found it handed it to him he stooped down to fasten
the gate, when he arose he gave him a blow on the righ
side of the head with the pistol which felled him on
his back. he then gave him a blow across the face
and he did not think he was dead, or showed any sign
of life, after he struck him the first blow, and that
he did not touch him or move him after he gave him
the blows he then went to the kitchen where the negro woman
was sitting by the fire undressing her child in her lap he
drew a pen knife and attempted to cut her throat, she
jumped out of the door and which time he struck at
her with the pistol and gave her a blow on the
back of the head she then ran to the house where
Miss Parmelia lay. and met Mrs. Ann Bellow near
the partition door. and gave her a blow which felled
her dead on the floor he then pursued the negro
woman to the next adjoining room. where she found Miss
and crying the scuffle with her. he thinks he must
have killed Sarah Parlow (the child)

Inquiries by the Jury. did you see
Miss Ann, the basket and jug
of vinegar and did the vinegar
correspond with those at Scotts
Answer
They were found at Mr Drakes. and it corresponded
with the vinegar in Mr Scotts bottle
By the same. Was the place pointed where
the pistle was cut, and did it
correspond with Drakes statement?
Answer It was- and. [illegible] the stump and chips filled the
[illegible]

Jos Bowyer

I think he would have exposed himself as soon as any man of my acquaintance

By the same. Do you know whether or not for a fortnight or three weeks in the month following his wife's death he frequented his house and holding conversations before passing?

A. I went to his house on four or five occasions during the last two years, and he walked out with me some distance at each time and seemed to be fond of talking.

By the same? Has any person been tried for the murder of Jas Scott, if so where?

Answer. Matthew Drake has been arrested tried and convicted for the murder.

By the same. How far did Matthew Drake live from Jas Scott, and was he or was he not familiar in and with the family and acquainted with the situation of the house?

Ans. He lived about two miles from him and was intimate as a neighbour — and was raised near him.

Cross examined by defendt's counsel —

How far did the mark from the head of Jas Scott

I measured the distance and found it to be Sixteen yards,

2 by Same. That the mark found between the dead bodies of James Scott & the negro child — I immediately between them but in an oblique direction and about equal distance from each

Re-direct by Same. Were the bodies found in the same cover. with a blanket when you first saw them

They were not, I had that spread over them.

Jos. Downing

Question by the Plaintiff's Counsel

Did you hold any conversation with Mathew Drake Concerning the Murder of Mrs Ann Sexton and James Scott If so State what he said to you Concerning it

Answer. on friday the 18th Dec. 1840 Mathew Drake called me to the jail window and stated that he wished to have Some conversation with me and requested me to attend to Some business for him which I refused to do and remarked to him that I had unnerstood that he had confessed all about the murder of Mr Scott & family, he said he had and wanted to unburden to me, in the following manner he said that he started from home with a basket on his arm a small bottle of spirits and a small bag and an axe on it, he called at two houses on the way. and stopped a short time, he went in the woods near Mrs Brazeys or Wades, and made the Pepsle, he came to the path and concluded he would not kill them, and started back home but did not go more than two hundred yards before he turned round and went on to Mr Scotts with the Pepsle Sweet in his Basket, which was about dinner time he went to the Kitchen and enquired of the negro woman if her husband was there she said he was not. he then enquired if a free negro was there by the name of Elijah. she informed him that he was at my house he went in the dwelling house leaving his basket with the Pepsle in it at the gate, carrying a small jug with him where he remained Some two or three hours in conversation with Mr Scott, and during the time asked for a jug of vinegar which he got from there bottled he then started for home and Mr James Scott walked out with him when they got to the gate he Pepsle up the basket and Mr Scott asked him what he was going to do with that Pepsle, he replied Knock any thing in the head that might trouble him. Mr Scott took hold of it and remarked you could kill the devil with it, he say with it Mr Scott

Pltff:

Prettons adm

v } Deposition of
Wm. Mapenburg

Scotts adm.

Came to hand sealed July 8/1841
LRC.

1 ~~5~~ 4.

The Deposition of William A Mapsenburg Taken between the hours of Seven Oclock in the morning, and Seven Oclock in the evening, on Wednesday the Seventh day of July in the year One Thousand Eight hundred and forty one, at the Store house of James J Williams in the County of Southampton State of Virginia, to be read as Evidence in a Chancery Suit now Pending and undetermined in the Circuit Super Court of Law & Chancery for the County of Southampton in which Suit Thomas J Pretlow as the administrator of Ann Pretlow dec'd is Plaintiff; and Alfred S Bailey as administrator de bonis non with the will annexed of James Scott dec'd is Defendant. The said Deposition is taken at the instance of the Plaintiff

The Deponent being first duly sworn on the Holy Evangelists; deposes and says as follows.

The morning after the death of James Scott, having heard of that event, I went to his house early in the morning perhaps about one hour by sun, on reaching his house I found Wm. Scott near his gate laying on his back from his position I supposed him to be just as he had fallen there being no appearance of any scuffling Several inches of the Skull had been broken in below the natural surface from which a small portion of blood had issued and was in a coagulated state his mouth was a little smeared with the blood ~~disposed~~ to issue from the wounds. the blood from the wounds ~~was confined to a~~ which lay on the ground was confined to a small puddle with the coagulum unbroken — His features were perfectly calm & not in the least distorted

Question by Plaintiffs Counsel

When persons die by sudden & violent death; is there not a disturbed appearance of the countenance if they suffer pain & survive the injury any ~~length~~ of time?

Answer — If they survive any length of time the features generally became distorted —

from the examination of the wounds of Jas. Coates would you as a physician say that he could have lived any length of time or whether he died instantly?

Answer I should suppose he died instantly.—

Cross by defendant's counsel—

Doctor how long have you been in the practice of medicine, & have you had an opportunity of viewing the corpses of many who have died of violent deaths?

Answer I have been in the practice of Medicine two years and have not been much in the habit of ~~examining~~ examining injuries of the head nor of witnessing ~~corpses~~ corpses who have died by violent means—

Williams & Mapsenburg

The foregoing deposition was taken sworn to & subscribed at the time and place mentioned in the caption before me a justice of the peace for the county of Southampton.

Given under my hand this seventh day of July 1841

I D Mapsenburg JP

Prettlows adm

vs } Deposition of
William Peale

Scotts adm.

came to hand sealed July 8/1841
D.R.C.

7

The Deposition of William Peel taken between the hours of Seven O'clock in the morning & Seven O'clock in the evening on Thursday the eighth day of July one thousand eight hundred & forty one, at the office of Saml. J Douglas in the town of Jerusalem in the County of Southampton & State of Virginia by appointment from the store house of James J Williams on Wednesday evening the seventh day of July 1841. by the Consent of the parties then & there present. to be read as evidence in a Chancery suit now pending and undetermined in the Circuit Superi. Court of Law and Chancery for the County of South=ampton, in which suit Thomas J Pretlow as administrator of Ann Pretlow dec'd is Plaintiff & Alfred S Bailey as administrator de bonis non with the will annexed of James Scote dec'd is Defendant. The said deposition is taken at the instance of the Plaintiff.

The Deponent having first solemnly ~~being first duly sworn on~~ ~~the Holy Evangelists~~ affirmed, deposes & says as follows: viz

He that I can say is that I saw James Scote and the wounds which he has received and if they were all put on him at one time they must have killed him as soon as he could be killed he was laying streight and flat on his back his head slightly drawn towards the house his hands on his abdomen—

Question by Plaintiff's Counsel: Did you notice the clothes & person of James Scote, & the ground on which he lay: If so state whether or not you saw any blood on his person & clothes other than that which ran from the wounds of his face & head in a streight line to the ground. & state if you saw any sign of Struggling or smearing of blood.

Answer. I noticed the head very particularly & saw no blood on his clothes except a small smear on the apron of his breeches my opinion was that Drake had stabbed him when he struck him with the axe. I saw no sign of struggling for I did not notice—

By the same

How far did Matthew Drake live from Jas. Scotts

Answer. About two and a half Miles

By the same. Were Drake and James Scott intimate and apparently so friendly with each other

Answer. They were. I saw James Scott and myself dine with Drake at his own house and they appeared remarkably friendly ten or twelve days before Wm Scotts death.

Question by Plaintiffs Counsel. Did you examine the wounds inflicted on James Scott & Ann Prellow. If so State which was most extensively wounded?

Ans: I was one of the inquest and did make an examination the wounds on James Scott was the most severe the scull bone was broken short off and smashed in and the Jaw was also a heavy blow on the side or back of the head

By the same. How were Jas. Scott & Mrs. Prellow and Sarah Prellow, were they in their day or night clothes?

Answer — I cannot say whether Mrs Prellow had on her frock or not I think she had on her night cap — Sarah Prellow had on her night clothes — James Scott was dressed in his usual clothing

By the same Was there any appearance of contest and strife in the chamber where the females were supposed to sleep, and what?

Answer. The bed bedsteads were turned up and there was sign of blood on them —

William Peel

The Deposition of James Holmes, Taken as above at the same time & place — The Deponent being first duly sworn on the Holy Evangelists, deposes & says as follows:—

I was sent for by Mrs Mary Prellow about two hours before day & when I got to James Scotts gate I there found him dead the wounds which he has received were very severe and I do not think he could have lived but a very short time the position in which he lay was much as described by Wm Peel I made no particular examination of the wounds —

Question by plaintiffs counsel. Do you know where the keys of Jas Scott were found?

Answer. I was requested by some person to see if I could get his keys out of his pocket I found his coat tail straight under him as if he had fallen on it I first searched his breeches pockets and found the right hand pocket pulled inwards out of his breeches and a little bloody. I then pulled his coat tail from under him and found his keys some large and some small —

By the same. Was there any signs of blood on the hands of Jas Scott?

Answer There was no blood on his hands and I saw none but what ran from the wounds and what was on his pocket —

James Holmes

The foregoing Depositions of William Peel and James Holmes, was Taken Subscribed affirmed & sworn to at the time & place mentioned in the Caption, before Me a justice of the Peace for the County of Southampton — Given under my hand this eighth day of July 1841.

J. W. Mapenburg

Pg 4

Britton's admstr
vs } Deposition of
Scott's admstr } I D Maspenberg

Examined in by Samuel P Nicholson
Justice of the peace July 8/1841.
DRC

6

The Deposition of James D Mapsenburg taken between the hours of seven Oclock in the morning & seven Oclock in the evening on Thursday the eighth day of July one thousand eight hundred & forty one, at the office of Saml. J Douglas in the town of Jerusalem in the County of Southampton & State of Virginia by adjournment from the store house of James J Williams on Wednesday evening the seventh day of July 1841. by the Consent of the parties then & there present; to be read as evidence in a Chancery suit, now pending and undetermined in the Circuit Supr. Court of Law & Chancery for the county of Southampton, in which suit Thomas J Pretlow as administrator of Ann Pretlow dec'd is Plaintiff and Alfred J Bailey as administrator de bonis non with the will annexed of James Scott dec'd is Defendant. The said deposition is taken at the instance of the Plaintiff.

The Deponent being first duly Sworn on the Holy Evangelists, deposes and says as follows:—

On Tuesday morning near the middle of December last at four Oclock in the morning I was called up by a servant of Wm. Mary Scott who informed me of the murders that had been committed at Wm James Scotts. As he informed me that Wm. Jesse Drewry Wm. Tarlton Jr Scott and several other of the neighbours had already assembled at the residence of James Scott I was sure that whatever was proper to be done would be attended to, I consequently did not leave home until after an early breakfast and got to Wm Scotts a little after eight Oclock in the morning — On my arrival I found old Wm. James Scott a lifeless corps, a few feet within his yard gate the cause of his death was apparent having received a violent blow or blows on the forward which had broken a crevice in the bone for several inches in diameter — a hand Maul was shewn to me with which the blows were supposed to have been inflicted — The position of the corps as first seen by me was stretched on the back at full length the face of course Turned up — the whole in an attitude nearly as straight as it could be placed — the elbows only crooking in an angle that brought—

brought his hand about as low down as the waist-band of his breeches which he wore very low down. the blood which flowed from the wound remained in an unbroken coagulum immediately at the head and seemed not to have been disturbed by the slightest motion and the impression made on my mind was that he when the blow or blows were given fell immediately back ward and expired without a struggle — he was dressed in such apparel as he usually wore — his head bare and a woollen cap which I believe he usually wore was near his head pretty much in a line with the body and was supposed by me to have dropped off as he fell seeing the exposed situation in which the body remained and not foreseeing that every thing connected with its then position was subsequently to become a matter of deep interest I advised that the body should be immediately removed into the house which I have since regretted I saw none of the other persons murdered except the little negro boy that lay in the yard — On going into the house I saw a covering had been thrown over the bodies of those killed in the house and having no wish to see the shocking spectacle thereby concealed I did not remove it —

S. D. Mapenburg

The foregoing deposition was taken sworn to and subscribed at the time and place mentioned in the caption before me a justice of the peace for the county of Southampton — given under my hand this eighth day of July 1841 L. P. Nicholson J. P.

Pltffs

Pretlons ā ors

v. } Deposition of
Jos. C. Mordaugh

Defts ā ors.

Came to hand July 8th 1841 sealed
DRC.

The Deposition of Joseph le Neve daugh taken between the hours of seven oclock in the morning, and seven oclock in the evening; on Wednesday the seventh day of July in the year one thousand eight hundred and forty one, at the store house of James J Williams in the County of Southampton & State of Virginia, to be read or ordered in a Chancery suit now pending & undetermined in the Circuit Supr. Court of Law & Chancery for the County of Southampton in which suit Thomas J Prettlow as the administrator of Ann Prettlow dec'd is Plaintiff; and Alfred S Bailey as administrator de bonis non with the will annexed of James Scott dec'd is Defendant. The said Deposition is taken at the instance of the Plaintiff

The Deponent being first duly sworn on the Holy Evangelists; deposes & says as follows—

On monday night probably about the fifteenth of December last William Pulis boy Nelson came to my house about one hour before day and knocked me up. I enquired of him what he wanted he told me that James Scott and his family were killed, as soon as it was light I went to William Pulis, and got him to go down with me to James Scotts, where we arrived by or before sun rise, at the gate as we went into the yard I saw the old man lying stretched out flat on his back with his hands folded on his abdomen his head very much mangled and his forehead and jaw bone broken he lay as if he had fallen in that position there being not the least sign that he had struggled any, his coat tail was under him with his keys in his pocket — I went from the old man to a little negro that was dead in the yard but saw no sign of violence on him, from him I proceeded on to the dwelling house where I found Wm Prettlow Sarah Prettlow a granddaughter of Wm Prettlows and a negro woman laying with their heads near the hearth Wm Prettlows head was badly mangled the head back of the ear was broke I did not examine the little girl particularly and cannot say where she was wounded. The negro woman had her throat cut and I do not recollect whether there was any bruises on her The distance from the dwelling house from where James Scott lay was about

fifty or sixty yards, the road with which we supposed the murder to have been committed was between the dwelling house and kitchen a little to the right side of a direct line and I supposed twenty or twenty five yards from Mr. Scott — Mr. Scott had on his usual clothing as he dressed every day he did not have on his hat — I saw a cap but am not certain whether it was on his head — I went to the kitchen & near the kitchen door on an ash gum there was sign of blood Mrs Prellows when we found her was in her night clothes and also Sarah Prellows in the room where I supposed Mrs Prellow slept, bed and clothing were turned up, there was a great deal of signs of blood in the room there being an appearance of a struggling in the room —

Question by Plaintiff's Counsel

Was there any appearance of blood on the clothes of Mr James Scott, or any blood on his person, or the ground around other than that which ran from the wounds of his face & head?

Answer. No — The blood from from the head lay in a puddle on the ground under the head and running off from the head in no sign of any smearing of the blood or any struggling appearing to be laying as knocked down —

Question by the same; Were you well acquainted with Mr James Scott? If so was it his habit when in conversation to place his hands in his pantaloons, in the position you saw them the morning after his death?

Answer It was much in the habit of walking with his thumbs in the waist-bands of his breeches but his hands was on the abdomen

Question by same — Do, or do you not think, from the nature & extent of the wounds inflicted on the head & face of James Scott, that they must have caused instant death?

To this Question the counsel of the defendant made objection

The answer of the deponent — I think so —

Question by the defendant's counsel

Was the ground hard frozen?

Answer. It was a moderate winter morning but misty in the fields

Question by the defendant

Did you discover more than one wounds on Mrs Prellows?

Answer. I discovered only one wound and that on the back of the head —

Question by the defendant's counsel

Did that wound appear to be inflicted with great violence?

Answer. I should say it was sufficient to have killed her

Question by the defendant's counsel

Could the wounds you saw on Mr Scott have been inflicted at a single blow?

Answer. I should say there were more than one.

Question by Plaintiff's Counsel

Did the wounds on the head & face of James Scott appear to be inflicted with great violence?

Answer. Of course I have said so before.

Question. Did Jas or did not James Scott keep fire arms in his house? did you ever know him to shoot any one about his house at night?

Ans. He kept fire arms and he stated to me some three or four weeks before his death that he was setting up late one night about the time he was going to bed he went to the back door and opened it — found a man standing on the steps — he returned back and got his gun and fired it —

Question by the same — Was James Scott an active & healthy man of his age — & was it his habit to set up later than the rest of his household when he had visitors —

Answer. He was a healthy active man of his age, but whether he was in the habit of setting up later than the rest of his family, I cannot say — J. B. C. Lundsford

The foregoing deposition was Taken, Sworn to & subscribed at the time and place mentioned in the caption, before me, a Justice of the Peace for the County of Southampton

Pltffs.

Pretlons &ors

v. } Deposition of
Jos. C. Mus daugh

Defts &ors:

Came to hand July 8: 1841 Sealed
PRE.

5.

=Ins. Given under my hand this second day of July
A.D. 1841=

Filed July 12

Sept.

Prellors adm

vs } Deposition of
John Moore.

Scotts adm

Came to hand sealed July 8/1841
R.E.

2

The Deposition of John Moore Sr. Taken between the hours of Seven Oclock in the morning, and Seven Oclock in the evening, on Wednesday the Seventh day of July in the year One thousand Eight hundred & forty one, at the Store house of James J Williams in the County of Southampton and State of Virginia, to be read as evidence in a Chancery Suit now pending & undetermined in the Circuit Superr Court of Law & Chancery for the County of Southampton in which suit Thomas J Prettlow as the administrator of Ann Prettlow decd is Plaintiff; and Alfred I Bailey as administrator de bonis non with the will annexed of James Scott decd - is Defendant. The said Deposition is Taken at the instance of the Plaintiff:

The Deponent being first duly Sworn on the Holy Evangelists, deposes & says as follows -

I was called on by Matthew Hampton junior on the fifteenth day of december last a bout sunrise in the morning and he informed me that James Scott had been murdered the night before I immediately went to the house of said Scott - and before I got off my horse discovered they were in the act of carrying the body of Scott into the house - I then went into the house where I saw Mrs Scott with Mrs Prettlow her granddaughter and the negro woman all laying on the floor - Shortly after the coroner came and Summonsed me on the inquest - I then went with the rest of the inquest to examine the bodies first Looking James Scott he was laying on his back and appeared to have had a heavy blow on the left temple with a heavy weapon of some kind which we supposed to be a Maul found in the yard, we also thought he had recieved another blow on the right side of the head, we also thought he had recieved two other blows with the same instrument in his forward extending down to his chin the under jaw was broken on both sides the skull was so broken that on feeling I thought it would or gave way - We next examined the old Lady who we found laying on the floor in her night dress she had recieved a blow which appeared to be very

sever

sworn so much so that I think it causes her death — ~~Harris~~ supposes it was inflicted with the same instrument with which Mrs. Scote was wounded — The child Sarah has received a blow on the back of the head supposed likewise to be given with the weapon used on Mrs. Scote and Mrs. Pollow — The black woman was by the side of Mrs. Pollow with her head on the hearth — She has received a blow on the head given as supposed with the same weapon and her throat was cut. At the time I saw them they had a blanket thrown over them on removing it as low down as the abdomen of the black woman her clothing was burnt off as far as I observed her the blood has run under her as much as two feet

Question by plaintiff counsel. How far do you live from James Scott, and how long have you been acquainted with him?

Answer — I live I suppose about or a little more than two miles and have been acquainted with him better than forty years and since 1809 have lived within the distance above mentioned. By the same. Was or was not James Scott fond of conversation, and was he or was he not in the habit of going out with his visitors to keep up the conversation on their leaving his house?

Answer. He was remarkably fond of conversation. and would ~~walk out~~ occasionally walk out with his visitors and the last time I was at his house before his death he walked out with me as far as his barn, probably a hundred yards from the house. —

Question by the defendants counsel

Were you acquainted with Mrs. Pollow and was she very old and infirm?

Answer. She was very old, about seventy seven as I understand the old man informing me that he was seventy nine and that she was older but I do not know that she was more infirm than other old persons being able to attend to the family affairs

Question by the Plaintiffs Council

Were the wounds inflicted on the face & head of James Scott very extensive & violent Calculated to produce instant death &c.

Answer. They were & I think no man could survive many moments after receiving such wounds —

John Moore Sworn

The foregoing deposition was taken wrote to and subscribed at the time and place mentioned in the caption before me a justice of the peace for the county of Southampton. Given under my hand this seventh day of July 1841

J. W. Mapsons J.P.

Affts

Petitions &c

v. Desp.ts of Mariah Drake
Wm Wester & Alfred Ricks

Pettts Exhs

Handed in by Jacob Barnes Justice
of the peace. July 19th 1841
LRC

#2.

Court of Chancery Ex. Supt. Bank

Petitions &c

v. Desp.ts of Mariah Drake
Wm Wester & Alfred Ricks

Pettts Exhs

Handed in by Jacob Barnes
Justice of the Peace July 19/1841

The deposition of Maria Drake of lawful age taken at the Office of Parker and Williamson in the Town of Jerusalem on the 19. July 1841 between the hours of 9 and 10 oclock of said day according to notice to be read as evidence in a suit in the Chancery side of the Circuit Superior Court of Law and Chancery for Southampton County in which Thos. I Parker admr of Ann Parker is Pltff and Alfred I Bailey admr. de bonis non with the will annexed of James Scott dec'd is defendant. Who being first duly sworn deposes and says—

That she is the wife of Mathew Drake Dec'd that the night that James Scott and family were murdered, he came home and Said that he had knocked them all down and murdered them that old mustup Pollard died the quickest of any body he ever saw but that old mister Scott died very hard that he was not dead when he left but there was no chance of his recovery and further this deponent Saith not

Maria + Drake
mark

The above deposition, subscribed, sworn to and taken before me as in the caption set forth—

Jacob Barnes, J.P.

The deposition of William Vestal of Lawful age taken at the same time and place to be read in the same case. Who being first duly sworn, deposes and says—

That he went to the Said after mr Drake had been put in he think on the 2nd Saturday in January and in a conversation with Said Drake as to him if he went from home with the purpose of killing the family he replyed he did I then ast him which he killed first he Sayd that was what he would tell nobody then he Sayd he knocked the old man first then went to about his business when he came back he was not dead & he finished him and further this deponant Sayeth not

his
William + Vestal
mark

The above deposition &c, subscribed, sworn and taken before me, as set forth in the caption

Jacob Barnes, J.P.

The deposition of Alfred Ricks of Lawful age
taken at the same time and place to be read
in the same case — This being first duly
sworn - deposes and says

Question by Counsel for defdt. Was you or were
you not acquainted with James Scott and Miss
Pettlow? If so - State it; and their Strength
and constitutions -
answer. I have known them both for many years well
Mr. Scott was quite an old man but attended to his business
Misses Pettlow was also a quite old woman but doesnot know
which of the two was oldest Misses Pettlow had an attack of
Paralysis but as fair as he knew had recovered that She was seldom
from home further this deponent Sayeth not

Alfred Ricks

The above deposition was taken and sworn to & and Subscribed
agreeable to the above caption before me

Jacob Barnes J.P.

The defendt by his counsel excepts to the deposition of B. Dewany — 1st because ~~they are~~ it is taken for the purpose for sustaining a witness by his own declarations made after he had given his testimony — and 2d because it is to prove the declarations of a man, who could not himself be made a witness — being under sentence of death.

Parker and Sholes
for defdt

Pltffs
Prisoners &c
vs
Dofts. B. Dewany &
al. Jordan

Pltffs &c
against
Defts &c

Answer and Dy. Mag. entries
Justices of the Peace Oct. 3 1844

8

The Depositions of Benjamin Devany & Christian Jordan taken at the Store house of James J Williams in the County of Southampton and State of Virginia on Wednesday the 27th day of October 1841. between the hours of eight in the morning & five in the evening, to be read as evidence in a chancery suit now pending & undetermined in the Circuit Superior Court of Law & Chancery for Southampton County in which Suit Thomas J Pretlow as admr of Ann Pretlow decd is Plaintiff and Alfred S Bailey as admr de bonis non with the will annexed of James Scott decd is Defendant, The said Depositions are taken at the instance of the Plaintiff

Benjamin Devany having been The Deponent ~~Benjamin Devany~~ being first duly sworn on the Holy Evangelist of Almighty God ~~Christian Jordan~~ deposeth & saith as follows—

I visited Matthew Drake after his conviction ~~of~~ for the murder of James Scott and family, the object of my visits was to impart religious instruction to him. I visited him frequently by his request. The first interview I had with ~~him~~ him I told him that in order to obtain forgiveness from God it absolutely necessary that he should make a full confession; for it was impossible for him to obtain a pardon of his sins with a lie in his mouth He several times made a voluntary confession to me of the whole affair. And on one occasion after his deposition had been taken before a magistrate, he observed to me that there were some persons who wished to discredit his testimony; but said he Mr Devany I have told the whole truth about it. & then related the circumstances. I do not recollect that he ever varied in any of his statements to me he uniformly stated to me that he struck Mr Scott twice with his mauls and that he was the first he commenced with, and that when he left him to go to the Kitchen he neither saw him move nor heard any groan, or any signs of distress from him

B Devany

I have been acquainted with James Scots family ever since I was ten years old and I am now fifty one years old. I have frequently remained at the house for one and two weeks at the time and sometimes when there was any thing the matter with the family have remained there for a month. they were much in the habit of sending for me when any of them were sick more particularly if it was any of the female part of the family — James Scott was in the habit of setting up late of a night if he had any of his neighbours with him and when they were about to leave it was his invariable practice to walk out with them if he was in his usual health. When he had any male company and there was a proposition made to retire he would either walk out with his company or retire to another room sometimes they would remain out so long that the retiring family would not know at what hour they returned at other times they would come in again before the family had got to sleep or at least before I had of late years he was in the habit of wearing a woollen cap. if the weather was moderate he would take off the cap and carry it in his pocket. he also frequently would when going about the yard or house not leave his hat in the house and wear only the cap —

Question by the Defendant. Do you know difference in the ages of James Scott and his sister.

Answer. I have known it to a day having often seen the register of their ages, but I do not now recollect the exact difference but his sister was the oldest —

Christiana Jordan

I do hereby certify that the foregoing deposition of Benjamin Levany and Christian Jordan were taken & signed by me as a justice of the peace for the county of Southampton this 27th day of October in the presence of the Plaintiff and defendant the said Benjamin Levany being first duly sworn and the said Christian Jordan solemnly affirmed given under my hand this 27 day of Oct 1841 —

I D Wyndham J.P.

Prellam adm.

v. } Depos.

Scotts adm

Sworn to by J. D. Mapenburg Justice of the Peace October 29th 1841.

Prellam adm.

v. } Depositions &c.

Scotts adm

Sworn to by J. D. Mapenburg Justice of the Peace October 29th 1841

5½

Southampton County to wit.

The Deposition of Elizabeth F Peele Taken at the house of Wm Peele in the County of Southampton State of Virginia. On Tuesday the 26th day of October 1841 between the hours of ~~the hour of~~ eight in the morning & five in the evening To be read as evidence in a Chancery Suit now pending and undetermined in the Circuit Superior Court of Law & Chancery for Southampton in which Suit Thomas J Pretlow as administrator of Ann Pretlow dec'd is Plaintiff and Alfred D Bailey administrator de bonis non with the will annexed of James Scott dec'd is Defendant. The said Deposition is Taken at the instance of the Defendant.

The morning after the death of Mrs Scott in passing through the yard I saw Mrs Scott there in the yard but did not observe him very particularly but discovered that his face was bloody and he was standing near his pantaloons as though he was in the act of puling them up. As to Mrs Pretlow I can say nothing until we commenced washing her, I then discovered her head was badly wounded the wound was just behind her ear. the wound was large, and the scalp was badly bruised and mash for some distance around. the wound continued to bleed and to stop the effusion of blood I stuffed a parcel of cotton in the wound and tied a napkin over it

Question by the Deft. Did you discover any swelling around the wound

Answer. I did not and her countenance appeared very natural

Question by the plaintiff. Were you well acquainted with the family?

Answer I cannot say that I was.

Question by the plaintiff. do you know whether Mr Scott was much in the the habit, when standing in conversation with any person, of puling up his pantaloons?

Answer. I think he was.

Elizabeth F Peele

I do hereby certify that the foregoing deposition of Elizabeth F Peele was taken and signed before me as a Justice of the peace for the county of Southampton. This 26 day of October 1841. between the hours 8 in the morning & 5 in the evening

and 5 in the evining the said Elizabeth F. Peale being pre- sworn on the wholy evangelists of almighty God. —

Given under my hand this 26 Oct 1841

S. D. Maxcy J.P.

Pillow adv^s

Deposition

Bailey et al

Copy

Pillow et al

v.

Scotts exrs.

filed by Defts Counsel Nov 1st

1841.

Southampton County to wit

The deposition of Matthew Drake taken between the hours of nine Oclock in the morning and five Oclock in the evening on Saturday the 27th day of March 1841 at the Suits of the County of Southampton in Town of Jerusalem State of Virginia to be read as evidence in a Chancery suit pending in the Circuit Supr. Court of Law and Chancery in said County of Southampton in which Thomas J Prellow administrator of Ann Prellow dec.d Ann Prellow Mary W Prellow Robert Prellow Joseph Prellow John Prellow and Elizabeth Prellow the five last of whom are infants under the age of twenty One years who sue by the said Ann Prellow their Mother and next friend are plaintiffs and Alfred S Bailey Edward C Bailey Malcpa D Bailey Jesse A Holloway and Araminta his wife formerly Bailey Edward W Bailey Sarah A Bailey, Celarion J. Bailey Henrietta F Bailey the four last of whom are infants under the age of 21 years by Edwards Butts their Guardian, and Lilian William J Scott and Jonathan Scott also infants under the age of 21 years by the said Edwards Butts their guardian ad litem Mary Prellow in her own right and as administratrix of Sarah C Prellow dec.d Jarlton W Scott Ann W Scott and Elizabeth Scott are defendants the said deposition is taken at the instance of the plaintiffs and in pursuance of notice previously given. The deponent Matthew Drake being first duly sworn on the holy Evangelist deposeth & says as follows — I went to Mr. Scotts & Celarine & struck him twice after that & had some Combat with a black woman near the Kitchen door. Then I proceeded to the great house as well as I recollect Mrs. Ann Prellow appeared and the black woman behind her & then went into the bed room and had some Combat we ended our Combat near the fire. I found the white Chest lying in the room and I do not think it was dead & stayed there perhaps about one hour after that

Question by plaintiffs Counsel — When you left the house of Mr. James Scott did he go with you to the gate — Answer. — After I left the house the old man Mr. James Scott followed me and I had got out of the gate and he hailed me & stopped and he came on to the gate, he sat down at the gate, I on one side and he the other and we commenced talking about the times &c. he then came to me and took out a parcel from my basket and asked me what I was going to do with it — and said it was heavy enough to kill the devil he took all the things I had out of the basket then the jug had brandy and he smelt of it —

Question by Same, Did you not strike James Scott at the gate and how often how many blows did you strike him. Answer — I struck him close to the gate and I do not think I gave him but two blows —

Question by Same: did Mr. Scott seem to die immediately did you strike him again after you left him do you not think Mr. James Scott must have died immediately from the effects of the blows—

Answer. I do not think I ever went back to him after I struck him I am not able to say whether he died immediately or not because I left him I think it is reasonable he did—

Question by the Same: do you not think Mr. James Scott must have died immediately from the effect of the blows.

Answer. I know he died as soon as a man could die after being struck but I do not know as I left him—

Question by the same— how long after you struck Mr. Scott was it before you struck Mrs. Ann Pollow and do you think Mrs Ann Pollow lived longer than Mr. James Scott—

Answer. I dont think from more than three to five Minutes after striking Mr. Scott I had a combat with a black woman at the kitchen and then went into the house and struck Mrs. Pollow but to say who died first I cannot say—

Question by the same— after Mr. James Scott was struck down did you not see Mrs. Ann Pollow walking about the house—

answer. Mrs. Pollow was standing in the room when I went into the house after Mr Scott was struck down.

Question by the Same How many Blows did you strike Mrs. Pollow

Answer. I do not recollect more than One

Question by same. do you think the little girl Sarah E Pollow survived her grand Mother Mrs Ann Pollow.

Answer I think she did but I am not positive I think she was alive when I had hold of her.

Question by same After Mr. Scott was struck down did you hear him make any noise.

Answer. not that I recollect

Question by Edwards Butts Guardian Ad litem to the infant defendants did you kill Mrs. Ann Pollow or not

Answer I can say no more than that I struck her

Question by same have you not stated after striking Mr. Scott you left him groaning.

Answer I dont think I ever did.

Question by same. I think you stated in One of your answers asked by the plaintiffs Counsel that you did not know or could not say which died first.

Answer I say now I cannot say.

and further this deponent saith not

Matthew Drake

The foregoing deposition was taken sworn to and subscribed at the time and place mentioned in the caption before me a Justice of the peace for the County of Southampton. Given under my hand this 27th day of March 1841

Samuel B Heney J.P.

Alopy Teste L R Edwards Clk

Prettlows admor:

vs. } Report.

Scotts admor:

Filed March 5th 1842.

The Estate of James Scott dec^{d}

In Account with Alfred J Bailey admor: de bonis non with the will annexed

			Dr	Cr	Int.
1841		By amount of Virginia & N^{r} Carolina notes found in the house and deposited in Bank		49 67 00	
		" ditto of Specie found in the house		1226 95	
1841 Mar	22	" Wm. Atkinsons bond & Int. to this day		336 65	
Apl.	9	" amt. of premium on Sale of Specie this day		31 77	
May	17	" amount of United States Bank notes this day			
		" Sold J 1825. discount @ 15 p^{r} Cent. nett amount		1531 25	
		" By sale of 3 Oz 7 dwts Cut silver		3 77	
		" By cash of E Butts in full of Exon: v. E Gardner		395 46	
		" " amount of Stephen Murdaughs account		8 08	
		" " amount Bailey Oberrys bond & Int:		36 39	
Apl	17	" do John Boykins note & Int:		557 37	
		" do Harrison Joyners note & Int:		107 50	
		" do E Drakes bond & Int:		20 36	
		" do Ditto do do		11 05	
		" do Simon Murdoes bond & Int:		168 96	
		" do Matt: Scotts bond & Int:		8 35	
		" do Ned Wiggins' 2 bonds & Int:		44 23	
	22	" do Thomas Bunleys bond & Int.		574 83	
	"	" do Ditto " "		187 00	
	"	" do Matt: Williams bond & Int.		94 74	
	27	" do Chas: Rochelles bond & Int:		1220 48	
June	3	" do Samuel Beales 2 bonds & Int:		28 94	
Feby	15	" Cash in part of Matthew Statham Morrells bond		3 46	
June	5	" amount Allen Edwards bond & Int:		106 30	
"	"	" do Bennett J Griffins bond & Int:		408 62	
"	6	" do James Mountfords 3 bonds & Int:		39 62	
"	11	" Sale of 3 Pieces uncurrent gold Wt. 41, Dwts 6 grns.		39 46	
"	21	" amount George Cambs bonds & Int:		6 65	
	"	" " James J Williams bond & Int.		125 33	
	"	" " William Beales 3 bonds & Int:		36 37	
	"	" Cash due on James Moores bond & Int:		190 34	
	"	" " on Josiah Joyners bond & Int:		485 22	
	"	" amt. John Moore Sr. bond & Int:		120 15	
	"	" Cash due on John Moore Sr. bond & Int.		148 77	
		Amount Carried over		J 23095 02	

			Amount Brot over			23095	02
June	21	By	amount Elisha Joyners bond & Int.			791	18
"	"	"	do Elesha Joyners bond & Int:			28	27
"	"	"	do Hardy Rawls bond & Int.			118	72
July	5	"	do Edwd Bells bond & Int.			349	00
"	12	"	do Thomas R Grays bond & Int:			536	65
"	19	"	do Gray Edwards bond & Int:			238	59
"	"	"	do Amos Stephensons bond & Int:			1342	90
"	20	"	do J D Mapsenburgs bond & Int.			92	95
"	21	"	do James Rochelles bond & Int:			2532	05
"	22	"	Cash in part of James Archibald Drakes bond			50	00
Aug	15	"	amount Randolph Fowlers bond			14	16
Sep	1	"	do Needom Catchings bond & Int:			14	88
"	18	"	do Judgment vs Wiley Bradshaw.			2	94
"	"	"	do Randolph Fowlers bond & Int:			24	60
"	20	"	do Williams Joyners 3 bonds & Int.			6	41
Oct	16	"	amount of Sales due this day.			1300	64
"	13	"	do James Bryants bond & Int.			12	40
"	18	"	do Richard Beales bond & Int.			74	10
Nov	1	"	" Mary Whites account			3	00
"	17	"	do Elijah Joyners bond & Int.			4	27
"	"	"	Cash in part of Milly Beales bond			13	50
Dec	3	"	amt of Alfred Ricks bond & Int:			235	00
"	23	"	do of Tom Scotts 3 bonds & Int.			43	29
1840 Dec	22	To	paid Mills D Sumner & others for guarding the house & after Testators death.	p Rect	60 00		
"	24	To	paid Charles Butts	"	1 00		
"	26	"	" Jordan Edwards	"	3 00		
"	"	"	" for Transportation of Specie on R Road		10 00		
"	"	"	" " Do Do		2 87		
	28	"	" Expences at Crawford Hotel Portsmouth		12 25		
	"	"	" William O Parker attn:		15 00		
	"	"	" Passage & on R Road from Portsmouth		10 00		
1841 Jany	8	"	" Joseph E Scott	p Rect	5 00		
		"	" James Holmes for Coffin	"	6 00		
		"	" James J Williams	"	1 00		
		"	" A & M Sibrell	"	5 00		
			Carried forward		131 12	30924	52

			Amounts brought forward			131 12	30924 52
1841 Jany	10	To	paid Thomas & Jones auctioneer			10 00	
"	9	"	" John Davis Clerk at Sale			15 00	
		"	" John Moore appraiser			1 00	
		"	" Benjamin Downey do.			1 00	
		"	" William Peele do			1 00	
	12	"	" William Atkinson	p Rect		46 50	
		"	" Ditto	"		2 00	
		"	" John Davis	"		5 00	
Feby	13	"	" Robert H Whitfield attn:	"		10 00	
Apl	1	"	" William O Parker attn	"		35 00	
"	"	"	" Thomas S Sheldon attn:	"		35 00	
		"	" Sheriff Tax accounts Tickets &c	"		53 75	
	19	"	" Robert S Pretlow	"		4 00	
	"	"	" J D Mapsenburg Exor: D Murdaugh	"		1 81	
	"	"	" Ditto " Ditto	"		1 62	
May	17	"	" Jesse Dankford	"		2 30	
		"	" Sheriff Taxes & Tickets	"		10 83	
		"	" Ditto Ditto	"		16 24	
		"	" Ditto Ditto	"		12 13	
July	7	"	" William O Parker attn	"		30 00	
"	"	"	" Thomas S Sheldon attn:	"		30 00	
	19	"	" Robert S Pretlow	"		7 00	
	"	"	" William Wester	"		53	
	"	"	" Thomas Drake	"		53	
	"	"	" Maria Drake	"		53	
Oct	18	"	" Sheriff Taxes & Tickets	"		28 50	
	26	"	" George Moore	"		1 50	
Nov	18	"	" Samuel J Douglas attn:	"		93 25	
Dec	21	"	" S L Williams	"		10 00	
	20	"	" Parker & Williamson attns	"		50 00	
	"	"	" Thomas S Sheldon attn:	"		30 00	
	31	To	5 p Cent Commissions on 30924.52			1546 22	
	"	"	Balance due the Estate			2864 16	
						30924 52	30924 52
		By	Balance brought down				2864 16
			Interest thereon for 3 months				430.29
			Carried forward				2864 16 430.29

1842		Amounts brought forward			28641.16	430.29
Jany		By Cash of Fanny Hill for rent land in 1841			2 50	
		" " Henry Ketchem " "			3 00	
		" " Mary Beale " "			2 50	
		" " Matt Scott " "			10 00	
		" " Nathan Berry " "			10 00	
		" " Jesse Pope "			11 34	
		" " Uriah Bracy " "			6 00	
		" " William Vick in part " "			18 00	
		" " Mary Bradshaw " "			3 00	
"	17	" Bal: due on Cary Worrells bond & Int.			90 75	
	"	" Amt Polly Beales bond & Int.			4 39	
	"	" " William Ketchins bond & Int.			10 17	
	"	" Cash in part Wm Ketchins other bond			9 82	
	20	" Amt of C F. Gillets bond & Int.			13 67	
	7	" " Benjamin Downys bond & Int.			237 30	
	24	" Cash in part of Joshua Joyners bond			10 00	
	"	" " " Charles Butts bond			1 00	
Feby	9	" Amt of Rice B Pierces bond & Int.			75 00	
	17	" " Charles Beatons bond & Int.			1 29	
	"	" " Amos Joyners bond & Int.			6 44	
	"	" " Jane Bracys note & Int.			12 56	
	21	" " Zach: Lankfords bond & Int.			24 09	
	"	" " Elijah Drakes bond & Int.			61 00	
	"	" " Willis E Bales bond & Int.			3 25	
	"	" Change found in the house			06	
	10	To Jared Parker & Williamson Attys		73 80		
	17	" " Harrison D Moore		11 77		
	"	" " Porterage on Specie boxes in Portsmouth		31		
	"	" " for 2 Bushels of Salt		1 60		
	"	" " postage account		1 38		
Jany	17	By Cash in part of Milly Beales note			3 25	
	"	" this amount received of Jesse Drury Trustee in sundry deeds of Trust	2/3		300 00	
		To 5 per Cent Commissions on receipts		4695		
Feby	21	" Balance due the Estate		294443		
				29580	29580	430.29
	"	By Balance due the estate brought down			294443	430.29

with Int: on $28.64.16 part of principal from December 31/1841 till paid and on $803.27 the residue of the principal from February 21/1842 till paid.

The administrator has furnished the commissioner with a list of bonds due the deceeds estate - on some of which suits have been brought - others have been placed in the hands of Constables for collection - others a part of the amounts have been received - which (the amounts received) have been accounted for in the foregoing account current - others the solvency of which is doubtful and the others considered wholly insolvent - which lists of bonds, elapsed as above, are hereto annexed -

List of bonds due the Estate of James Scott on which suits have been brought -

Matthew Drakes bond	due	December 3d 1834	for $100.00
Samuel Wallaces bond	due	August 4th 1830	" 122.75
Ben: Hines' bond	due	October 5th 1831	" 26.69
Ben: Hines bond	due	November 21st 1831	" 3.00
Jesse Popes bond	due	December 25th 1838	" 16.34
Do Do	"	" December 25 1837	" 17.07
Do Do	"	" December 25 1836	" 16.34
Jesse Pope & Nathan Popes bond	due	December 25th 1835	" 16.94
Ditto	Ditto	" " December 25th 1834	" 16.34
Ditto	Ditto	" " December 25th 1833	" 16.34
Ditto	Ditto	" " December 25 1832	" 71.00
Jacob Jordans bond	due	December 14th 1822	" 141.26
Sarlton W Scott Jehabod Johnson & Jordan Edwards bond	due	October 31st 1825	" 515.00

Subject to the following credits to wit for the Interest up to October 31st 1827 for the interest up to October 31st 1832 for $100 - paid April 10th 1833 & for $30 - paid December 26th 1833.

Sarlton W Scott & Jehabod Johnsons bond	due	August 30th 1822	" 275.00
Richard & Jordan & Christian Jordans bond	due	May 25th 1829	" 451.48
Frederick Doles bond	due	June 16th 1828	" 46.55
James Whitehead & Esther Washingtons bond	due	October 6th 1807	" 126.00
James Whiteheads mortgage	due	December 23d 1799	" 183.55

Subject to credits entered on the books of James Scott as follows Viz - for $33.0/- the interest up to December 23d 1802 for $37.00 cents paid July 15th 1809 - for $50 - paid March 27th 1810 for $20 paid September 18th 1810 for $70 - paid March 12th 1814 - for $30 - paid June 2d 1829 - for $30 paid March 21st 1836.

List of bonds due the estate of James Scott placed in the hands of Constables for collection.

Ben: Cobb & William Cobb bond due September 22d 1838.	for	$12.00
William Cobb & Ben: Cobb bond due August 4th 1836.	"	14.00
Joseph Joyner, of Jordan, bond due April 18th 1825.	"	5.70
Miles Joyners bond due July 21st 1820	"	9.57
Miles Joyners bond due November 6th 1822.	"	2.25
Richard Beales bond for 2175 Shingles due December 7th 1837		
Richard Beales receipt for S. Beals bond due December 25 1836.	"	30.00
Subject to a credit of $15- on 6th January 1838.		
Thomas Brantly's bond due September 7th 1839	"	2.30
Allen Beales bond due September 13th 1834.	"	2.19
Archibald Drakes bond due March 20th 1837	"	6.47
Archibald Drakes bond due May 7th 1838	"	9.37½
Thomas Loyals bond due November 21st 1840.	"	3.84
John Ketchens bond due March 1st 1831	"	19.68
John Ketchens bond due September 23d 1834	"	14.20
Matthew Mountford Sr. bond due September 22d 1838.	"	2.60
Subject to a credit of $1.25 Cts on Nov 25th 1838.		
Ben Bass, (a man,) bond due December 14th 1821.	"	3.71
David Scott, (a man,) bond due May 2d 1839	"	1.06¼

List of bonds due the estate of James Scott in part collected by the administrator and which (the part collected) has been accounted for in the foregoing account current.

Matthew Worrell & Nathan Worrells bond due July 23d 1836	for	$6.00
Received February 15th 1841 by the admr: in part-	$3.46-	
James Drake & Archibald Drake bond due March 20th 1837	"	46.06
Received July 22d 1841 by the admr: in part	30.00	
Milly Beales bond due August 1st 1834	"	20.12
Received Nov: 17th 1841 by the admr: in part.	13.50	
Ditto Janry 17 1842 " " "	3.25	
William Ketchens bond due June 23d 1835	"	16.47
Received January 17th 1842 by the admr: in part	9.82	
Joshua Joyners bond due June 3d 1835.	"	37.85
Received January 24th 1842:	10.00.	

Charles Butts bond due 27th October 1838 for $12.50

Received by the admr: in part $1.00.

List of bonds due the estate of James Scott (probably solvent and no part of which has yet been collected. Viz.

Joseph Joyner, of Sneb., bond due November 7th 1840	for	$3.59
Thomas W Joyners bond due April 29th 1839	"	30.00
Thomas W Joyners bond due October 20th 1838.	"	19.16½
Williams Joyner, of Dom., bond due July 30th 1838.	"	12.21
Dom: & Nicholsons a pumpset for Jos. Joyner dated July 3d 1840	"	20.00
Edgington Joyners bond due 18th day of March 1839	"	305.00
Or for $188.30 pay November 28/1840.		

List of bonds belonging to the estate of James Scott considered wholly Insolvent Viz.

When Due		Names of obligors-	Principal
1812 July	11th	Richard Bradshaw & Sion Williams	3 50
1830 Oct.	18	Purdy Bradshaw	7 00
1826 Aug.	25	Thomas O Brock	1 00
1834 Aug.	6	Matthew Beale	2 19
1831 March	5	James Blythe	12 62½
1828 Sep.	29	Elizabeth Blythe	70
1835 June	20	Dempsey Blythe	17 15
1821 June	26	Benjamin Bass & Mary Bass, Judgment.	3 00
1822 Apl	29	Elisha Brantley do.	3 66
1803 May	20	Matthew Camp	1 44
1808 Apl	18	Shadrack Cobb & Solomon Cobb	183 76
		Subject to the following credits viz. for $23 paid June 11/1818 for $40- paid Feby. 26th 1820 for $27- paid March 10/1821. for $23 paid Feby 23d 1825 & for $70 paid Feby 22d 1826 & for $9.40 Cts paid April 8th 1826-	
1825 Sep	29	William Charles	137
1823 July	4	Mills Doyal	2 46
1817 Jany.	6	Edwin Drake	400 00
		Cr. for the interest to Jany 21st 1830 & for $95 p. October 21/1830.	

1803 Feby	3	Archer Drake	5	50
1835 Feby	12	Ridley Drake	6	00
1822 March	18	Newsom Drake		75
1836 Oct	13	Gray Edwards	16	60
1791 Feby	18	Silas Fowler & Wilson Wade	6	84
1793 Aug	30	Silas Fowler & Wilson Wade	5	17
1835 March	9	Sabitha Gardner	3	16
1823 Oct	17	Wm Harcum & Joshua Gardner	38	29
1821 Oct.	5	John Harris (Cr by Int. to Nov 1826 & 1827 Mar 22 Cr by J2-)	19	77
1826 Nov:	15	John Harris	12	64
1810 July	16	William Hart	5	87½
1828 Aug	14	Joshua Joyner of Kinchen	1	50
1823 Aug:	22	Eaton Joyner	4	39
1824 Feby	16	Sinclair Joyner	17	42
1822 July	22	Sinclair Joyner	13	35
1832 May	19	David Joyner	6	38
1805 Jany	17	Baker Joyner	5	75
1808 July	29	Council Joyner	2	09
1821 Aug:	22	Abram Jenkins	3	83
1803 Dec:	21	Jordan Johnson		42
1833 apl.	9	Henry Kitchen	6	34
1822 June	24	Richard Murfee & Wm O Daughtrey	136	36
1804 Feby	1	Thomas Nelms	7	28
1830 June	7	Nathan Oberry	15	71
1822 May	20	Henry Oberry	20	00
1826 Oct.	24	William Oberry	18	15
1827 Dec.	20	Sally Odonnely & Sally Odonnely	3	09
1829 June	2	Sally Powell		37
1823 Oct.	20	Sally Parker	2	71
1827 Aug.	13	Jeremiah Stephenson	10	06
1835 June	30	Jeremiah Stephenson	7	30
1826 Nov.	6	Henry, Lucy & Jeremiah Stephenson (Cr for J 2.50. of 23 Nov: 1830)	11	10
1830 March	15	John Turner		74
1827 Aug:	22	Silas J Vick	5	60
1837 Dec:	25	Silas J Vick	24	00
1838 Dec.	25	Silas J Vick	25	00
1839 Dec.	25	Silas J Vick	24	00

1840 Dec.	25	Silas J Vick	24 00
1836 Dec.	25	Silas J Vick	24 00
1835 Dec.	25	Silas J Vicks	24 00
1807 June	23	W Woodard	10 00
1818 Sept.	20	W Woodard	12 76
1824 Dec.	4	George Williams	1 37½
1822 July	15	Cordy Whitfield	5 00
1822 Apl.	20	Dion Williams	7 00
1819 Feby	27	Jack & Artis & Abram Johnson	2 25
1822 May	11	Peter Johnson	2 75
1826 July	24	Jo Artis	1 96
1814 July	4	Jacob Brown	6 94
1811 Nov.	15	Ned Butler	32 22
1829 Aug.	17	& Abraham Brown	53
1829 Aug	17	& Matt Brown — Cr for $32.30 p.d Nov. 22 1831.	35 33
1831 Apl.	22	Jo. Butler	2 37½
1829 Dec.	31	Sam Buck & others — Cr by Int. to 20 Apl. 1832 & for $5.45)	16 69
1824 May	27	Jo Ben	6 35
1821 Aug.	22	Bob. Burrough	5 03
1823 Apl.	22	& Moses Brown	5 20
1823 Dec.	31	Burwell Brown & Sam. Ricks. (Cr for $2.25 p.d Nov. 22/1831)	12 30
1824 & Aug	2	Dick Buck & Peter Jo.	13 30
1823 Apl	9	Dick Buck & Peter Jo	11 33
1820 May	10	Dick Buck & Peter Jo.	18 87
1827 Apl.	7	Harry Brown — Cr for Int. & 87 cts of Prin: to 9 Janry. 1830 —	8 47
"	"	Harry Brown — Cr for 1 barrel corn 7 Janry. 1829 —	8 47
1824 Nov.	15	Richardson Buck & Dick Buck	7 50
1802 May	4	Ben Freeman	13 66
1830 Nov.	16	Guy Folks	3 57½
1829 May	30	Sam & Jim Godwin — Cr for $1.56¼ of 23d March 1831.	15 84
1826 Aug	3	& Fanny Hill	10 78
1819 Feby	27	& Abram Johnson & Jack & Artis	5 80
1824 Aug.	2	Peter Jo. & Dick Buck	7 50
1823 Apl.	9	Peter Jo & Dick Buck	11 90
1820 May	10	Peter Jo & Dick Buck	14 97
1820 June	26	& Ned Jo & Nathan Ben	1 00
1817 Oct.	17	James & Melton	3 75

1828 June	10	Jacob Ricks alias Jacob Pope. Patience Pope & Nat Pope	62	75
1826 June	24	Beck Ricks Patience Ricks & Joan Ricks	13	21
1829 Dec.	31	Sam Ricks & Russell Brown	14	43
1826 Sept	12	Jack Ricks	1	43
1829 Dec	30	Betsey Ricks	2	70
1826 June	3	Joan Ricks & Beck Ricks	1	82
1823 May	30	Joan Ricks		30
1829 Dec.	31	Allison & Sam Buck & Sam Godwin (Cr for $8- 21st Apl 1832.)	9	87½
1826 July	22	Ned Scott	1	93
1803 June	17	Cromwell Scott	7	26
1826 July	24	Billy Scott — Cr for $3 pd Nov. 1831	9	26
1830 Sept.	14	Jo. Scott	5	04
1836 Oct.	22	Peter Scott	4	56
1831 Feby.	9	Phil Thomson	7	50
1812 July	10	Jack Wilkins	1	12½
1823 May	20	Tony Judkins	3	25
1837 Aug:	13	Eddy Scott	4	95
1821 Jany	14	Susan Pretlow	12	05
1824 July	26	Jim Ricks	3	72½

List of Bonds due the Estate of James Scott referred to in Deeds of Trust &c.

1829 Oct.	19	Matthew Drake	319	72½
		Subject to a Cr. of $115 pd Dec. 25/1830 & $100 pd Feby 20/1832		
1830 Apl	19	John Joyner	153	00
		Subject to a Cr of $20 pd Jany 3. 1832 & of $45 pd Apl 28/1835.		
1820 Oct.	10	Sinclair Joyners bond	62	17
1820 Aug	8	Milbry Drakes	80	00
1825 Oct.	14	Jeremiah Stephenson	71	32½
1829 Jany	19	Henry Ketchen	46	00
1833 Feby	5	Silas Vick	124	55
1832 Aug	16	Exum Turner	162	32½

Of the above three hundred dollars has been received which has been accounted for in the account current.

Pretlows admr.
to
Scotts admr.

In Chancery

The parties in this cause attended (especially to notice duly executed) before the Commissioner on the 22d day of February 1842 and from the vouchers furned by the defendant the foregoing account current of Alfred S Baileys administration on James Scotts estate has been made up— The plaintiff objected before the Commissioner to the Item of $15 paid William C Parker attorney on the 28th December 1840. to the item of $10 paid Robert H Whitfield attorney on 15th February 1841. to the items of $35 paid Wm C Parker & Thos J Gholson attys each on the 1st day of April 1841 - to $50. paid William C Parker & Thomas J Gholson attys each on 7th July 1841 & to $50 paid each of them on 20th December 1841. The first item objected to was for legal advice— the three next were for legal services rendered in obtaining the administration (which was contested) for the Defendant— and the others were for services rendered the administrator in defending this suit— The Commissioner however has allowed the admr: credit for all the charges objected to. and the account, if approved of by the Court, shows a balance due the estate of twenty nine thousand four hundred and forty four dollars forty three cents of principal and four hundred and thirty dollars ~~twenty nine~~ cents of interest, with Interest on $28641. 16 Cents a part of the principal from the 31st day of December 1841 till paid & on $803.27 Cents the residue of the principal from the 21st day of February 1842 till paid.—

All of which is respectfully Submitted—

L R Edwards Spl. Comr

Commissioners fee

12 hours	$12.00	
Charged to the plaintiff—		
For postage paid	.50	$12.50
the Sheriff for executing notices	1.00	

Prettows adm.

v. 2/3 Comt. Report

Scotts adm:

1844 March 30.

Hr Gym. §25 08

At a Circuit Superior Court of Law and Chancery held for the County of Southampton on the 2nd day of November 1843.

Thomas J Prettlow administrator of Ann Prettlow dec'd. Pff.

against

Alfred S Bailey administrator de bonis non with the will annexed of James Scott dec'd. Dft.

} In Chancery

In this cause it appearing to the Satisfaction of the Court that since the last Term the defendant Alfred S Bailey administrator of James Scott dec'd has departed this life and that administration of his estate has been granted to a certain Timothy Atkinson, by consent of parties the suit is revived and continued against the said Atkinson administrator as aforesaid. And the cause coming on again to be heard on the papers formerly read, was argued by Counsel. On consideration whereof the Court doth adjudge order and decree that the said Timothy Atkinson do render before Littleton R Edwards who is hereby appointed Commissioner, an additional account of the said Baileys transactions on the estate of the said Scott up to the time of his death, which account the said Commissioner is required to audit, state and settle, and report the same to the Court with any matters deemed pertinent by himself or required by the parties.

A Copy. Teste L R Edwards. clk

Agreeably to the foregoing decree after giving the parties due notice of the time and place appointed for the purpose I proceeded to take an additional account of Alfred S Baileys administration on the estate of James Scott dec'd and report the same as follows.

The Estate of James Scott dec'd

In Account with Alfred S Bailey Admr. de bonis non &c.

1842			Dr.		Cr.		Int.
Mar	2	By cash in part of Mariah & Thomas Drakes note			31	00	
"	21	" " in full Thomas W Joyners bond			7	91	
"	25	To paid postage on 2 letters from Petersburg		40			
Apr	4	By cash in full William Rowes bond			51	76	
"	7	To paid Parker & Williamson	10	75			
"	10	" " postage letters to & from Petersburg		20			
		Carried forward	11	35	89	67	

		Brought forward	11 35		89 67	
Apl	20	To paid postage on double letter.		20		
May	15	" " N.B. Bryant costs of warrant v. J Ketchen		60		
"	"	By execution v. David Scott (for,			1 24	
"	"	" do v. Thomas Doyal			4 16	
"	"	" do v Allen Beale			3 16	
"	18	" Cash in part Elijah Drakes mest			5 00	
"	20	To paid W W Leigh atto:	150 00			
July	18	" " William C Parker Atto	25 00			
"	"	" " Thomas P Gholson Atto.	25 00			
"	"	By Execution v. Wm & Benj Cobb.			18 77	
"	"	" Balance of Rent from Elijah Drake			15 62	
"	"	" this amount in full rent from Eli. Drake			24 84	
"	20	By amount principal & Interest to this day due upon former acct & decreed to be paid to Thomas J Prettlow admor. Ann Prettlow dec'd by decree of Circuit Superior Court Southampton pronounced 8th April 1842.			308 49 50	
"	"	To this sum paid Thomas J Prettlow admor Ann Prettlow dec'd in full of decree of the Circuit Superior Court pronounced April 8th 1842.	308 49 50			
Aug	15	To paid Samuel T James Costs of warrants v Miles Joyner	1 02			
"	18	By Cash in full Thomas W Joyners bond			28 14	
Sep	8	To paid Sheriff for taxes & Tickets	7 32			
"	"	" " Judgment in favour Ann Scott	10 00			
Oct	17	By Exon: v. Patrick Doles			92 93	
Nov	9	" " v. Archibald & James Drake			7 93	
"	"	" " v. Thomas Brumley			2 90	
"	"	" " v Benj & Wm Cobb.			14 36	
"	"	To paid H DeMoss Costs warrant v Beale & Drake	5 08			
Dec	19	By Cash in full James Drakes bond			8 73	
Aug	15	" Cash in part Manch & Thomas Drakes bond			22 75	
Nov	9	" do in full James J Williams bond			9 72	
"	"	" do " full Harrison DeMoss bond			51 67	
		Carried forward	31155 07	31251	09	

		Brought forward	31155 07	31251	09	
Dec	19	By Cash in full Manch & Thomas Drakes bond		20	44	
		To Commissions on $422.03	21 10			
"	31	To Balance due the Estate	95 36			
			31271 53	31271	53	
1843		By Balance brought down		95	36	
Jany	16	" Cash in part William Ketchens bond		5	00	
Feby	1	" " in part Exum Sumners bond		20	00	
"	18	" " in part Exon: v Carlton W Scott		17	52	
"	"	" " in part Exon: v Saml Wallace		16	87	
"	"	To paid Shff 2 Exons in favour Jas Whitehead & one in favour Jordan Edwards 3	31 07			
"	"	" " two Tickets	4 20			
"	20	By Cash of William Peele in part J.W. Scotts rent		31	00	
"	"	" " in part Exon v Christian Jordan		4	22	
Mar	3	" " in part Joseph Joyners bond		4	08	
"	"	" " in part Ditto "		5	91	
"	10	" " in full Exon: v Wm Joyner of Sem,		15	50	
"	"	" " in full of bal Matthew Jet Worrells bond		1	37	
"	"	" " in full Exon: v Matt Mountford Sr.		2	13	
"	"	" " in full Exon v Ben Bew (for)		8	00	
"	20	" " in full Exon v Jo Joyner (of Jordan)		11	82	
"	"	" " in part William Ketchens bond		6	00	
Apl	5	" " in part Edgington Joyners bond		62	37	
"	8	" " in full Josiah Murdaughs rent		8	60	
"	17	" " in full Milly Beales bond		11	00	
"	"	" " in full William Ketchens bond		3	00	
May	15	" " in full J.D. Musgraves bond		20	98	
July	18	" " in full J. W Scotts rent		6	42	
Aug	11	To paid Ridley & Gordon Attys	11 50			
"	21	" " William C Parker Atto	30 00			
Sep	19	" " Clerks & Shffs tickets	33 80			
"	"	" " Shffs ticket	2 13			
"	"	" " Gholson & Downes Attys	11 25			
		Carried forward	123 95	390	15	

		Brought forward			123	95	390 15
Oct.	3	By cash in full balance Joseph Joyners bond					30 43
		" " from Jesse Drewry					3 80
		" " in full Henry Mountfords rent					19 88
		To paid Stff: Exon in favour Summons adv:			6	47	
"		To this sum being the amt: of a bond including interest to this time, taken by the Admr: for purchases at sale of decedents estate and which was lost by reason of the obligors becoming insolvent & without any want of diligence on the part of the Admor			30	38	
"	"	To Commissions on $411.26			22	21	
	"	Balance due the Estate			261	25	
				$	411	26	411 26
"	"	By Balance brought down					261 25
		By Thomas W Joyners bond & Interest received March 1842					23 08
		Interest thereon from Dec 31st 1842 to October 3d 1843					1 15
		Interest on $3.36 from Do: " Ditto					4 67
		Interest account brought down					5 82

Balance due the estate $290.15 with
Interest on $284.31 part thereof from October 3rd 1843 till paid

The following Special Statement is made at the request of Atkinson Admor of Bailey—

Jesse Drewry who was appointed Trustee in the deeds of Trust executed by the following persons for the benefit of Scott in his, Scotts, Lifetime has returned accounts Sale of a part of

Exum Turners land	$190.00
Silas Vickes Chattels	48.11
Jeremiah Stephenson & Mildred Drakes land & Chattels	73.98
John Joyners land	70.04
Matthew Drakes land	222.59
Henry Ritchens Chattels	26.15
Pinclair Joyners land	30.64

Half the costs of the decree in each case has been deducted from the amounts Sales (the decrees appointing the trustee directed each party to pay half the costs) and the balance credited on the bond of each— Trustees Commissions Clerks hire & fees of sheriffs with the Taxes the Trustee returned, but did not return the half expence of decree in each case

Early in February 1842 the trustee Jesse Drewry paid over to Alfred S Bailey three hundred dollars which sum is credited to Scotts estate in the account heretofore reported in this case— Since which time the trustee has handed over to Alfred S Bailey the following bonds. Viz.

William Rowes bond due October 4th 1841	$30.25
Mariah & Thomas Drakes do do	70.80
James D Massenburgs do Aug: 7 1841	18.95
James J Williams do Aug: 7 1841	9.05
Thos Doyle & Wm & Benj. Vick do Aug: 5 1841	26.27
Wm Vick Thos Doyal & B. E Vick do Aug: 5 1841	21.85
M. D. Summer & N. M. Sebrell with Int: to Aug: 24 1841	78.44
H D Moore & G H Gardner Bond due Oct 7th 1841	49.35
Jo. Joyner & N M Sebrells bond due Oct 15th 1841	32.75

Upon which bonds the following amounts have been paid and credited to the Estate of Scott in the foregoing account Towit—

1842 Mar	2	Cash in part Mariah & Thomas Drakes bond		31	00
Apl	4	" " full William Rowes bond		51	76
Aug	15	" " part Mariah & Thomas Drakes bond		22	75
Nov	9	" " full James J Williams bond		9	72
		" " " Harrison D Moores bond		51	67
Dec 1843	19	" " full bal: Mariah & Thomas Drakes bond		20	44
Mar	3	" " part Jo. Joyners bond		5	91
May	15	" " full J D Massenburgs bond		20	98
Oct	3	" " full bal Jo. Joyners bond		30	43
		" from Jesse Drewry		3	80

M. D. Summers & N M Sebrells bond in Suit and the money probably in the hands of the Sheriff

Thomas Doyles bond & William Vicks bond are insolvent—

Account of bonds referred to in the former report in this cause as being in suit, embracing those only upon which nothing has been made Viz—

Matthew Drakes bond	No Effects
Wm: Davis "	Not collected
Jesse Popes "	No Effects
Jesse & Nathan Popes "	No Effects.

Jacob Jordan — No Effects

Tarlton W Scott & Jehabod Johnson not settled but now in suit v Johnsons adm.

James Whitehead bond & Mortgage — Non suit.

Account of bonds reported to be in hands of Constables upon which nothing has been received - Viz -

Miles Joyners	2 bonds	No Effects
Archibald Drakes	bond	No Effects
John Ritchens	2 bonds	No Effects

Account Bonds reported as in part collected & upon which no further collections have been made Viz -

Joshua Joyners now in Suit

Charles Butts bond delivered to Robt S. Pretlow Adm. de bonis non James Scott dec'd

Samuel P Nicholsons assumpsit for Jo. Joyner has also been delivered to Robt S. Pretlow adm & Exum Turners upon which a balance is still due has been delivered up to Robt S. Pretlow adm & together with all the insolvent bonds -

Respectfully Submitted.

L R Edwards — Sp. Com.

Commissioners fee $10 - charged to Robt S Pretlow adm: Ann Pretlow dec'd

James Scotts
Will

Copy

I James Scott of Southampton County Virginia do make constitute and ordain this my last Will and Testament in manner and form following Viz.

I give devise and bequeath unto my Sister Ann Pretlow the whole of my estate (personal and real) to her and to her heirs and assigns forever. And I do nominate constitute and appoint my said Sister Ann Pretlow Executrix to this my last Will and Testament In Witness whereof I have hereunto set my hand and Seal this twenty seventh day of the Sixth month one thousand eight hundred and nineteen.

James Scott (Seal)

Signed Sealed and declared by the said James Scott to be his last Will and Testament In presence of
Benj. Devany
Elisha Lewis
John Moore

At a Court held for the County of Southampton on the 18th day of January 1841.

This last Will and Testament of James Scott decased was proved by the oath of Benjamin Devany and John Moore two of the witnesses thereto and ordered to be recorded.

Teste L R Edwards Cle

A Copy
Teste L R Edwards Cle

Pretium ex

a 3 Exhib. mit bill

Petitionem

1852.

(1)

At a Court held for the County of Southampton on the 21st day of December 1840

On the motion of Alfred D Bailey who made oath and together with James B Urquhart Robt Murray and Richard A Urquhart his securities entered into and acknowledged a bond in the penalty of one hundred thousand dollars conditioned as the law directs certificates is granted him for obtaining letters of administration on the estate of James Scott deceased in due form.

A Copy Teste D R Edwards Clk

(2)

At a Court held for the County of Southampton on the 15th day of March 1841.

Thomas J Pretlow administrator of Ann Pretlow deceased appeared and moved the Court to grant him the administration de bonis non with the will annexed of James Scotts estate which motion was opposed by Alfred D Bailey who moved to grant him the administration The Court after fully hearing the parties by their attornies decided that the administration be granted to the said Alfred D Bailey upon his taking the oath prescribed by law and entering into bond with security conditioned as the law directs whereupon the said Alfred D Bailey took the oath prescribed by law and with James B Urquhart Richard A Urquhart and Robt Murray his securities entered into and acknowledged a bond in the penalty of one hundred thousand dollars conditioned as the law directs. certificate is granted him for obtaining letters of administration de bonis non on the estate of James Scott deceased with his said will annexed in due form

A Copy Teste D R Edwards Clk

Prettlows adm:

v. } Record

Scotts adm:

At a Circuit Superior Court of Law and Chancery held for the County of Southampton on Friday the Eighth day of April One Thousand Eight hundred and forty two –

Be it remembered that heretofore towit. On the twenty fifth day of March in the year 1841 came Thomas J Prellow administrator of Ann Prellow deceased by his Counsel and filed in the Clerks Office of the said Circuit Superior Court, his bill against Alfred F Bailey administrator de bonis non with the will annexed of James Scott deceased in these words to wit.

"To the honourable Richard D Baker judge of the Circuit Superior Court of Law and Chancery in and for the County of Southampton –

Humbly Complaining sheweth unto your honour your Orator Thomas J Prellow administrator of Ann Prellow deceased that James Scott of the County of Southampton, was in his lifetime and at the time of his death possessed of interested in and well entitled unto a Considerable personal Estate Consisting of Ready Money, Money out at interest upon bonds Mortgages and other securities and divers other goods and effects to a Considerable amount in Value and greatly more than sufficient to satisfy and pay all his just debts and funeral expenses, and being so possessed interested and entitled he the said James Scott died in and about the month of December in the year 1840 depart this life after having first made and published a last will and Testament, by which he gave devised and bequeathed unto his sister Ann Prellow all of his estate both real and personal to her and her heirs forever; which said last will and Testament has been duly admitted to probate and recorded in the Clerks Office of the County of Southampton all of which will more fully appear by a Copy of the said will hereunto filed and prayed to be taken as a part of this bill. Your Orator further shew unto your honour; That the said Ann Prellow died in and about the month of December 1840 depart this life intestate having survived her said brother James Scott, but before she took upon herself the duties of his executrix to which she was appointed by his last will and Testament; And that your Orator duly obtained letters of administration and qualified as her administrator in the County of Southampton and as such is justly entitled to all the personal estate rights and Credits of which said Ann Prellow died seized possessed interested and entitled. And your Orator would further shew unto your honour that sometime after the death of said Testator James Scott and before it was known he had left a last will and testament; Alfred F Bailey obtained letters of administration of his goods and Chattels rights and Credits to be granted to him by the worshipful County Court of Southampton County; and did by virtue thereof possess himself

of the said personal Estate of the said Testator James Scott to a large amount in Value and greatly more than sufficient to pay and satisfy all his just debts (for in truth and in fact no debts were outstanding against the said Testator James Scott) with a large Surplus or residue which residue your Orator Contended and Charge, under the last will and Testament of the said Testator James Scott should Come to the hands of your Orator he being justly and legally entitled to it as the administrator of Ann Prettow dec'd who was sole legatee and entitled to all the Estate of said Testator James Scott and who survived the said Testator James Scott, Your Orator would also shew unto your honour that after the probation of the will of said James Scott the said Alfred S Bailey as administrator was on motion set aside, but that the said Alfred S Bailey was permitted to qualify as administrator de bonis non with the will annexed on the Estate of the said testator James Scott, Copies of which qualifications marked Nos 1 & 2 are herewith given and in virtue of this second qualification the said Alfred S Bailey did Continue to hold possession of the personal Estate of which the said Testator James Scott died seized possessed and entitled and which by his last will and testament he bequeathed gave and devised to his sister Ann Prettow and of whose estate your orator is the legal representative having qualified as her administrator. Your orator would also shew unto your honour that being so entitled as aforesaid to the personal Estate rights and Credits of which said testator James Scott died possessed &c. (as the administrator of Ann Prettow deceased) he has frequently and in a friendly Manner applied to the said Alfred S Bailey administrator as aforesaid and requested him to Come to and account with your Orator for the personal Estate of the said testator James Scott died seized and possessed and entitled, and to pay the same into the hands of your Orator as administrator of Ann Prettow deceased who was sole legatee under the will of the said Testator James Scott and legally and justly entitled to all his personal Estate; and your Orator was hoped the said Alfred S Bailey administrator as aforesaid would have Complied with such his reasonable request as in equity and justice he ought to have done. But so it is the said Alfred S Bailey administrator as aforesaid Combining and Confederating with others pretends that James Scott survived his sister Ann Prettow and that the legacy to the said Ann Prettow is lapsed null and void — the Contrary whereof your Orator expressly Charges to be true. All of which doings wrongs and pretences are Contrary to equity and good Conscience and tend to the manifest wrong and injury of your orator in the premises. In tender Consideration whereof and for as much as your orator is remediless in the

premises at and by the strict and direct rules of the Common Law and Cannot have adequate relief save in a Court of equity where matters of this and the like nature are properly Cognizable and relievable. To the end therefore that Justice may be done touching the premises, Your Orator prays your honour that Alfred S Bailey administrator de bonis non with the will annexed of James Scott deceased may be made a party defendant to this Bill, and that the said defendant may upon his Corporal oath make true and perfect answer to all and singular the matters hereinbefore stated and Charged, and that the said Alfred S Bailey administrator as aforesaid may set forth a true and particular inventory and account of all and singular the personal estate and effects which have Come to his hands as administrator de bonis non with the will annexed of James Scott and that an account may be also taken of the debts (if any) of the said testator James Scott and that your honour would decree the residue after the payment of the debts of said testator to be paid into the hands of your Orator as the administrator of Ann Prettow dec'd to whom the same was devised given & bequeathed by the last will and Testament of said Testator James Scott, and that your Orator may have such other and general relief the premises Considered as to your honour may seem just and proper and which may be Consistent with the rules of this honourable Court. And that your honour would be pleased to grant your Orator the Commonwealths writ of Subpoena to be directed to the said defendant Commanding him to stand to & abide such order and decree therein as to your honour shall seem agreeable to equity and good Conscience and your Orator shall ever pray.

Samuel James Douglas p.q.

Exhibits.

I James Scott of Southampton County Virginia do make Constitute and ordain this my last will and Testament in manner and form following Viz

I give devise and bequeath unto my sister Ann Prettow the whole of my Estate (personal and real) to her and to her heirs and assigns forever. And I do nominate Constitute and appoint my said sister Ann Prettow Executrix to this my last will and testament. In witness whereof I have hereunto set my hand and seal this twenty seventh day of the tenth Month One thousand Eight hundred and Nineteen —

Signed sealed and declared by the said James Scott to be his last will & Testament in presence of

James Scott [Seal]

Benja Deveny
Elisha Lewis
John Moore

At a Court held for the County of Southampton on the 18th day of January 1841
This last will and Testament of James Scott deceased was proved by the oath of Benjamin Dewey and John Merre two of the witnesses thereto and ordered to be Recorded.

Test L R Edwards CC

(Exhibit D) Copy Test L R Edwards C.C.

At a Court held for the County of Southampton on the 24th day of December 1840
On motion of Alfred S Bailey who made oath and entered into bond together with James B Urquhart and Richard A Urquhart and Robert Murray his securities in the penalty of One hundred thousand dollars conditioned as the law directs Certificate is granted him for obtaining Letters of administration on the Estate of James Scott deceased.

A Copy Test L R Edwards C.C.

£23

At a Court held for the County of Southampton on the 15th day of March 1841
Thomas J Prentiss administrator of Ann Prentiss deceased appeared and moved the Court to grant him the administration de bonis non with the will annexed of James Scotts Estate which motion was opposed by Alfred S Bailey who moved to grant him the administration. The Court after fully hearing the parties by their attorneys decreed that the administration be granted to the said Alfred S Bailey upon his taking the oath prescribed by Law and entering into bond with security Conditioned as the Law directs - Whereupon the said Alfred S Bailey took the oath prescribed by Law and with James B Urquhart Richard A Urquhart and Robert Murray his securities entered into and acknowledged a bond in the penalty of One hundred thousand dollars Conditioned as the law directs Certificate is granted him for obtaining Letters of administration de bonis non on the Estate of James Scott deceased with his said will annexed in due form -

A Copy Test L R Edwards C.C.

Whereupon a Subpoena and decree nisi was issued against the defendant returnable to the first day of the next Term of said Circuit Superior Court which subpoena and decree nisi together with the return thereon made is in these words and figures to wit - The Commonwealth of Virginia. To the Sheriff of Surry County - Greeting - We Command you that you summon Alfred S Bailey administrator de bonis non with the will annexed of James Scott deceased to appear before the Judge of our Circuit Superior Court of Law and Chancery for the County of Southampton at the Courthouse of said County on the first day of the next Term to answer a bill in Chancery exhibited against him in the said Court by Thomas J Prentiss administrator of Ann Prentiss deceased. And unless he shall answer the said bill within two Months thereafter the Court will take the same for Confessed and decree accordingly. And this he shall in no wise omit under the penalty of £100. And have then there this writ. Witness Littleton R Edwards Clerk of our said Court at the Courthouse the 25th day of April 1841 in the 66th year of the Commonwealth.

L. R. Edwards C.C.

Sheriffs Return.

Executed by delivering a true Copy of the within to Alfred S Bailey on the 27th Inst. February.

Ed: White Shff S.C.C

And at another day to wit: At Rules held in the Clerks Office of the Circuit Superior Court of Law and Chancery aforesaid on the first Monday in June 1841. The Subpoena and decree nisi in this cause having been returned Executed on the defendant, and more than two Months having Elapsed since the filing of the bill and the service of the subpoena and decree nisi and the said defendant still failing to appear and plead, answer or demur. On the Motion of the plaintiff by Counsel his bill was taken for Confessed - And at another day to wit: At Rules held in the Clerks Office of the Circuit Superior Court aforesaid on the first monday in September 1841 The defendant by Consent of plaintiffs Counsel in writing filed his answer to the plaintiffs bill in these words to wit: In the Chancery Court of Southampton: To the honourable Richard A Baker judge. The answer of Alfred S Bailey administrator de bonis non with the will annexed of James Scott deceased to a bill exhibited in this Court against him by Thomas J Prentiss administrator of Ann Prentiss deceased. This respondent saving &c. for answer to so much of the Complainants bill as he is advised it is material for him to answer, says, that he admits the various qualifications as set forth in the bill, he admits that his testator left Considerable Estate both personal and real that this respondent as administrator has taken possession of the personal Estate; and is progressing as fast as the interest of his testators estate and his duty as administrator require him, to close his administration that it is also true, the Estate of James Scott is not in debt. This respondent also admits directly, as he has before indirectly that James Scott left a last will and Testament, as is charged in the Complainants bill. But this respondent positively denies the right of the Complainant to call upon him to render an account and purgover the Estate of James Scott to him as the administrator of Ann Prentiss deceased the Complainant well knowing that his intestate had no claim whatever to the bequest to her

Contained in James Scotts will, unless she (his intestate) survived him
Charges expressly in his bill that she (the said Ann Prellow) survived the
said James Scott this allegation this respondent must positively and
unequivocally denies and calls for strict proof. This respondent also
respectfully shews to the Court that James Scott left various nephews and
Nieces, never having himself married. to wit: The Children of Joseph
Prellow the Children of Sarah Bailey and the Children of Joseph Scott
That these relations, are his heirs at Law and entitled to his Estate unless
some one shall shew to this Court that he or she is entitled under the
will of James Scott to receive it. And your respondent is advised that
in order to do this he or she so Claiming must prove clearly and
unequivocally, that he or she being a Collateral so Claiming (their
representatives) was in existence, when he (said James Scott departed
this life. That unless such proof is exhibited the legacy lapses and becomes
the property of the heirs at Law. That against the heirs at Law there
are no presumptions. The necessity of such proof the Complainant ...
acknowledges and has as before stated expressly Charged in his bill that
his intestate did survive James Scott. For strict and full proof of
which Charge this respondent again Calls. This respondent has been
informed and therefore states that James Scott and Ann Prellow were
both Murdered in the dead of night in December 1820 no human
being present save their Murderer that they were both found dead
on the premises, and it is impossible for any human being to say
which died first, and such being the State of the Facts, your respondent
is advised that the Complainant as administrator of Ann Prellow
must fail in his Claim. Your respondent will be ready as adminis-
-trator de bonis non to abide any order or decree of this Court.
And having answered prays to be hence dismissed with his Costs &c

Parker & Shelton for
Defts.

Southampton County to wit

This day Alfred S Bailey personally appeared
before me a Justice of the peace for the County aforesaid and made
oath that the foregoing answer Contains the truth to the best of his
knowledge and belief. Given under my hand this 16th day of August 1841

Joseph T Cleaves JP

To which answer the plaintiff by Counsel instanter replied generally.

And at another day to wit: At Rules held in the Clerks office of the
Circuit Superior Court aforesaid on the first Monday in November 1841
On the motion of the plaintiff by Counsel this Cause was set for hearing
And at another day to wit: at a Circuit Superior Court of Law and
Chancery held for the County aforesaid on the 5th day of November 1841
This Cause in which it was agreed by Counsel on both sides that the Court
should decide the same without directing an issue to be tried by a jury
Came on this day to be heard on the bill of the plaintiff the answer of
the defendant and replication thereto examination of witnesses and exhibits
filed and was argued by Counsel, On Consideration whereof the Court doth
adjudge order and decree that Littleton Re Cowper who is hereby appointed
a Special Commissioner for that purpose do audit state and settle and
account of the transactions of the defendant as administrator of James Scott
deceased and report the same to the Court together with any matters deemed
pertinent by himself or required by the parties to be so stated.
And now at this day to wit: At a Circuit Superior Court of Law and
Chancery held for the County aforesaid on the day and year first aforesaid to wit: the Eighth day of April 1842.
This Cause Came on this day by Consent of parties to be heard on the papers
formerly read and the report of the Commissioner made pursuant to an Order
of November Term 1841 to which there is no exceptions (the exceptions of the
plaintiff having been withdrawn) and was argued by Counsel, On Consideration
whereof the Court Confirming the said report, and being of opinion that
Ann Prellow the intestate of the plaintiff survived James Scott the Testator of
the defendant, doth adjudge order and decree that the defendant Alfred S
Bailey administrator de bonis non with the will annexed of James Scott dec'd
pay to Thomas J Prellow administrator of Ann Prellow deceased the sum of
twenty nine thousand Eight hundred and seventy four dollars and seventy
two Cents principal and interest with interest on twenty Eight thousand
six hundred and forty Six dollars and sixteen Cents part thereof from the
31st day of December 1841 till paid, and with interest on Eight hundred
and three dollars and twenty seven Cents, the residue of the principal
from the 21st day of February 1842 till paid. And liberty is hereby reserved
to the plaintiff to ask hereafter any further decree which may be necessary
in relation to the unadministered estate of the testator James Scott. But the
plaintiff is not to have the benefit of this decree until he or some person
for him shall enter into bond with sufficient security payable to Alfred
S Bailey administrator with the will annexed of James Scott deceased

in a penalty double the amount hereby decreed, Conditioned to refund any debts or demands which may afterwards appear against the Estate of James Scott deceased and all Costs attending the recovery thereof -

The following are the depositions taken and filed in the cause

Depositions taken and filed on behalf of the plaintiff -

The deposition of Matthew Drake taken on the thirty first day of March one thousand eight hundred & forty one - The deponent being first ~~duely~~ sworn on the Holy Evangelist deposes & says as follows that I struck Mr James Scott twice, the next thing which occured was ~~crumage~~ scrimage with a negro woman at the Kitchen by some means the woman got loose from me then went on the the great House & I pursued her after getting in to the house Mrs Ann Pullon appeared before me & the negro woman just behind her I think I struck the white woman one blow after then the Black woman went into the bed chamber room & I followed her we got together there and when we ended we were in the same room where I struck the white woman near the fire place after I came to myself I found the child in the same room with us not quite dead but I do not know how I ~~struck~~ it.

question by Plaintiffs Counsel: when you left the House of Mr Jas Scott on the evening he was killed did he or did he not accompany you to the Gate

Answer After going to his house & staying a while I started home and Mr Scott walked out some few steps from the door & stoped I walked on to the gate & went through he hailed me and I stoped & he came on to the gate & sat down on the inside in the yard he sat there some time and then came through the gate to me I do not recollect the conversation exactly but think it was something about lines Trees I had some things in my Basket he took them all out & looked at them some jugs one of which had some Brandy & one some Vinegar that he give me. after that he took hold of the pestle and asked me what I was going to do with it I do not recollect the answer but think I told him I carried it to knock things with.

question by Same did or did you not strike Mr Scott down at the Gate

Answer I believe I struck him down near the gate:

Question by Same Do you or do you not suppose Mr James Scott must have died immediately from the effects of the blows:

Answer. I think its likely he died pretty soon afterwards:

Question by Same when you left Mr Jas Scott did you or did you not go to Kitchen:

Answer Yes I went on to the kitchen:

Question by Same How long do you think it was after you left Mr James Scott before you went to the Dwelling House where Mrs Ann Pullon was:

Answer. I cannot say but donot think it was over few minutes.:

Question by Same Did any conversation or words pass between Mrs Ann Pullon & your self after you got to the House.

Answer Not that I recollect of

Question by Same Was or was not Mrs Ann Pullen alive and on her feet when you went into the dwelling House

Answer She was standing up on her feet when I struck her

Question by Same. Do you or do you not think Mr James Scott was most probably dead at the time you reached the Dwelling House when Mrs Ann Pullen was & before you struck her

Answer I do not know he might be dead or might not

Question by Same Do you or do you not think the blows you gave Mr James Scott caused his instant death

Answer I think he died as quick as a man could die

Question by Same. How many blows did you give Mr James Scott and how many Mrs Ann Pullen.

Answer I gave Mr James Scott two and I have no recollection of giving Mrs Ann Pullen but one and further this deponant sayeth not.

Matthew Drake

The Deposition of John Moore taken on the Seventh day of July in the year one thousand eight Hundred & Forty one. The Deponant being first duly Sworn on the Holy Evangelist deposes & says as follows. I was called on by Matthew Mansfield junior on the fifteenth day of December last about sunrise in the morning and he informed me that James Scott had been Murdered the night before I immediately went to the House of said Scott - and before I got off my horse discovered they were in the act of carrying the body of Scott into the house I then went into the House where I saw Mr Scott with Mrs Pullen her granddaughter and the Negro woman all lying on the floor shortly after the coroner came and summoned a men on the inquest I then went with the rest of the inquest to examine the bodies. first taking James Scott he was lying on his back and appeared to have had a heavy blow on the left temple with a heavy weapon of some kind which we suppose to be a maul found in the yard. we also thought he had received another blow on the right side of the head, we also thought he had received two other blows with the same instrument in his forward extending down to his chin the under jaw was broken on both sides the skull was so broken that on feeling I thought it worked any way. We next examined the old lady who we found laying on the floor in her night dress she had received a blow which appears to be very severe so much so that I think it caused her death - and supposed it was inflicted with the same instrument with which Mr Scott was wounded - The child Sarah had received a blow on the back of the head supposed likewise to be given with the weapon used on Mr Scott and Mrs Pullow - The black woman was by the side of Mrs Pullen with her head on the hearth She had received a blow on the head given as supposed with the same weapon and her throat was cut - at the time I saw them they had a blanket thrown over them on removing it so low down as the abdomen of the black woman her clothing was burnt off as far as I stirred her the blood had run under her as much as two feet

Question by plaintiff Council. How far do you live from James Scotts and how long have you been acquainted with him

Answer. I live I suppose about or a little more than two miles and have been acquainted with him better than forty years and since 1844 have lived within the distance above mentioned.

By the Same. Was or was not James Scott fond of conversation, and was he or was he not in the habit of going out with his visitors to keep up the conversation on their leaving his house?

Answer. He was remarkably fond of conversation and would occasionally walk out with his visitors and the last time I was at his house before his death he walked out with me as far as his barne, probably a hundred yards from the house

Question by the defendants counsel. Were you acquainted with Mrs Pullow and was she very old and infirm?

Answer She was very old about Seventy Seven as I understand the old man informing me that he was Seventy five and that she was older but I do not know that she was more infirm than other old persons being able to attend to the family affairs.

Question by the Plaintiff Counsel. Were the wounds inflicted on the face & head of James Scott very extensive & violent Calculated to produce instant death?

Answer They were I think no man could survive many moments after receiving such wounds.

John Moore Sworn

The Deposition of Jesse Drury taken on the Seventh day of July in the year one thousand eight Hundred & forty one. The Deponant being first duly sworn on the Holy Evangelist deposes & says as follows I was called on about two oclock at night on Tuesday the 15th day of December last by a negro and requested to go to Mr James Scotts who stated that Matthew Drake was killing the family. I went immediately in company with Mr Charles Butts. when we got to the house I found a small negro child murdered in the yard but discovered no sign of violence on it I went near the kitchen door and picked up a peice which was bloody at which time Mr Butts said there was something at the gate I ran to it and found Mr James Scott lying dead which I informed him of at this moment I turned my head towards the door and saw a light in the house.

and observed to him they the murderers are in the house at this time we ran to the door. I directed him to stand on the outside untile I went in and made an exa-amination what was done when the bodies of Ann Puttlow Sarah C Puttlow and Judia a negro woman, were lying with their heads on the hearth and seemed to be placed in that position and the house set on fire between the heads of Ann Puttlow & the negro woman, which had burnt a hole in the floor and and burnt most of the clothing of the dead bodies. Mr James Scott was lying at the gate on his back perfectly straight with his hands lying on the lower part of the body in the position they would a hape been in in pulling up the waistband of his britches which he was in the habit of doing with a violent blow on the right side of the head near the temple which broke the Scull and jaw and a blow on the left side of the face and forehead which fractured the Scull and bones of the nose. there seemed to be no sign of blood except what had ran from the wound on the forehead and that in a straight line from the wound to the ground. and no sign of Scuffling or moveing of the head or body. near the place there was small chips of wood. on the ground when the body was lying. Mr Scott was dressed in the clothes he usually wore in the day Mrs Puttlow in her night dress and the child Sarah in her night dress. the negro in her clothing usually worn in the day the clothing of the negro child was near the kitchen door and there was marks of scuffling on the ground near the ash gum with blood and negro hair sticking on it which was 20 feet from the kitchen door: in the house there was blood on the floor. in front cham-ber near where the bodies were lying and blood on the hearth which extinguished the fire measureably the bead in the Chamber where Mrs Puttlow usually slept was turned upside down and blood on both sides of the bedtick and several spots on the floor the bed stead was upside down and there seemed to have been considerable strife in that room. the maul was made of Green Dogwood which was weighed and measured and I think weighed Seven pounds ten ounces and measured two feet ten inches. a blow from which by a Strong man than no doubt would produce death immediately if given on any part of the head the body of Mr Scott was forty Eight yards from Mrs Puttlows from Mr Scotts body to the kitchen door was twenty eight yards. from the kitchen to the dwelling house was forty six yards a negro Girl about fifteen years of age a member of the family escaped and I overtook her in going to the place I supposed they had been murdered two or three hours before I got to the house in the morning we made an examination and found a drawer belonging to a bureau that seemed to have been forced, in it a small bag of silver change and valuable papers which seemed to have been stirred up and scattered, in confusion, the other drawers in the bureau contained money to the amount of about six thousand Dollars

Questions by Plaintiffs Councel. Were you the first person who went to Scotts and when you found Scott dead as you say. did you then know whether Mrs Ann Puttlow was dead or alive?

Answer When Mr Charles Butts and myself arrived at Mr Scotts we saw no living person. when I first saw Mr Scott I did not then know that Mrs Puttlow was killed.

By the Same Do you know whether Jas Scott was in the habit of keeping or using fire arms?

Answer. he had a loaded gun in the house at the time setting in the corner of the room and we found ammunition in the drawer of the bureau

By the Same. Was Jas Scott an active man of his age and possessing ordinary strength of body

Answer. he was

By the Same From your acquaintance with Jas Scott would he or would he not have suffered himself to be robed and his family murdered without resistance or using his gun in defence? (To this Question the Council for the defendant objected.)

Answer. I think he would have defended himself as soon as any man of my acquaintance.

By the Same. Do you know whether or not Jas Scott was in the habit of following his visitors out from his house and holding conversation before parting

I went to his house on four or five occasions during the last two years, and he walked out with me some distance at each time and seemed to be fond of talking

By the Same. has any person been tried for the murder of Jas Scott if so whom?

Answer Matthew Drake has been arrested tried and executed for the murder

By the Same. How far did Matthew Drake live from Jas Scott and was he or was he not familiar with the family and acquainted with the situation of the house?

Answer. he lived about two miles from him and was intimate as a neighbour and was raised near him.

Questions by defendant counsil. How far was the maul from the dead body of James Scott.

I measured the distance and found it to be Sixteen yards

2d by Same. Was the maul found between the dead bodies of James Scott & the negro child.

not. Immediately between them but in an oblique direction and about equal distance from each

Question by the Same. Were the bodies found in the house covered with a blanket when you first saw them.
They were not. I had that Spread on them

Jesse Drewry

Jesse Drewry Deposition continued
Question by the Plaintiff Council

Did you hold any conversation with Matthew Drake concerning the murder of Mrs Ann Pullow and James Scott If so State what he said to you concerning it?

Ans I did on friday the 18th Decr 1840 Matthew Drake called me to the fail windows and stated that he wished to have some chat with me and requested me to attend to some busines for him which I refused to do - and remarked to him that I had understood that he had confesped all about the murder of Mr Scotts family he said he had and related to me in the following manner he said that he started from home with a basket on his arm a small bottle of Spirits and a small bag and an axe in it he called at two houses on the way and stopped a short time he went in the wood near Mrs Bracys or Westerz and made the pepel he came to the path and concluded he would not bite them and started back home but did not go more than two hundred yard before he returned and went on to Mr Scotts with the pepel stuck in his Basket. which was about dark. he went to the kitchen and inquired of the Negro woman if her husband was there she said he was not he then inquired if a free negro was there by the name of Elijah She informed him that he was at my house he went in the dwelling house leaving his basket with the pepel in it at the gate carrying a small jug with him when he remained some time or three hours in conversation with Mr Scott and during the time asked for a jug of vinegar which he got from a cask bottle he then started home and James Scott walked out with him when they got to the gate he picked up the basket and Mr Scott asked him what he was going to do with that pepel he replied to pick any thing in the head that might trouble him Mr Scott took hold of it and remarked you could kill the devil or old boy with it. Mr Scott then went in the corner of the fence and sat there a few Moments at which time he said it made him sorry to look at the old man. and think of what he was about to do. he then returned to him and they had half an hour conversation in relation to time crops & other Matters when Mr Scott bid him good night and they parted but as he (Mr Scott went through the gate he called to him and asked him to come and find his wife or bolt to the gate. he returned found it & informed it to him he stooped down to fasten the gate when he arose he gave him a blow on the right side of the head with the pepel which felled him on his back he then gave him a blow across the face and he did not think he moved or showed any sign of life after he struck him the first blow and that he did not touch him or move him after he gave him the blows. he then went to the kitchen when the negro woman was sitting by the fire undressing her child in her lap he drew a pen knife and attempted to cut her throat She jumped out of the door at which time he struck at her with the pepel and gave her a blow on the back of the head She then ran to the house where he pursued her and met Mrs Ann Pullow near the partition door and gave her a blow which felled her dead on the floor he then pursued the negro woman in the adjoining room where she fought him and during the scuffle with her he think he must have killed Sarah Pullow (the child)

Question by the Dam Did you or others find the basket and jug of vinegar and did the vinegar correspond with that at Scotts?

Answer they were found at Matthew Drakes and it corresponded with the vinegar in Mr Scotts bottle.

By the Dama was the place found when the pepels was cut and did it correspond with Drakes Statement.

answer. it was and the stump and chips filled the chops made on the pepel

Jesse Drewry

The Deposition of William A Mackenburg taken on the Seventh day of July in the year one thousand Eight hundred & forty one The Deponant being first duly sworn on the Holy Evangelist deposes & says as follows
The morning after the death of James Scott having heard of that event I went to his house early in the morning perhaps about one hour by sun on reaching his house I found Mr Scott near his gate lying on his back from his position I supposed him to be just as he had fallen there being no appearance of any scuffling. Several inches of the skull had been broken in below the natural surface from which a small portion of blood had issued was in a coagulated state his mouth was a little smeared with the blood supposed to issue from the wound. the blood from the wound which lay on the ground was confined to a small puddle with the coagulum on it. his features were perfectly calm & not in the least distorted

Question by the Plaintiffs Council

When persons die by sudden & violent deaths is there not a disturbed appearance of the countenance if they suffer pain & survive the injury any time

Answer. If they survive any length of time the features generally became distorted -

From the examination of the wounds of Jas Scott would you as a physician say that he could have lived any length of time or whether he died instantly

Answer I should suppose he died instantly

Question by Defendants Council

Docter have you been long in the practice of medicine & have you had an opportunity of viewing the corpse of many who have died of violent means?

Answer I have been in the practice of Medicine two years and have not been much in the habit of examining injuries of the head nor of witnessing corpses who have died by violent means

William A. Mapenburg

The Deposition of Joseph C Mandaugh taken on the Seventh day of July in the year one thousand Eight Hundred & forty nine. The Deponant being first duly sworn on the Holy Evangelist deposes & says as follows

On Monday night probably about the fifteenth of December last William Pullis boy Nelson came to my house about one hour before day and knocked me up. I enquired of him what he wanted he told me that James Scott & his family were killed as soon as it was light I went to William Pullis and got him to go over with me to James Scotts when we arrived by or before sun rise at the gate as we went into the yard I saw the old man lying stretched out flat on his back with his hands folded on his abdomen. his head very much mangled and his forehead and jaw bone broken. he lay as if he had fallen in that position there being not the least sign that he had struggled any. his coat tail was drawn over him with his hand in his pocket. I went from the old man to a little negro that was dead in the yard but saw no sign of violence on him, from him I proceeded on to the dwelling house when I found Mrs Pullow Sarah Pullow a granddaughter of Mrs Pullow and a negro woman laying with their heads near the hearth Mrs Pullows head was badly mangled the head both of the ears was broke I did not examine the little girl particularly and cannot say when she was wounded. the negro woman had her throat cut and I cannot recollect whether there was any bruises on her. the distance from the dwelling house from when James Scott lay was about fifty or sixty yards the maul with which I we supposed the murder to have been committed was between the dwelling house and Kitchen a little to the right side of a direct line and I suppose twenty or twenty five yards from Mr Scott. Mr Scott had on his usual clothing as he usually every day. he did not have on his hat. I saw a cap but am not certain whether it was on his head. I went to the Kitchen & near the Kitchen door on an ash gum there was sign of blood. Mrs Pullow when we found her she was in her night clothes and also Sarah Pullow in the room where I suppose Mrs Pullow slept, bed and clothing was turned up there was a great deal of sign of blood in the room there being an appearance of much scuffling in the room.

Question by Plaintiff Council

Was there any appearance of blood on the clothes of Mr James Scott or any blood on his person or the ground around other than that which ran from the wounds of his face and head?

Answer. No the blood from from the head lay in a puddle on the ground under the head and running off from the head. no sign of any smearing of the blood or any struggling. appearance to be laying as he had fallen down

Question by the same.

Were you well acquainted with Mr James Scott? If so was it his habit when in conversation to place his hands in his pantaloons in the position you saw them the morning after his death.

answer he was much in the habit of walking with his thumbs in the waistband of his breeches but his hands was on the abdomen.

Question by same.

Do or do you not think from the nature & extent of the wounds inflicted on the head & face of James Scott. that they must have caused instant death?

To this Question the Council of the defendant made objection

The answer of the Deponant. I think so.

Question by the defendants council

Was the ground hard frozened?

Answer. It was a moderate winter morning but rainy in the fields

Question by the Defendant. Did you discover more than one wound on Mrs Pullow?

Answer I discovered only one wound and that on the back of the head.

Question by the defendants Counsel. Did that wound appear to be inflicted with great violence?

Answer. I should say it was sufficient to have killed her.

Question by the defendants Counsel

Could the wound you saw on Mrs Scott have been inflicted at a single blow?

Answer I should say there were more than one.

Question Plaintiff Council.

Did the wounds on the head & face of James Scott appear to be inflicted with great violence?

answer. Of course I have said so before.

Question. Did or did not James Scott Dec[d] fire arms in his house & did you ever know him to shoot at any one about his house at night?

Answer He kept fire arms and he told me some time or four weeks before his death that he was setting up late one night about the time he was going to bed he went to the backroom and opened it found a man standing on the steps he returned back and got his gun and fired it—

Question by the same. Was James Scott an active & healthy man of his age & was it his habit to set up later than the rest of his household when he had Visitors

Answer. He was a healthy active man of his age but whether he was in the habit of sitting up later than the rest of his family I cannot say—

Jos[h] C Mundaugh

The Deposition of James D[s] Mapenburg taken on the Eighth day of July one thousand eight hundred & forty one The Deponant being first duly Sworn on the Holy Evangelist deposes and says as follows.

On Tuesday morning near the middle of December last at four o'clock in the morning I was called up by a Servant of Mrs Mary Scotts who informed me of the murders that had been committed at Mr James Scotts As he informed me that Mr Jesse Drury Mr Carlton W Scott and several others of the neighbours had already assembled at the residence of Mr James Scotts I was sure that whatever was proper to be done would be attended to, I consequently did not leave home until after an early breakfast and got to Mr Scotts a little after Eight o'Clock in the morning On my arrival I found dead Mr James Scott a lifeless corpse a few feet within his yard gate the cause of his death was apparent having received a violent blow or blows on the forward which had broken & pressed in the bone for several inches in diameter. a hand Maul was shown to me with which the blows were supposed to have been inflicted The position of the corpse as first seen by me was stretched on the back at full length the face of course turned up the whole in an attitude nearly as straight as it could be placed the elbows only crooking in an angle that brought his hands about as low down as the waistbands of his breeches which he wore very low down. the blood which flowed from the wounds remained in an unbroken coagulem immediately at the head and seemed not to have been disturbed by the slightest motion and the impression made on my mind was that he when the blow or blows were given fell immediately backwards and expired without a struggle He was dressed in such apparel as he usually wore his head bare and a worsted Cap which I believe he usually wore was near his head pretty much in a line with the body and was supposed by me to have dropped off as he fell. Seeing the exposed situation in which the body remained and not perceiving that any thing connected with its then position was subsequently to become a matter of any interest I advised that the body should be immediately removed into the house which I have since regretted I saw none of the other persons murdered except the little negro boy that lay in the yard On going into the house I saw a covering had been thrown over the bodies of those killed in the house and having no wish to see the shocking spectacle thereby concealed I did not remove it—

J D Mapenburg

The Deposition of William Peel taken on the Eighth day of July one thousand eight hundred & forty one The Deponant being first solemnly Affirmed deposes & says as follows. All that I can say is that I saw James Scott and the wounds which he had received and if they were all put on him at once they must have killed him as soon as he could be killed. he was laying straight and flat of his back his head slightly inclined towards the house his hands on his abdomen—

Questions by Plaintiffs Council

Did you notice the clothes & person of James Scott and the ground on which he lay If so state whether or not you saw any blood on his person & clothes other than that which ran from the wounds of his face & head in a straight line to the ground & state if you saw any sign of struggling or smearing of Blood

answer. I noticed the head very particularly & saw no blood on his clothes except a small smear on the apron of his breeches my opinion was that Drake had stepped on him when he struck him in the face I saw no sign of struggling for I did not notice.

By the same. How far did Matthew Drake live from Jas Scotts

answer About two & a half miles

By the same. Were Drake & James Scott intimate and apparently friendly with each other

answer. They were. James Scott and myself dined with Drake at his own house and they appeared remarkably friendly two or three days before Mr Scotts death.

Question by Plaintiff Council? Did you examine the wound inflicted on James Scott & ann Pettlow. If so state which was most extensively wounded

Answer. I was one of the inquest and did make an examination the wounds on James Scott were the most severe the Scull bone was broken short off and mashed in and the face mashed he had also a heavy blow on the side or back of the head

By the same. How were James Scott Mrs Pettlow and Sarah Pettlow. were

they in their day or night Clothes?
Answer. I cannot say whether Mrs Pullow had on her frock or not I think she had on her night cap- Sarah Pullow had on her night clothes James Scott was dressed in his usual clothing
By the same Was there any appearance of contest and strife in the chamber when the females were supposed to sleep and what?
Answer. The bedsteads were turned up and there was sign of blood on them

William Peel

The Deposition of James Holmes taken as above at the same time and place the Deponent being first duly sworn on the Holy Evangelist deposes and as follows—

I was sent for by Mrs Mary Pullow about two hours before day and when I got to James Scotts gate I then found him dead the wound which he had received was very severe and I do not think he could have lived but a very short time the position in which he lay was much as described Mr Peel I made no particular examination of the wounds—

Question by plaintiffs Council

Do you know where the keys of James Scott was found?

Answer I was requested by some person to see if I could get his keys out of his pocket & found his coat tail straight under him as if he had fallen on it I first searched his breeches pocket and found the right hand pocket pulled out of his breeches and a little bloody. I then pulled his coat tail from under him and found his keys some large & some small—

By the same

Was there any sign of blood on the hands of Jas Scott

Answer There was no blood on his hands and I saw none but what ran from the wounds and what was on his pocket

James Holmes

The Deposition of Benjamine Deveney & Christian Jordan taken on the 27th day of October 1841 The Deponant Benjamine Deveney having been first duly sworn on the Holy Evangelists of Almighty God and Christian Jordan solemnly affirmed deposes & says as follows. I visited Matthew Drake after his conviction for the murder of James Scott and family. the object of my visits was to impart religious instructions to him I visited him frequently by his request. The first interview I had with him I told him that in order to obtain forgiveness from God it absolutely necessary that he should make a full confession for it was impossible for him to obtain a pardon of his sins with a lie in his mouth. He several times made a voluntary confession to me of the whole affair and on one occasion after his deposition had been taken before a Magistrate he observed to me that there were some persons who wished to discredit his testimony but said he Mr Deveney I have told the whole truth about it & then related the circumstances. I do not recollect that he ever varied in any of his statements to me, he uniformly stated to me that he struck Mr Scott twice with his mawl and that he was the first he commenced with and that when he left him to go to the kitchen he neither saw him move nor heard any groan or any signs of distress from him

B. Deveney

I have been acquainted with James Scotts family ever since I was ten years old and I am now fifty one years old. I have frequently remained at the house for one and two weeks at the time and sometime when there was any thing the matter with the family have remained there for a month & they were much in the habit of sending for me when any of them were sick more particularly if it was any of the female part of the family— James Scott was in the habit of setting up late of a night if he had any of his neighbours with him and when they were about to leave it was his invariable practice to walk out with them if he was in his usual health. when he had any male company and then was a proposition made to retire he would either walk out with his company or retire to an other room. Sometimes they would remain out so long that the returning females would not know at what hour they returned at other times they would come in again before the family had got to sleep or at least before I had. of late years he was in the habit of wearing a worsted cap. if the weather was moderate he would take off the cap and carry it in his pocket. he also frequently would when going about the yard or house let leave his hat in the house and wear only the cap

Questions by the defendant Do you know difference in the ages of James Scott and his sister.

Answer. I have known it to a day having often seen the register of their ages but I do not now recollect the exact difference but his sister was the oldest

Christiana Jordan

The defendant by his counsel excepts to the deposition of B. Deveney 1st because it is taken for the purpose for sustaining a witness by his own declaration made after he had given his testimony and 2d because it is to prove the declaration of a man who could not himself be made a witness being under Sentence of Death

Parker & Chilson
for Defendant

Ja.

Depositions taken and filed on behalf of the Defendants

The Deposition of Dr Nicholas M Sebrell taken on ... the 23rd June 1841

The Said Sebrell being first duly Sworn deposes & says that he acted as Coroner upon the body of James Scott who came to his death by divers wounds inflicted upon the front part of the head and upon the face. the os frontis was fractured also the bones of the face he also acted as Coroner upon the body of Ann Pellow who came to her death by a wound inflicted on the back part of the head a little above the neck which wound was three inches in breadth.

Question by Counsel for defendant.

What was the Character of the wounds inflicted upon James Scott and what the Character of the wound inflicted upon Ann Pellow and what the general consequences of such blows?

Answer. the general consequences of such wounds would be death in both instances but it is supposed by anatomist when the Spinal marrow particularly near the head is injured death instantly ensues.

Question by Same.

Does or does it not frequently occur that wounds are inflicted which fracture the Skull and yet the patient get well.

Answer. There are great many instances well authenticated by Surgical writers of very extensive fractures of the Skull and even when portions of the brain have been removed when the patients have recovered.

Question by Same.

When death is produced by injuries inflicted upon the Spine does or does it not follow instantaneously? And from the injury or wound inflicted upon Ann Pellow is or is it not your opinion as a Physician that She expired immediately?

Where the Spinal marrow is severely injured near the head death is apt to ensue immediately but there are instances where the Spine is injured & the patient even disabled to move or speak & recovery takes place but in the instance of Ann Pellow as the wound or injury inflicted was very contiguous to the junction of the head & neck and that wound or injury was such an extensive one it would seem to me that death must of ensued almost immediately

Question by Same?

What is your opinion of the wounds inflicted upon James Scott? after they were inflicted might or might not he have lingered some time before dying?

As regards the wounds inflicted upon James Scott I think they must have destroyed in a short time, but as I have remarked before, there are

instances of very extensive wounds of the head where the patient has lingered for hours. I am not prepared to say whether James Scott died instantly or whether he lingered from the wounds inflicted.

Question by Same. State your knowledge of the health & constitution of James Scott & his age

Answer. James Scott was never in the least unwell, during my acquaintance with him which was about ten or eleven years as ever I heard of his constitution seemed to me most of been of the very best from the fact that he always enjoyed good health even up to his death which occured at the advanced age of sixty five or seventy

Questions by Plaintiffs Counsell

What was the number and discription of the persons killed on the occasion alluded to.

Answer. James Scott above alluded to Ann Pretlow and aged lady a little girl by the name of Sarah C Pretlow aged about six or seven years. a middle age colored woman and a colored child about ~~one~~ or two years old.

Were these persons dressed as usual or were any of them found in their night if so who?

Answer. as regards James Scott he was dressed I believe as usual Ann Pretlow and Sarah C Pretlow seemed to be in their night dress relative to the negroes they appeared to have been dressed as usual.

Where did you find the bodies

Answer. all in the dwelling house except the negro child James Scott had been removed from the yard as I had been informed.

Was there any appearance of a struggle in the house between the deceased and their murderer?

Answer. The room where the bodies were lying seemed to be quite bloody. on the floor. the room adjoining seemed to indicate some appearance of a struggle as the bed was turned over & the other furniture deranged. Some blood on the bed & clothing

Did you see the weapon with which the blows were inflicted on the heads of James Scott and Ann Pretlow. if so describe it.

Answer I saw a wagoners hand made about two feet in length & weighing about seven pounds. it was bloody.

You speak of Scotts skull being fractured. Was it or were fractured or was it occasioned by the blows inflicted.

Answer. The offender was separated transversely & the brain exposed near the face, the bones were pressed in or depressed.

Were not these wounds sufficient to produce instant death?

answer. I cant say as to instant death but I consider them most unquestionably mortal.

Question by the same.

Was an examination made to see if the Spinal marrow of Ann Pretlow affected and might not the Spinal marrow of James Scott be injured by the blows inflicted on his head?

Answer. There was no examination made to ascertain whether or not the Spinal marrow of Ann Pretlow was injured. the Spinal marrow of James Scott might or might not have been injured I think it a doubt.

Question by the same

When wounds are inflicted on the Skull does or does not their Mortality depend on the extent of the injury as well as the part injured?

Answer. Extensive injuries are always more dangerous than small ones when inflicted on similar parts but as there are parts more essential to life than others therefore wounds inflicted on those essential parts though small are more dangerous than larger ones inflicted in other parts.

Question by the Same

In the case of James Scott & Ann Pretlow State which wounds were the most extensive and effect the greatest surface of the head and greatest injury to the brain?

Answer. The wounds were most extensive on Scott but as regards the the head there was no great difference in the size of the wounds. as to the injury sustained by the brain. I am not enable to say which sustained the greatest.

Question by the Same

Is there a difference as to the fatal consequences between a fissure and a Fracture. If so which is most fatal and dangerous? Were the wounds on the head of James Scott & Ann Pretlow both alike! that is to say- both Fissure or both fractures If there was a difference state in which case?

Answer. A fissure of the Skull as seems to me is a fracture when the bones is simply separated therefore a fissure is a fracture & I know no difference- the wounds were different in some respects. as the wound on the head of Ann Pretlow seem. to have had the bones more depressed than the wounds wounds on Scott though there was a depression in Scotts case.

Question by the Same. Did the wounds on the head of James Scott communicate with the brain & would you not say that most usually and probably injuries like those done to the head & brain of James Scott produce speedy death though the possibility is otherwise?

Answer. The brain was exposed & will say as I have before that such injuries will produce death most inevitably. but cant say how speedily.

Question by the Same.

Would or would not a violent blow on the face with a heavy maul or pestle. such as the one received by James Scott in many instances produce death by effecting the Cranium?

Answer: Yes.

Question by Defendants Counsel.

You have been asked if the injuries inflicted upon James Scott might not have effected the Spinal marrow of Jas Scott So or is it not your opinion from the wounds inflicted upon Ann Pitllow that her death was produced by the injury to the Spinal marrow?

Answer It is highly probable that the Spinal marrow was sufficiently injured to cause death as the wounds inflicted was so near the Spine

N. M. Sebell

The deposition of Thos C Jones taken at the same time & place to be read in the same case. Who being first duly sworn. deposes & says-

This deponant says that the morning after Jas Scotts death. that the body of said Jas Scott was seen by me in the house. as also the body of Mrs Ann Pitllow the fore part or fore head of the head and face of Jas Scott seemed to be broken: and he saw a wound on the back of the head of Ann Pitllow & he did did not examine the the wounds of either. the aforesd James Scott was dressed. Mrs Pitllow was in her night clothes about a week after Matthew Drake was confined in Jail he acknowledged that he committed the murder the day after I think after making this confession this deponant went to the jail and asked said Drake to give him the whole particulars of the murder of Scott and family, he was cool and deliberated and that Dr Drake told this deponant. that he prepared himself with a dogwood club for the purpose of killing Scott. he went to Scotts house remained there some time on leaving the house Scott followed to the gate where the club had been left. a conversation ensued and Scott stoopd down to pick up or find a wedge used to fasten the gate at which time the Dr Drake struck him down with the club, and this deponant Dr you killed him I suppose on the spot. Drake replied - No. I left him making a groaning - noise - the Dr Drake said he then went to the Kitchen a scuffle ensued between him and the coloured woman, he cut her throat with a knife but did not kill her she escaped from him and ran to the house he followed and in the partition door in the house met Mrs Pitllow She Mrs Pitllow put her hands on his shoulders and said dont Matthew at that moment he knocked Mrs Pitllow down stepped over her and went into the adjoining room after the negro in killing the negro woman he supposed he killed the little girl. he cut the womans throat again after he killed her with the club - from the gate to the kitchen I suppose to be from 50 to 75 yards & from the kitchen to the dwelling house to be the same distance I have known Jas Scott & ann Pitllow from my infancy - Scott was about seventy years old, I think he was a remarkable healthy man and during my acquaintance with him I do not recollect I ever heard of or knew him to be sick, he was a hale strong healthy man and walked all over the neighbourhood and frequently to Jerusalem and plowed every Summer. Mrs Pitllow was also a healthy woman some years older than her brother J. Scott. She was small & diminutive - but never knew her to be unhealthy - has not known her to be off of the plantation for the last ten years - in Dr Drakes confession to this deponant. this deponant asked Drake if he returned to J. Scott he replied after setting in the door half an hour he did return to him. he asked Dr Drake if he struck him again to which he made no answer: Drake in the first conversation with this depont justified himself for killing Scott & would do the like again but was sorry for killing the little girl - and further this deponant sayeth not

T. C. Jones

The deposition of Thos Drake taken at the same time and place to be read in the same case. Who being first duly sworn as deposes and says

That he went to the jail where Matthew Drake was & told him I understood they were going to take his evidence. he asked me what about I told him which die first. he said 6 the old Lady die first. Before making the Statement given above the deponant advised him to give no evidence as it would make against him. He did not tell me which he Struck first

Question by plaintiff Counsel. Who was going to take his evidence.

He said he did not know he supposed some of the parties it was neighbourhood report.

Question by plaintiff Counsel? From your knowledge of your brother Matthew Drakes reputation for truth. would you have believed him on oath?

Answer. Matthew. always have been a man of candour. I never knowed him to tell any things that were not true of any importance - I would have believed him on oath before he was carried to Jail

Question by same. What reason did he give for saying 6 the old Lady die first

I cannot tell you; I suppose it was his style of answering.

Question by Defendants Counsel. When he said 6 the old die first did he appear to be sincere - and did you believe him.

He appeared to be sincere and I had no right to believe or disbelieve him
Question by plaintiffs Council.

Have you never told any one that you believed your brother was joking when he told you the old lady die first?
No I have not. I told Mr Thos Pullen he made those remarks. I did not know whether he was joking or not. The conversation with Mr Pullen commenced by his asking me, witness, if I knew to whom Tarlton Scott had been for the purpose of getting evidence in relation to the matter.
Question. by same.

Was this conversation with your Brother before or after his deposition was taken. It was before his deposition was taken some days how long after he was put in jail I cannot say but more than two weeks
further this deponant saith not. Thos H his + Drake mark

The deposition of Wm A Spark taken at the same time and place to be read in the same case. Who being first duly sworn deposeth and says That injuries inflicted on the posterior portion of the cranium near to and adjoining its connection with the vertibra would be more liable to produce immediate death than an injury to the same extent upon any other portion of the head. although it would require more violence to produce an injury to the same extent on the posterior of the head than probably on any other part of it. It does not necessarily follow that when any portion of the Skull is fractured that death must necessarily ensue I have myself seen two instances in which the Skull was fractured and some what depressed. The last case which occured was in this county. the membranes were ruptured and a small portion of the Brain escaped. through the fissure. The Patient recovered with little difficulty. The injury was on the side of the head. The other patient also recovered.

Wm. A. Spark

The deposition of Clem. Britt taken at the same time and place to be read in the same case who being first duly sworn deposes & says
The deponant says that he has read the deposition of Thos G Jones that in sundry conversations with Drake the said Drake made in substance the same statement related by Mr Jones with the single exception that this deponant understood Drake to say. That he cut the womans throat after he got into the House and not before. and further this deponant says not.

Clem. Britt

The deposition of Maria Drake of Lawful age taken on the 17 July 1841 who being first duly sworn deposes and says. that she is the wife of Matthew Drake Dec[d] that the night that James Scott & family were murdered. he came home and sayed that he had knocked them all down and murdered them that old Mistress Pullen died the quickest of any body he ever saw but that old Mister Scott died very hard that he was not dead when he left but then was no chance of his recovery and further this deponant sayeth not.

Maria her + mark Drake

The deposition of William Wester of Lawful age taken at the same time and place to be read in the same case who being first duly sworn deposes & says that he went to the jail after Mr Drake had been put in he thinks on the 2nd Saturday in January and in a conversation with said Drake ast him if he went from home with the purpose of killing the family he replied he did I then ast him which he killed first he says that was what he would tell nobody then he sayed he knocked the old man down first then went of about his business when he came back he was not dead & he finished him and further this deponant sayeth not.

William his + Wester mark

The deposition of Alfred Ricks of Lawful age taken at the same time and place to be read in the same case — who being first duly sworn deposes and says.
Question by counsel for defft.

Was you or was you not acquainted with James Scott and Ann Pullen? If so. State it and their strength and constitutions
Answer. I have known them both for many years old Mr Scott was quite an old man but attended to his business Mistress Pullen was also a quite old woman but does not know which of the two was oldest Mistress Pullen had an attack of Paralysis but as fair as he knew had recovered that she was seldom from home. further this deponant says not

Alfred Ricks

The deposition of Elizabeth F Pul taken the 26th day of October 1841. The morning after the death of Mr Scott in passing through the yard I saw Mr Scott then in the yard but did not observe him very particularly but observed that his face was bloody and his hands rubbing near his pantaloons as though he was in the act of pulling them up. As to Mrs Pullen I saw her nothing until we commenced searching her I then discovered her head was badly

wounded the wound was just behind the ear. the wound was large and the Scull was badly bruised and mash for some distance around. the wounds continued to bleed and to stop the effusion of blood I stuffed a parcel of cotton in the wound and laid a napkin over it

Question by the Deft. Did you discover any swelling around the wound
Answer. I did not and her countenance appeared very natural
Question by the Plaintiff Were you well acquainted with the family
Answer I cannot say that I was
Question by the plaintiff do you know whether Mr Scott was much in the habit, when standing in conversation with any person of pulling up his pantaloons
Answer I think he was

Elizabeth F Sale