

1804-019

Chancery Causes Willis' Wilkinson's admr VS Joseph Scott's admr

Isle of Wight County

other surnames: Cutchins  
Barber

by the counsel for the plaintiff that he the plaintiff  
 and his predecessors were honest in their dealings  
 generally, without a little of testimony to support  
 the claims - to the end therefore & for as much as  
 your Orator is only releasable by a court of Chan-  
 -~~ery~~<sup>and</sup> that justice may be had by your Orator, such  
 as is administered by this and other courts of this Common-  
 wealth, to his fellow Citizens, he prays the Court to enjoin.

The Plaintiff and all other concerned  
 from any further proceedings on the judgment so obtained  
 and that this Court will award a new trial to be had  
 according to the laws of the Country -

Your Orator further begs leave to state to the Court  
 that his intestate ~~told him~~ in his lifetime told him that  
 he owed Joseph Scott about £9.00 or £10.00 and that  
 he had paid a Bill of Tobacco towards its discharge,  
 for which he has no credit in the account on  
 which the ~~S. Lury~~ is founded, and that he has good  
 reason to believe the said acct to have been discharged,  
 and that ~~the said Scott~~ ~~has~~ ~~told him~~ ~~that~~ ~~the~~

am<sup>t</sup> charged was about  
 vs } Bill £9. or £10 - & the Jury have  
 Scott's Executors } bro<sup>t</sup> in a verdict for a  
 much larger sum -

Evidence

The above was Sworn to ~~before~~<sup>in Court</sup> this 8<sup>th</sup> day of  
 July 1800 -

J<sup>n</sup> Young Esq.

Found up Evidence

To the Worshipfull Court of Isle of Wight in chancery  
sitting, Humbly complaining shew unto your worship  
Your Orator Joseph Catchins Administrator of Will  
Wilkinson dec<sup>d</sup>; - That some years after the death  
of your Orators intestate a suit was commenced  
against him as Adm<sup>r</sup> aforesaid, by the representa  
tives of Joseph Scott dec<sup>d</sup>; to recover a sum of Mo  
-ney charged to have been due and owing to said  
Scott, by said Wilkinson in their lifetimes - Your  
Orator knowing nothing about the claim so made  
employed counsel to defend said action on be  
-half principally not conceiving himself at liberty  
to admit unauthenticated claims against his  
intestates estate, on the trial of the cause which  
came on to be heard last may term, your Orators  
Attorney moved the court under an act of the  
general assembly for such cases provided, to strike  
out every article in the acct. charged, which ap  
-peared to have been due five years before the  
death of your Orators intestate, but said court  
under some mistaken impression (as appears to  
your Orator) refused to strike out said ~~articles~~  
notwithstanding the words of the statute referred to  
express, to ~~which~~ <sup>which</sup> Your Orator prays your Worships to  
have reference. Your Orators counsel, Offered to plead  
the pleas of non Assumpsit and the Act of limitation  
the counsel for the plaintiff moved the court to  
refuse the latter plea, which the Court did refuse  
contrary as your Orator is informed to the constant prac  
-tice of <sup>the</sup> courts and particularly so, to the practice  
of the district courts, to which practice the inferior  
courts are by law directed to conform, - Your  
Orator was of course ruled to trial under circumstan  
-ces unusual, unequal & as he is advised unequal, -  
Your Orator further states that even under these  
unfavourable circumstances his remaining plea,  
to wit, the general issue ought to have been suffi  
-cient & would have proved so, had the Jury been  
governed by the laws of the commonwealth, which  
requires charges to be substantiated by evidence,  
in this case <sup>was</sup> never offered to the Jury, they  
must have presumed the acct. right & just  
merely because it was impressed on their minds

Witherburn adm

Scots adm. } answer.

July 1800

Bill filed, & time given to

Sept. 1802

Ans. filed, & rule for disco:

June 1804

New trial granted the Pet.

at Law - & the Sept. process

an appeal to Newburgh

And there she apprehends, (as her husband did soon afterwards)  
that is the Debts attached to by the Complainant, This defen-  
dant has no perfect recollection of the dealings between  
her husband & Willis Witham, but from her knowledge of  
her husband's rectitude, and accuracy of keeping his accounts  
she cannot but believe that the account hereto annexed is a  
just and true one, she therefore prays that the injunction  
may be dissolved, and that she may be dismissed with her  
reasonable costs (a lawyer's fee included) so wrongfully  
sustained

R. Gathough Atty. for Defen.

Marion County Court.

Ann Seal adm<sup>r</sup> with the will <sup>annexed</sup> of Joseph Seal decd.

affirmed before me that the foregoing answer, as far as comes  
within her own knowledge is true, and so much thereof  
as comes within the knowledge of others, she believes to be  
true. Given under my hand the 4<sup>th</sup> day of September

1862

J. C. Johnson J. P.

The answer of Ann Settle adm<sup>or</sup> of Joseph Scott's <sup>with the will annexed</sup> deceased, to the bill of complaint of Joseph Cuttman adm<sup>or</sup> of Willis Witherspoon dec<sup>d</sup> Complainant, exhibited against her in the court of the County of Isle of Wight

This defendant saving & reserving to herself all manner of exceptions to the uncertainties & imprecise allegations in the said Complainant's said bill of complaint contained, for answer unto, unto so much thereof as she is advised is material for her to make answer unto. She answering saith. True, she brought a suit against the Complainant in the said court to recover a debt which she believes to be justly due, and did obtain a judgment as she is advised for £10. 4. 62 & costs. But she knows nothing of the pleas, or exceptions to evidence or in what manner the Complainant conducted the suit, it having been done under the direction of a Court of Law, creates a strong presumption that it was rightly done; and that a Court of Equity will never interfere in cases that were cognizable at Law, she is informed is a principle well established & she trusts in this case that rule will not be departed from: As to the Tobacco which the Complainant shews was paid to this defendant's testator by Willis Witherspoon, she begs leave to annex a true copy of the account from her testator's Books, as part of this answer, by which it appears that her testator in the two last years of their dealings has created two hogsheads of Tobacco, one of

The affidavit of John Barker to be filed in a  
Cause now depending and undetermined, between  
Joseph Cutchins Adm<sup>r</sup> of Willis Wilkinson Plaintiff  
in Chancery vs. Ann Scott Ex<sup>or</sup> of Jos. Scott de<sup>ft</sup>  
This affiant states - That at the trial at Law in  
the Case which this Suit injoins. no evidence  
whatever was offered by the plaintiffs to support  
the acct on which the action was founded.  
That on motion the Court refused to withhold  
the unsupported acct from the Jury, or to  
strike out the articles in said acct which came  
within the act providing for striking out in such  
cases. and that the Jury did find a verdict  
without evidence offered in open Court. —

And sworn to before me.  
Sworn to in Open Court J. L. Leno 1804  
Nath. Leno J.

1844-1845

Copy Book

South Sea Islands

No Inhabitation

Wm. G. Adams Esq.

State of North Carolina, to wit:

June Court 1802

Joseph Tutchins Administrator of Wilton  
Wilkinson, Decd. vs. Pl.

against

Injunction

Anne Scott Administrator of Joseph  
Scott Decd. vs. Deft.

On the motions of the Plaintiff by his attorney, and it appearing to the Satisfaction of the Court, that the Defendant having failed to file her answer to the plaintiffs bill; and the said Bill having been taken as confessed, It is ordered that Defendant appear here at August Court next and answer the said bill, or there will be a final Decree —

Wm. Lusk Clerk Young Atty

|            |                                                                              |               |
|------------|------------------------------------------------------------------------------|---------------|
| 1791       | To Amount Brought Over                                                       | \$35.8.7      |
| Jan. 4 28. | To 3 Copy axes @ 1/2. 1 Ditto 1/6. 1 C. Bridle @ 1.6.0                       |               |
| "          | " 1 m. S. nails @ 1/6. 1. <sup>ell</sup> summate 2/6. 2 Bid cords @ - 0.15.0 |               |
| Sept 26.   | To 8 <sup>ell</sup> Sugar @ 1/2. 4 <sup>ell</sup> Coffee @ 1/6               | 0.14.0        |
| "          | " 1 Quire of paper                                                           | 0.1.3         |
|            |                                                                              | <u>2.16.3</u> |
|            |                                                                              | \$38.4.10     |

W. Wilkinson.  
Dec. 5

D. Willis Wilkinson, Isle of Wight

|       |        |                                |                           |                       |   |    |         |
|-------|--------|--------------------------------|---------------------------|-----------------------|---|----|---------|
| 1789  | Dec 1  | To 1 Harris Saddle 66/6        | 3/4 Yf Linen d 3/6        | 3/4 Yf B. d 1/6       | 4 | 14 | "       |
| "     | "      | " 1/2 Yf Callico d 3/6         | 2/4 Yf Velvet d 7/6       | "                     | 1 | 5  | "       |
| "     | "      | " 1 1/2 Vest buttons is 2/8    | 3 C. Ditto is 1/6         | "                     |   | 3  | 8       |
| "     | "      | " 1 1/2 silk 7/2 twist 7/2     | 1/2 doz. C. buttons d 3/6 | "                     |   | 5  | 9       |
| "     | "      | " twist & silk 1/6             | 1/4 Yf Linen d 2/6        | 1/5 Yf tape 9/6       |   | 5  | 9       |
| "     | "      | " 1 1/2 thread 2/6             | 1/5 Yf Glove 3/6          | 1/5 Yf Calico 12/6    |   | 12 | 10      |
| "     | "      | " 1/5 Yf Mole 1/5 Yf hose 12/6 | 1/5 Yf Random Ditto 13/6  | "                     | 1 | 5  | 6       |
| 1789  | Feb 19 | To 6 lb Coffee d 2/6           | 52 lb Sugar d 7/6         | 2 Bird cords d 2/6    | 2 | 6  | 1       |
| "     | "      | " 2 1/2 lb Nails d 8/6         | 41 lb Iron d 1/6          | "                     | 1 | 10 | 8       |
|       |        |                                |                           |                       |   |    | 12.9.6  |
| March | 23     | To 1/2 lb Tea d 10/6           | 1 Gallon Rum 6/6          | "                     |   | 11 | "       |
| Sept  | "      | To 1 wna. bridle 4/6           | 1 Shawl 4/6               | 1 Powder to Shott 4/6 | " | 13 | "       |
| "     | "      | " 1 Ivory Comb 2/6             | 1/5 Yf Soap 1/3           | 1 pa ink powder       | " | 4  | 6       |
| Oct   | 25     | To 2 Yf Broad cloth d 3/6      | silk & Twist 1/6          | "                     | 3 | 13 | 10      |
| "     | "      | " 1 spice Mortar 12/6          | pa pins 1/6               | Shaving Box 3/6       | " | 16 | 3       |
| "     | "      | " 2 Yf Rush matting d 2/8      | 1 Paper 3/6               | "                     |   | 8  | 1       |
| "     | "      | " 2 2 Stack Locks d 1/6        | "                         | "                     | " | 3  | "       |
| Dec   | 18     | To 2 bushels sawt. d 3/6       | "                         | "                     | " | 6  | "       |
| "     | "      | " 1/5 Yf Kindal Cotton 14/6    | 5/4 Yf n cloth d 8/6      | "                     | 4 | 14 | 9       |
| "     | "      | " 2 Doz. buttons d 2/6         | 2 1/2 silk is 1/3         | Twist 10/6            | " | 7  | 1       |
| "     | "      | " 13 Yf Linen d 2/8            | 2/4 Yf Velvet d 6/8       | "                     | 2 | 11 | 4       |
| "     | "      | " 1 Doz buttons 1/3            | buttons to silk 8/6       | 1/4 Yf oz. d 1/6      | " | 16 | 3       |
| "     | "      | " 1 hair sieve 2/6             | 1 Lawn sieve 2/6          | 1 doz. thread 1/6     | " | 5  | 10      |
| "     | "      | " pins 1/6                     | 1 pow. to Shott 4/6       | "                     | " | 6  | "       |
| "     | "      | " 1 Yf hummer 8/6              | Twist 6/6                 | "                     | " | 8  | 6       |
| "     | "      | " 1/2 lb Brown sugar d 1/6     | 3/4 lb Loaf sugar d 1/9   | "                     | 1 | 6  | 10      |
| 1790  | Jan 26 | To 1 Barrel of Herring 20/6    | 2 Axes d 5/6              | 1 D. 1/6              | 1 | 11 | 6       |
| "     | "      | " 1/5 Yf cords 7/6             | 1 Yf d hummer 10/6        | Needles 2/6           | 1 | "  | 1       |
| "     | "      | " 1/5 Yf Green Tea d 1/6       | 1 1/2 silk 7/6            | 1 Curry Comb 1/6      | " | 7  | 1/2     |
| "     | "      | " 1 powder to Shott 4/6        | pa knife 2/8              | 1 Doz Yf plates       | " | 8  | 2       |
| "     | "      | " 3 lb. of Iron d 1/6          | 1 hand. 2/6               | 1 lb Sugar d 1/6      | " | 1  | 7       |
| "     | "      | " 1 Doz. N. Spoons             | "                         | "                     | " | 9  | "       |
|       |        |                                |                           |                       |   |    | 22.19.1 |
|       |        |                                |                           |                       |   |    | 35.8.7  |

|      |        |                         |               |    |    |            |
|------|--------|-------------------------|---------------|----|----|------------|
| 1790 | Feb 19 | By Tobacco              | 99 1/2 d 16/8 | 8  | 5  | 8          |
| "    | "      | By Brandy 28 Gallons is | "             | 4  | 1  | 12.5.9     |
| Dec  | 18     | By 5 bushels peas d 3/6 | "             | 15 | "  | "          |
| Jan  | 26     | By Tobacco              | 99 1/2 d 14/6 | 6  | 19 | 8 1/2      |
|      |        |                         |               |    |    | 7.14.8 1/2 |
|      |        |                         |               |    |    | 20.0.5 1/2 |

1791

By Amount Brought Over

\$20.0.5 $\frac{1}{2}$

Ball<sup>d</sup>

18.4.4 $\frac{1}{2}$

\$ 38.4.10

Joseph Scott dec'd.

Feb

| Date    | Description                                                                 |    |    |        | Total   |
|---------|-----------------------------------------------------------------------------|----|----|--------|---------|
| Feb 17  | To Balance due                                                              |    |    |        | 3 9     |
| Mar 23  | To 1/2 Sea 10 = 5 1 Gall Rum                                                | 6  | "  | 11     |         |
| Sept 11 | To 1 Sna birdle 4 1 Shant 1/6 powder                                        | 13 | "  |        |         |
| "       | To 1 Comb 2/6 1/2 Suppers 1/3 1 p. 1 powder                                 | 4  | "  | 6      | 1 8 6   |
| Oct 27  | To 2 y <sup>d</sup> Bl cloth a 3 6 = 7 2 y <sup>d</sup> Silk & twist 22 1/2 | 3  | 13 | 10 1/2 |         |
| "       | To 1 Spice mortar 1 2 y <sup>d</sup> / 2 pins 1/2 box 3/3                   | "  | 16 | 3      |         |
| "       | To 2 y <sup>d</sup> rush sheet a 2/8 1/2 pepper 3/                          | "  | 8  | 4      |         |
| "       | To 2 Stock locks                                                            | "  | 3  | "      | 5 1 5   |
| Dec 18  | To 2 Bush Salt p note                                                       | "  | 6  | "      |         |
| "       | To 1/2 Cotton 4 8 5 y <sup>d</sup> Cloth a 8/6                              | 4  | 10 | 9      |         |
| "       | To 2 doz buttons a 2/6 Silk & twist                                         | "  | 7  | 1      |         |
| "       | To 1/3 y <sup>d</sup> Linen a 2/8 2 y <sup>d</sup> velvet C 6/8             | 2  | 11 | 10     |         |
| "       | To 1 doz buttons 1/3 buttons 4 Silk 8                                       | "  | 2  | 3      |         |
| "       | To 1/4 y <sup>d</sup> Orms 14 1/2 Scave 2/4 Lard 2/4                        | "  | 18 | 4      |         |
| "       | To 1/2 y <sup>d</sup> pins 1/6 1/2 powder 4 Sheet 4/6                       | "  | 7  | 6      |         |
| "       | To 1 y <sup>d</sup> humbugs 8 y <sup>d</sup> Twist 6                        | "  | 8  | 6      |         |
| 30      | To 1/2 Sugar a 1/2 8 1/2 Loaf d <sup>n</sup> a 1/9                          | 1  | 6  | 10     | 11 2 7  |
| Feb 26  | To 1/2 Gar fish 20 2 axes a 3 10                                            | 1  | 14 | 6      |         |
| "       | To 1/2 Cards 7/6 1 y <sup>d</sup> humbugs 10 y <sup>d</sup> Needles         | 1  | "  | 1      |         |
| "       | To 1/2 G tea a 10 y <sup>d</sup> Silk 7 1/2 Comb 1/6                        | "  | 7  | th     |         |
| "       | To 1/2 powder & Spott 1/6 knife 2/8 1 doz G flints                          | "  | 8  | 2      |         |
| "       | To 3/4 Iron a 4 1/2 2/4 1/2 Sug a 1/2 1 doz spoons 9/                       | "  | 16 | 8      | 5 16 6  |
|         |                                                                             |    |    |        | 23 2 10 |

Amount to forward

23 " 2 " 10

|          |                                                      |      |             |
|----------|------------------------------------------------------|------|-------------|
| Feb. 28  | To 3 Loping axes a 4/2 " 1 do 4/6 " 16, brittle 9/1  | 6 "  |             |
| 91 "     | To 1 m snails 8/6 " 1. Spice 2/6 " 2 Bed cords 4/6 " | 15 " | 2 " 1 "     |
| Sept. 26 | To 8. Sugar a 1/6 " 4. Coffee 1/6 " 6 "              | 14 " |             |
|          | To 1 quire paper                                     | 1 3  | 25 " 15 " 3 |
|          |                                                      |      | 25 " 19 " 1 |

|           |             |     |                         |
|-----------|-------------|-----|-------------------------|
| Dec. "    | By Peas     | 5   | 15 "                    |
| Jan. 1792 | By Tobacco  | 998 | 6 19 8 1/2 " 14 " 8 1/2 |
|           | Except Cans |     | 18 " 4 " 4 1/2          |

Balance due Jos. Scott  
To Interest from 1 Jan. 1792

July 17th 1794 This Day Jacob Rundolph  
affirmed before me that the above  
is a just & true copy from the  
Books of Joseph Scott Secd

J. Rundolph

Am. Scott Secd

Cen. de. £36

Jos. Scott Secd

Wm. Henderson

Shut upon open acc.  
Lung found without cordons

John Barber

18.4.4.  
1.6.18  
19.10.21

• In a letter Administration of Joseph Scott to  
right brother, a minister of Walter H. Wilson, dated  
18th Sept for L. D. [unclear] [unclear] and [unclear] [unclear]

Along with [unclear] [unclear] [unclear]

Know all men by these presents that we, <sup>Wm Ely agent for</sup> Anne Scott Administratrix  
of Joseph Scott decd. and <sup>Wm Jordan</sup> are held and firmly bound  
unto Joseph Cutchin Administrator of Willis Wilkinson deceased  
in the just and full sum of One Thousand Dollars  
current money of Virginia, to be paid to the said Cutchin Adm. as aforesaid  
his heirs executors & Administrators or Assigns. We being our selves, our  
and each of our heirs, executors and Administrators, jointly and severally  
firmly by these presents, sealed with our seals and dated this 6<sup>th</sup> day of  
June 1804 in the 23<sup>rd</sup> Year of the Commonwealth —

The condition of the above obligation is such that where as the said  
Anne Scott <sup>by her agent</sup> hath obtained an appeal from the Judgment of this Court  
of Isle of Wight to the District Court of Chancery in Williamsburgh, —

Now if the said <sup>Wm Ely agent for</sup> Anne Scott Administratrix &c do and shall well  
and truly prosecute the said appeal, and pay all damages and costs  
that may be awarded to the said Joseph Cutchin Administrator &c by  
the District Court as aforesaid on consideration of the said Appeal,  
then the above obligation to be void else remain in full

force and virtue —  
Signed & Sealed &c  
In presence of  
B. Lightfoot

Wm Ely agent & rat  
for Anne Scott.  
Wm Jordan Seal