

Mss. Clark-Hite Papers. MICROFILMED

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.C593 Legal papers
175

Christopher Windle

v.
Rep. of Jost Hite et al.

52x41 1787-1790

h. Hite

To the Honourable the Judges of the High Court of Chancery
Humbly complaining shew unto your Honours your Orators Christopher
Windle and Abraham Smith; that they are in possession of a tract of
Land on the North Mountain being part of it contained in a survey
containing four thousand six hundred Acres made on the said
mountain for Joist Hite Esq. and returned as one of the twenty seven
surveys by Thomas Marshall and others in a suit in Chancery
and others Compts against Fairfax and others &c. - Your Orators
further shew that they claim this Land under your Orator Christopher
and who about the year 1743 purchased from Joist Hite four hundred
Acres part of the said Tract of 4600 Acres for which your Orator
Christopher was to pay him three pound a hundred the greater
part of the price of which Land your Orator Christopher did
actually pay him as will more fully appear by the said Hites
receipt bearing date the 10th Day of October 1743 hereto annexed
to which your Orators refer; which receipt is witnessed by John
Hite one of the Complainants - Your Orator further sheweth that in
consequence of the purchase aforesaid from the said Joist Hite your Orator
Christopher was put into possession of the Land on which your Orators
Christopher, John and Abraham live although your Orator Christopher
expressly charges that he never received his quantity of four hundred
Acres to which he was intitled by his said Contract, and your Orator
Christopher admits that your Orators John and Abraham have a right
under him to the parts that each of them holds of the said Land -

Your Orators further shew that being possessed of only a part of the
Land which your Orator Christopher had thus bought from the said Joist
Hite and the said Hites and others Compts in the said suit which they
may may be made debt by their their Rile, well knowing these
things they had hoped to remain undisturbed in their possession
thereof - But now so it is may it please your Honours that the said
debt combining and confederating together have served your Orators
with a copy of the Decree made in the said suit and threaten to
turn

Chancery

Ex. d.

Copy this

No 20

turn them out of possession - All which Actings and doings of the said
defts and their confederates are contrary to equity - In tender consideration
whereof and for as much as your Orators are remediless except in this
Honourable Court. To the end therefore that the said defts particularly John
and Isaac may upon their Corporate oath true and distinct Answer
make to all and singular the premises as fully as if the same were
herein again repeated and interrogated to be answered unto, more
particularly that they may say whether they do not know or believe that
your Orator Christopher did make such contract with their father Joist
Wille as is set forth above? if not that contract what other? whether the
receipt hereto annexed is not their father's writing? And that the said
John Wille may say whether he was not a witness thereto, and whether
the money mentioned therein was not paid as the consideration for the
Land now in your Orators possession, and if not for that Land for what
other Land? And that by a decree of this Honourable Court your Orators
may be quieted in their possession of the said Land, have their Costs in this
if expended, and such other and further relief as may be agreeable
to equity &c. May it please your Honours to grant to your Orators a writ
of Subpoena &c. - And your Orators shall pray &c.

Attesty John Brown Clerk

Believe that some part of this land has been sold,
but how much - to whom - or whether the purchase
money has been paid they know not. Refer to N. 4.

Know nothing of the sale
I Green

John Wille believes that Christopher Wille ^{deceased} purchased some part
of the 4000 Acre Tract in the bill mentioned, and that he paid some
money on account thereof, but does not know the quantity of
the Land purchased or the amount of the money paid; that he may
have witnessed a deed in 1743, but does not recollect it, nor
does he remember to have seen the receipt said to be annexed
to.

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said Christ
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Wille of the
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the balance

Andrew

Prill

James M. H.

ings of the said
in tender consideration
except in this
particularly John
distinct Answer
of the same were
unto, more
now or believe that
their father sold
other? whether the
? And that the said
to, and whether
consideration for the
Land for what
to your Orators
we their Costs in this
may be agreeable
our Orators a writ
Brown & Co

been sold,
The purchase
refer to N. 4.

urchased some part
not he paid some
the quantity of
paid; that he may
recollect it, nor
to be answered
to.

to the Bill; he does not know what quantity of Land the
said Christopher purchased, nor whether the Land in possession
of the Complainants is the same, nor does he know anything
respecting the Title of the Complainants John and Abraham therefore
He believes that the agreed price of the Land purchased by Christopher
Windle of the said John Nite has never been fully paid, because as
son of the said Christopher lately told him so - and offered to pay him
the balance but did not mention the sum

Andrew McKay knows nothing of the facts stated in
Bill

James McKay knows nothing of the facts stated in this Bill

To
 Humbly
 Wm. and
 Land on the
 containing
 mountain
 surveys by
 and others
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 and who
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 not combining
 with a copy

6 Wm. and
 title } Copy
 title

N^o 20

North Mountain

He ought to get about
 200 acres.

Deft.

Christopher Wincal
In the Claim of
Augustine Wincal
N. Mountain

8th July

Christopher Wendal deposes that Augustine Wendal within the year
of 1737 entered upon a tract of land which Philip Wendal this
deponent's father had had bought for him from said Hite, and the said
Hite in about three years after the above date came up with David Vanne
a surveyor and did lay off a piece of land the same where the said
Augustine Wendal now lives about 130. Acres and that this deponent
had been at the said Hite the same time when he with the said Vanne
went to lay off the same land for his brother Augustine Wendal and
the said Hite had told him so he being in said Hite's emp. lay and that
the said Hite received four horses which from the said Augustine
Wendal in part of pay for his said land at ten shillings each wheel
8th Feby 1787

2-8-1989

Christopher Wendal deposes that in the Year of Our Lord 1737 he then coming from the Northward together with his father and Two Brothers called at the House of Laist Hite belonging to Laist Hite and stayed for about Two hours the said Laist Hite as then sitting at his door that this deponents father ^{Philip Wendal} asked the said Laist Hite if his name was Laist Hite to which he answered Yes that was his name then the said Hite asked this deponents father in his presence & hearing when he came from and where he was going, and his father the said Philip Wendal made answer and saith he came from Pennsylvania and was going up as far as Old Jacob Funks and was hunting for Land, and the said Laist Hite then saith that he had land to sell near the said Jacob Funks, and if they would stay a few days at the said Jacob Funks to rest their Horses that they said Wendals might get some land to go with them and look some Land when they ^{did} like it and according by this deponent and his Two Brothers Valentine & Augustine Wendals together with the said Jacob Funks did go to look out Land and came to that tract of Land call'd the North Mountain tract which they liked very well and the said Funks told them they might get it that no body had any claim to it upon which we all returned back to the said Funks house and the next day this deponent and his father the said Philip Wendal and his Two Brothers the said Valentine Wendal and Augustine Wendal moved with their waggons and baggage to the above said tract of Land and erected a cabin at the Place where the said Valentine Wendal now lives, and after they had erected the said Cabin the said Philip Wendal went to the said Laist Hite and the said Hite asked him how much Land he was willing to take the said Philip told him 200 Acres for his son Augustine Wendal and the same Quantity for his son Valentine Wendal and 400 Acres for his son Christopher Wendal and this deponent's father ^{the said} Philip Wendal asked the said Laist Hite what he would take for the said Land and he answered and said his price was three pounds for hundred Acres and further asked how soon it was to be paid and the said Hite made answer and said he would get the Land surveyed & make them deeds for the same as soon as he could and then they should pay him for it and this deponent further says that the said Hite was a boat belonging a mile & broke down his waggons wheels and meeting the said Philip Wendal at the Chapel near where Havers Fawcett is now erected and ask'd him for four of his waggons which was granted and sent down and delivered to the said Hite by the said Valentine Wendal in part pay towards the said Land at the Rate

Rate of 10¢ each wheel and 4 wagon wheels more being delivered to the said
 title by the said Augustine Wendel also in part pay towards the said
 land, and this deponent further says that in the fall of the year 1877
 Came the said said title with the surveyor Cots. Wood and Jacob Newcomer up
 to the said tract of land and did proceed to lay off the said North Mountain
 tract into lots and this deponent says he was Present and saw the following lots
 laid off (viz) One lot for himself One lot for Abner Stoner One lot for Thomas
 Little. One lot for George Sellers One lot for Valentine Wendel and One lot
 for One John Backman. And Two more lots which were not then settled and this
 deponent further says that he had improved his lot at that time and that
 Abner Stoner Thomas Little and George Sellers and Valentine Wendel and then
 that time live on their respective lots with their families
 J. M. Tully 1877

Valentine Wendel
 in deed of

Wendel & Co.

John Newcomer

Wendel says - he wants
 have 400 - Val. Wendel 200
 & Aug. Wendel 200 acres - that
 the land was laid off in lots
 by Col. Wood & Co. in 1877 -
 Wood's plot shows that Wendel
 was mistaken that he only
 wanted have 300 - acres &
 V. Wendel 400 acres

Aug. Wendel in his title says
 he wants to have 250 acres

N. Mountain 4600 acres

Christopher Windle, and Abram Smith aged Hites and others C.H.

Will state that they are in possession of part of the Survey - and that about the year 1743. Christopher Windle purchased of Jos. Hite 400 at £3. a hundred - the greater part of which was paid as for Jos. Hite owes for £8. 3. 8. money - that he never got his full quantity of 400 acres -

The Depts. answer - they believe Philip Windle did purchase a part of this survey, but how much or whether any part of the purchase money was ever paid they know not, or whether the land he purchased if he did purchase is the same in the possession of the Compt. or whether it is in the possession of either, or of the other Windle (the answer to these bills they refer) nor the price stipulated, or any part has been paid - that a son of C. Christopher offered to make a payment to Jos. Hite -

Christopher Windle has a pro. Deed - and now claims the Land under a purchase made by himself of Jos. Hite as late as the year 1743. when the Deed for £8. 3. 8. G. M. is dated - as per Com. books 1770 and also to support his claim under Hite produces articles of agreement

Argues that Windle who says that his father Philip Windle purchased for Christopher Windle at £3.0.0 a hundred and the money was to be paid when the Deed was made - (said to claim Land in this survey)

Valentine Windle. says his father purchased of Jos. Hite for C. Windle in 1737. His deposition is copied from Christopher Windle's deposition in Valentine Windle's suit -

Christopher Windle is a Witness for Augustine Windle and Valentine Windle - who claim Land in this survey -

It is supposed that Philip Windle did purchase some Land for his three sons Christopher Windle, and Valentine Windle and Augustine Windle - and the Depts. are willing they may have as much as he is paid for - the receipt which Christopher now seems to want to support his claim, was certainly paid for his father - no Land was sold so late as 1743 - some bonds have been given since, but such bonds were for Land sold before 1743

Val: Windle contradicts the statement in the bill.

No. 20. Dr. Mountain

Ch. Winkle

5 / 2.3.0
1.12.0
6.11.0

Virginia & Co. vs. The High Court of Chancery held in Richmond Aug 5th 1790.
In the case of Christopher Wendall, John Wendall, and Abraham Smith vs.
possession of part of the four thousand, and six hundred Acres of Land called the
North Mountain tract, which part is stated to have been sold by Joist
Wite to Christopher Wendall, under whom the other two possessors claim,
the sale by Joist Wite to Christopher Wendall, of the land whereon he
dwelled in the year one thousand seven hundred and forty three, and
which was part of this North Mountain tract, being proven by the receipt,
dated the nineteenth day of October, in that year among the exhibits, and
the land to which he was entitled by the contract, having been granted
with other land, to him by the Lord proprietor, as appears by ^{the} report
of the Commissioners, in the year one thousand seven hundred and
seventy; the Court is of opinion that the possessors fall within the first
of the reservations, contained in the decree of the eighth -- of May in
the year one thousand seven hundred and eighty six, in the principal
Case, as to so much of the land ^{within} this survey, as at the time of the receipt
was in possession of the said Christopher Wendall, and therefore the Court doth
adjudge, order, & decree, that the said decree of the eighth day of May in
the year one thousand seven hundred and eighty six, be not carried into
execution as to so much, but that the possessors be quieted, and that the
Plaintiffs, in the principal Case, do pay unto them the Costs expended
by them on this Occasion, unless upon a survey, they shall be discovered
to hold more of the land within the survey than the quantity to which
decision affirmeth their title, in which Case the question as to Costs is
left open.

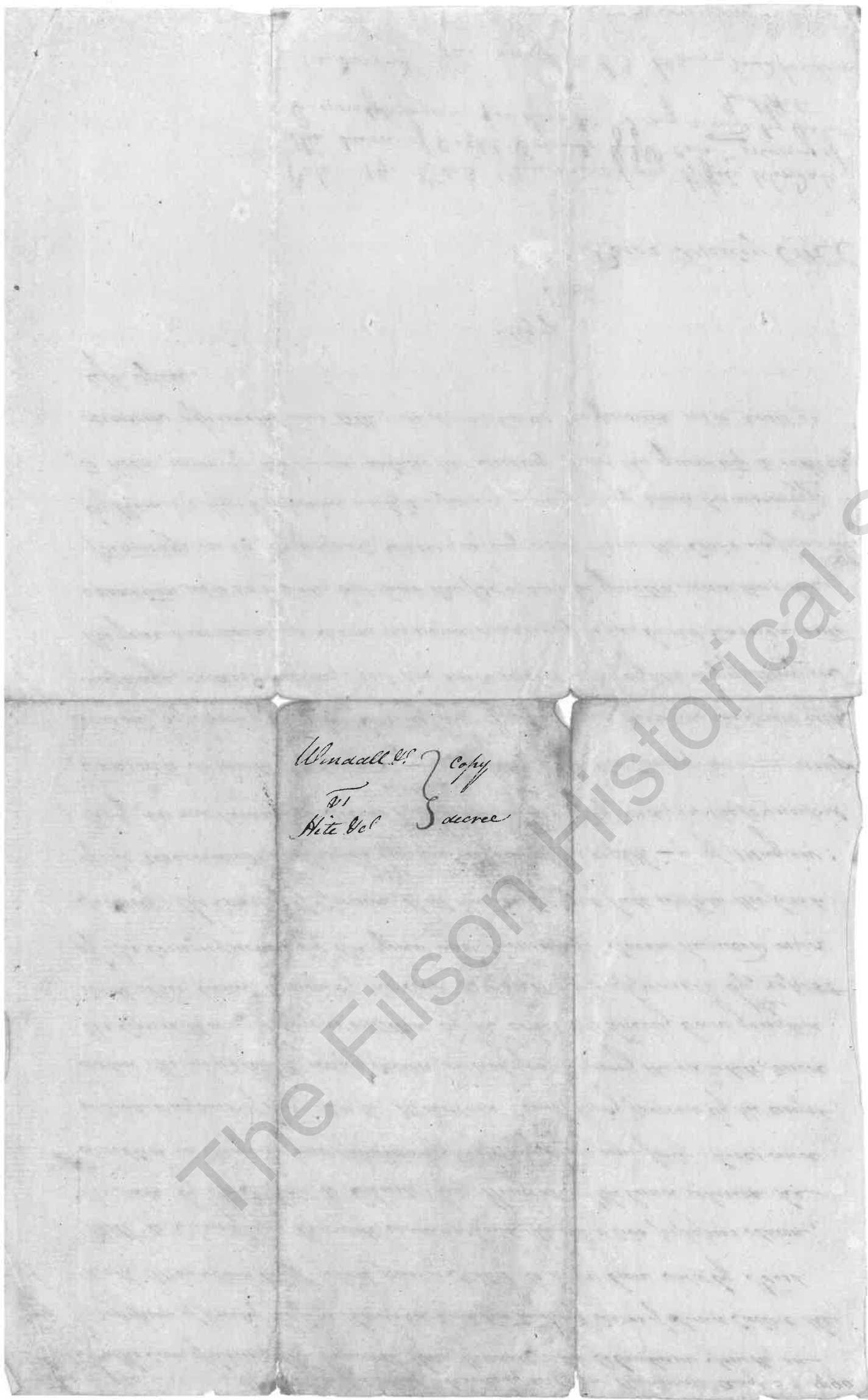
Attest

Teste

Peter Tinsley Cth C

Octo. 19. 1743 Then recd from Hopley Wendall
the sum of Eight Pounds & 3/8 cur^t money of
Pennsylvania for land. I say recd by me
Joist Wite

Indorsed The bargain £3. Hundred for land



Wendall L. } copy
Hitz Vol } source