



in Bath or Signature by Order
at 19th March 1849
Mancory

1040.C. No. 167.

22^d March 1849.

The Answer of Janet Bruce one of the Defendants to the bill of Complaint of Andrew Cuthell Complainant

This defendant reserving unto herself all benefit of exception to the said Bill of Complaint for answer thereto or unto so much thereof as this defendant is advised this material or necessary for her to make answer unto answering saith she admits that John Cuthell the Testator in the said bill named was at the time of his decease or he ceased of or entitled to personal Estate and Effects to a considerable amount in the whole (but what amount this defendant cannot set forth) and consisting of the several particulars in the said bill in that behalf mentioned respectively and that he was then indebted to divers persons in divers sums of money (but the particulars whereof this defendant cannot set forth) and that the said John Cuthell did duly sign and publish his last Will and Testament in writing of such date and of or to such purport and effect as in the said bill in that behalf mentioned respectively except that in the said bill the legacy of Five hundred pounds in the said Will mentioned is by mistake referred to as a legacy of Five hundred pounds but this defendant for her greater certainty excuses leave to refer to the said Will or the Probate copy thereof when the same shall be produced to this Honorable Court and this defendant further answering saith she admits that the said Testator did die on the Twenty ninth day of March One thousand eight hundred and twenty eight and that he did not in any manner alter or revoke his said Will and that Letters of Administration of his Estate and Effects with his said Will annexed were on the nineteenth day of April One thousand eight hundred and twenty eight granted to Ann Cuthell in the said bill named out of the prerogative Court of the Archbishop of Canterbury and that upon the death of the said Testator the said Ann Cuthell did enter into the possession of such parts of his personal estate and effects and to an amount more (but this defendant cannot say how much more) than sufficient for the payment of his funeral and testamentary expenses and debts out whether the said Ann Cuthell did or not also possess herself of the whole of the said Testator's personal Estate or what was the amount thereof in so far as received by her as aforesaid the said Ann Cuthell did as this defendant believes pay and satisfy all of the said Testator's funeral and testamentary expenses and debts and but whether such residue or surplus did or not amount to the sum of Three thousand six hundred and fifty six pounds fourteen shillings or to what sum in particular cannot set forth as to her belief or otherwise and this defendant further answering saith she admits that the said Ann Cuthell did die on the fifth day of June One thousand eight hundred and forty seven and that she did first duly sign and publish her last Will and Testament in writing of such date as in the said bill in that behalf mentioned and that she did thereby appoint Thomas Cuthell in the said bill named as one of the Defendants thereto sole Executor thereof and that the said Thomas Cuthell did duly prove the said Will of the said Ann Cuthell in the Prerogative Court of the Archbishop of Canterbury on the sixteenth day of July One thousand eight hundred and forty seven and that he did thereby become and is now the legal personal representative of the said Ann Cuthell and that he did possess himself of her personal Estate and Effects but whether or not to an amount more than sufficient for the payment of all her funeral and testamentary expenses and debts including the amounts due from her Estate to the Estate of the said Testator John Cuthell this defendant saith she doth not know and cannot set forth as to her belief or otherwise and this defendant further answering saith that upon the death of the said Testator left undistributed by the said Ann Cuthell deceased were on the sixteenth day of October One thousand eight hundred and forty eight granted to Mary McKenzie in the said bill named as one of the Defendants thereto out of the Prerogative Court of the Archbishop of Canterbury and that the said Mary McKenzie did thereby become and is now the sole legal personal representative of the said Testator John Cuthell and that Andrew Cuthell in the said bill named the Nephew of the said Testator John Cuthell did die in the lifetime of the said Testator and after the date of his said Will and that he did first duly sign and publish his last Will and Testament in writing of such date as in the said bill in that behalf mentioned and that he did appoint the said Thomas Cuthell sole Executor of his said Will and that the said Thomas Cuthell did on the Twenty ninth day of October One thousand eight hundred and twenty one duly prove the same will in the Prerogative Court of the Archbishop of Canterbury and that he is now the sole legal personal representative of the said Andrew Cuthell the nephew and this defendant further answering saith she believes that the persons answering the descriptions of the children of the said Testator John Cuthell's deceased brothers and of his sister Elizabeth and who were living at the time of his decease were the several persons in the said bill in that behalf named and that such several persons were the next of kin of the said Testator John Cuthell living at the time of his decease and that Margaret Frame in the said bill named did die some years since that is to say on or about the second day of December One thousand eight hundred and forty one and that Letters of Administration of her personal Estate and effects were on or about the sixth day of December One thousand eight hundred and forty eight granted to Elizabeth Watt in the said bill named as one of the Defendants thereto out of the Prerogative Court of the Archbishop of Canterbury and that the said Elizabeth Watt did thereby become and is now the legal personal representative of the said Margaret Frame and that John Cuthell in the said bill named did die some years since that is to say on or about the fourth day of May One thousand eight hundred and thirty eight and that Letters of Administration of her Estate and effects were on or about the Thirteenth day of February One thousand eight hundred and forty nine granted to Andrew Munro in the said bill named as one of the Defendants thereto out of the proper Ecclesiastical Court that is to say the Prerogative Court of the Archbishop of Canterbury and that the said Andrew Munro is the sole legal personal representative of the said John Cuthell and that Margaret Munro in the said bill named did die some years since that is to say on or about the fourth day of October One thousand eight hundred and forty three and that Letters of Administration of her Estate and Effects were on or about the sixth day of December One thousand eight hundred and forty eight granted to the said Andrew Munro out of the proper Ecclesiastical Court that is to say the Prerogative Court of the Archbishop of Canterbury and that the said Andrew Munro is the legal personal representative of the said Margaret Munro and this defendant further answering saith she doth not know and cannot set forth as to her belief or otherwise whether Margaret Sempel otherwise Sempel in the said bill named did or not die on the Eighteenth day of June One thousand eight hundred and forty seven or at any other time or whether Letters of Administration of her Estate and Effects were or not on the Twenty first day of October One thousand eight hundred and forty eight or at any other time granted to Walter Sempel otherwise Sempel in the said bill named out of the proper or any Ecclesiastical Court or whether the said Walter Sempel otherwise Sempel is or not or who else is the legal personal representative of the said Margaret Sempel otherwise Sempel or whether Isabella Cuthell in the said bill named did or not at or about the time in the said bill in that behalf mentioned or at any time leave her then place of residence or whether or not at Glasgow in the said bill mentioned or whether she did or not sail in a vessel bound for Ireland or how otherwise or whether anything or what has ever or when since that time been heard of the said Isabella Cuthell or whether she is or not dead or when she did die or who is or are her legal personal representative or representatives or whether such is Indenture of a Pigment as is in the said bill in that behalf mentioned to bear date the first day of February One thousand eight hundred and forty three was or not duly executed by Thomas Cuthell the younger in the said bill named and the Complainant or either of them or whether the same was or not of or to the purport or effect in the said bill in that behalf mentioned or of or to any other purport or effect or how otherwise or whether it is or not the fact that under or by virtue of the said alleged indenture of Pigment all the share and interest of the said Thomas Cuthell the younger in the two third parts of the residuary estate of the said Testator John Cuthell by his said Will bequeathed to the children of his deceased brothers and of his sister Elizabeth as well in his (the said Thomas Cuthell the younger's) own right as by representation and as one of the next of kin of his said sister Isabella Cuthell deceased and of his said Mother has become or whether the same is or not now vested in the said Complainant or how otherwise and this defendant further answering saith she believes and insists that by reason of the death of the said Andrew Cuthell the Nephew in the lifetime of the said Testator John Cuthell one half of the one third part of his said residuary Estate by his said Will bequeathed to the said Andrew Cuthell the Nephew became and was distributable in equal shares amongst

his personal
estate and
effects
and that
the said
Ann Cuthell
did not
alter or
revoke
his said
Will
and that
she did
not
appoint
any other
person
as her
sole
executor
and that
she did
not
leave
any
part
of her
estate
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to any
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person

Defendant Thomas Cuthell

Signed by the above named Defendant
Mary McKenzie in the presence of

22nd June 1849

M. L. J.
North

of him of the said Testator living at the time of his death but this Defendant saith she doth not know and cannot set forth as to her belief or otherwise whether under or by
 use of the said alleged Indenture of Assignment the said Complainant is or not entitled to receive the distributive share or shares of and in such last mentioned one half
 one third part or share which vested in or accrued to the said Thomas Cuthell the younger or how otherwise or whether the said Complainant has or not made such a
 application and requests to the said Mary McKenzie as in the said bill in that behalf mentioned or any other application or request or whether the said Mary McKenzie has or not
 refused or whether she does or not still refuse to comply therewith or why or whether the said Mary McKenzie does or not allege that she cannot safely distribute the
 residuary personal Estate of the said Testator, except under the authority of this Honorable Court or how otherwise And this Defendant further answering saith that this is
 Defendant now resides at Downe in the County of Perth in North Britain that the said Andrew Munro now resides at Glasgow in North Britain aforesaid and that Andrew
 Watt in the said bill named and Elizabeth his wife now reside at Glasgow aforesaid And this Defendant saith that she doth not know and cannot set forth as to her belief or
 otherwise whether the said Mary McKenzie Elias Campbell John Cuthell Walter Kempel otherwise Simple and Ann Cuthell or any or either of them are or not or is or not now
 respectively residing in any or what place or places out of the Jurisdiction of this Honorable Court or how otherwise or where they do respectively reside or whether the
 said Mary McKenzie and Thomas Cuthell, or either of them have or not or hath or not now or had or not lately or ever in their or either of their possession or power or in
 the possession or power of their or either of their Solicitors Attorneys or Agents Solicitor Attorney or Agent divers or any deeds wills probates of wills books books of account
 accounts receipts vouchers memorandums letters copies of or extracts from letters papers or writings or any deed will probate of will book book of account receipt voucher memorandum
 letter copy of or extract from a letter paper or writing relating to the several matters in the said bill in that behalf mentioned or any of them or whether thereby or by any or either
 thereof if the same were produced the truth of the several matters in the said bill in that behalf mentioned would or not appear Without this that there is any other
 matter cause or thing in the Complainant's said bill of complaint contained material or effectual in the Law for this Defendant to make answer unto and not herein and
 hereby will and sufficiently answered avoided traversed or denied is true to the knowledge and belief of this Defendant all which matters and things this Defendant
 is ready and willing to aver maintain and prove as this Honorable Court shall direct and humbly prays to be hence dismissed with her reasonable costs and is
 charged in the Law in this behalf most wrongfully sustained.

J. Lewin

Done last

"homestead linen to Elizabeth single the wife of my deceased
 my death Ten pounds To Mrs Eliza Wilson all my net window curtains I desire to be buried in the same grave with my late lamented husband John Cuthell in Church Church
 "I desire After the payment of all my debts and funeral expenses should any surplus remain I desire that it be given to my friend Thomas Cuthell Esquire of Clapham Park whom
 I appoint the sole Executor of this my last Will". And this Defendant saith that the said Testatrix Ann Cuthell afterwards made a codicil to her said Will dated the Twentieth
 day of March one thousand eight hundred and forty three which was in the words and figures following that is to say "I this day having heard that some doubts exist as to the
 wording of my late husband's will whether one third of his property at my decease devolve and be the property of the heirs and executors of my late husband's nephew the
 said Andrew Cuthell in which case as Mr Cuthell's widow a portion appertains to myself should that be so then I give and bequeath all the sums or property so accruing to
 me at my decease to my late husband's great Nephew Andrew Cuthell who lives with Mr Cuthell at Clapham as a great deal of his time had been paid to the arranging my
 late husband's affairs since my husband's decease without any remuneration being paid to him for so doing And in case any doubts arise at my decease and to prevent
 Law proceedings respecting the wording of this will and Codicil I nominate my friend Mr Thomas Cuthell as the sole Arbitrator and decider of any question of law or
 of any difficulties or doubts that may arise". And this Defendant saith that this Defendant proved the said Will and Codicil of the said Ann Cuthell in the Prerogative Court of the
 Archbishop of Canterbury on the thirteenth day of July one thousand eight hundred and forty seven and that he did thereby become and is now the legal personal representative of the
 said Ann Cuthell. And that he did propose himself of her personal Estate and effects but not according to the present information of this Defendant to an amount more than sufficient for the
 payment of all her funeral and testamentary expenses and debts including the amount due from her Estate to the Estate of the said Testator John Cuthell and this Defendant is
 saith in the first Schedule to this his answer annexed he hath set forth the particulars of all and singular the personal Estate of the said Ann Cuthell of which this Defendant hath
 proposed himself. And this Defendant further answering saith he admits that upon the death of the said Ann Cuthell the Administration granted to her of the Estate and effects of
 the said Ann Cuthell did determine and that Letters of Administration of the Estate and effects of the said Testator left unadministered by the said Ann Cuthell deceased were on the
 sixteenth day of October one thousand eight hundred and forty eight granted to Mary McKenzie in the said Bill named out of the Prerogative Court of the Archbishop of Canterbury
 and that the said Mary McKenzie did thereby become and is now the sole legal personal representative of the said Testator John Cuthell. And that the said Andrew Cuthell the Nephew of
 the said Testator John Cuthell did die in the lifetime of the said Testator and after the date of his said Will and that he did first duly sign and publish his last Will and Testament in
 witness of such date as in the said Bill in that behalf mentioned and that he did appoint this Defendant sole Executor of his said Will. And that this Defendant did on the Twenty
 ninth day of October one thousand eight hundred and twenty one duly prove the same Will in the Prerogative Court of the Archbishop of Canterbury and that he is now the sole legal
 personal representative of the said Andrew Cuthell the Nephew. And this Defendant saith he submits to the Judgment of this Honorable Court whether the bequests in the Will of the
 said John Cuthell the Testator or by his intestacy as this Defendant in such representative characters as aforesaid or as appointee in the Will of
 such interests under the Will of the said John Cuthell the Testator or by his intestacy as this Defendant in such representative characters as the personal representative or as appointee
 under the Will of the said Ann Cuthell is entitled to the sum of Two hundred pounds which by the Will of the said John Cuthell the said Ann Cuthell was empowered to dispose of
 in manner therein mentioned. And this Defendant saith he hath in his possession or power the several documents or writings in the second Schedule to this his answer annexed particularly
 set forth. And this Defendant saith that save as aforesaid he hath not now and had not lately or at any time in his possession or power or in the possession or power of his Solicitors Attorneys
 or Agents Solicitor Attorney or Agent divers or any deeds wills probates of wills books Books of account accounts receipts vouchers Memorandums letters copies of or extracts from letters papers or
 writings or any deed will probate of will book book of account account receipt voucher memorandum letter copy of or extract from a letter paper or writing relating to the matters in the
 said Bill mentioned or any of them whereby if produced the truth of the said matters or any of them would appear Without this that there is any other matter cause or thing in the
 Complainant's said bill of complaint contained material or effectual in the Law for this Defendant to make answer unto and not herein and hereby will and sufficiently answered avoided traversed
 or denied is true to the knowledge and belief of this Defendant all which matters and things this Defendant is ready and willing to aver maintain and prove as this Honorable Court shall direct
 and humbly prays to be hence dismissed with his reasonable costs and charges in the Law in this behalf most wrongfully sustained.

J. Lewin

Witness to the signature of the above named Defendant Thomas Cuthell

Handwritten notes on the right margin of the second page, including names like 'J. Lewin' and 'Thomas Cuthell'.

Chancery.

1848 C No. 167

20 March 1849

[Handwritten signature]

The Answer of Thomas Cubitt one of the Defendants to the Bill of Complaint of Andrew Cathell Complainant.

This Defendant answering with himself all benefit of exception to the said Bill of Complaint for Answer therunto or unto so much thereof as this Defendant is advised it is material or necessary for him to make answer unto answering *[initials]* that he admits that John Cathell the Testator in the said Bill named was at the time of his decease possessed of real and personal Estate and Effects to a considerable amount in the whole (but to what amount this Defendant cannot set forth) and consisting of the several particulars in the said Bill in that behalf mentioned respectively and that he was then indebted to divers persons in divers sums of money (but the particulars whereof this Defendant cannot set forth) and that the said John Cathell did duly sign and publish his last Will and Testament *[initials]* of such date and of or to such purport and effect as in the said Bill in that behalf mentioned respectively except that in the said Bill the legacy of Two hundred pounds in the said Will mentioned is by mistake referred to as a legacy of Three hundred pounds and this Defendant pr his guarer certainly as to the contents of the said Will craves leave to refer to the Probate of the said Will when the same shall be produced to this Honorable Court - Will this Defendant further answering saith he believes that the said Testator did die on the twenty ninth day of March one thousand eight hundred and twenty eighth and that he did not in any manner alter or revoke his said Will and that Letters of Administration of his Estate and Effects with his said Will annexed were on the seventh day of April one thousand eight hundred and twenty eighth granted to Ann Cathell in the said Bill named out of the Prerogative Court of the Archbishop of Canterbury a bequeathed to her by his said Will and praprs herself as sole Administratrix or Legatee thereof into the possession of such parts of his personal Estate as were (but how much more this Defendant cannot set forth) than sufficient for the payment of his funeral and testamentary expenses and debts but whether the said Ann Cathell did or not also saith he admits that with and out of such personal Estate and Effects so received by her as aforesaid the said Ann Cathell did pay or satisfy as this Defendant believes all of the said Testators funeral and testamentary expenses and debts and that after payment and satisfaction thereof there remained in the hands of the said Ann Cathell a large residue or surplus arising from such personal Estate and Effects but whether such residue or surplus did or not amount to the sum of Three thousand six hundred and fifty six pounds fourteen shillings or to what sum in particular this Defendant cannot set forth but this Defendant believes that the same amounted to a sum less than sufficient to produce a clear annual income of Three hundred pounds and that he did not duly sign and publish his last Will and Testament in writing of such date as in the said Bill in that behalf mentioned and that the said Cathell desired that all my just debts and funeral expenses be paid - I desire that all the furniture except what is enumerated below in the house at Trencham Green may be sold to a Bond given to him or for a lease of the house for that sum) or paid to him in money I bequeath to John Cooper Cathell my great Nephew all my Books Bookcase and Mahogany wardrobe and Table Lamp Square and bequeath to Andrew Cathell my great Nephew all my plate China eight day Clock and Esculapine I give all my clothes and so household linen to Elizabeth Tingle the wife of my Nephew James Tingle and to the said James Tingle the sum of Ten pounds to the principal servant who is with me at the time of my death Ten pounds to Miss Elizabeth Wilson all my net window curtains I desire to be buried in the same Grave with my late lamented husband John Cathell in Church Church Road - After the payment of all my debts and funeral expenses should any surplus remain I desire that it be given to my friend Thomas Cubitt Esquire of Clapham Park whom I appoint the sole Executor of this my last Will - And this Defendant saith that the said Testatrix Ann Cathell afterwards made a codicil to her said Will dated the Twentieth day of March one thousand eight hundred and forty three which was in the words and figures following that is to say "I this day having heard that some doubts exist as to the wordings of my late husband's will in which case as to the said widow a portion appertains to myself should that be so then I give and bequeath all the sums or property so accruing to me at my decease to my late husband's great Nephew Andrew Cathell who lives with Mr Cubitt at Clapham as a great deal of his time has been paid to the arranging my late husband's affairs since my husband's decease without any remuneration being paid to him for so doing and in case any doubts arise at my decease and to prevent any proceedings respecting the wordings of this will and codicil I nominate my friend Mr Thomas Cubitt as the sole Arbitrator and decider of any question at issue or of any difficulties or doubts that may arise" - And this Defendant saith that this Defendant proved the said Will and codicil of the said Ann Cathell in the Prerogative Court of the Archbishop of Canterbury on the thirteenth day of July one thousand eight hundred and forty seven and that he did thereby become and is now the legal personal representative of the said Ann Cathell - And that he did praprs himself of her personal Estate and Effects but not according to the present information of this Defendant to an amount more than sufficient for the payment of all her funeral and testamentary expenses and debts including the amount due from her Estate to the Estate of the said Testator John Cathell and this Defendant is saith in the first Schedule to this his answer annexed he hath set forth the particulars of all and singular the personal Estate of the said Ann Cathell of which this Defendant hath praprs himself And this Defendant further answering saith he admits that upon the death of the said Ann Cathell the Administration granted to her of the Estate and Effects of the said John Cathell did determine and that Letters of Administration of the Estate and Effects of the said Testator left unadministered by the said Ann Cathell deceased were on the sixteenth day of October one thousand eight hundred and forty eight granted to Mary McKenzie in the said Bill named out of the Prerogative Court of the Archbishop of Canterbury and that the said Mary McKenzie did thereby become and is now the sole legal personal representative of the said Testator John Cathell and that the said Andrew Cathell the Nephew of the said Testator John Cathell did die in the lifetime of the said Testator and after the date of his said Will and that he did first duly sign and publish his last Will and Testament in writing of such date as in the said Bill in that behalf mentioned and that he did appoint this Defendant sole Executor of his said Will And that this Defendant did on the Twentieth day of October one thousand eight hundred and twenty one prove the same Will in the Prerogative Court of the Archbishop of Canterbury and that he is now the sole legal personal representative of the said Andrew Cathell the Nephew And this Defendant saith he submits to the Judgment of this Honorable Court whether the bequests in the Will of the said John Cathell the Testator to the said Andrew Cathell his Nephew did or not lapse by the death of the said Andrew Cathell the Nephew and this Defendant saith he claims all such interests under the Will of the said John Cathell the Testator or by his intestacy as this Defendant in such representative characters as aforesaid or as appointee in the said Ann Cathell or otherwise may be justly entitled to and in particular this Defendant saith he is advised that this Defendant as the personal representative of the said Testator is entitled to the sum of Five hundred pounds which by the Will of the said John Cathell the said Ann Cathell was empowered to dispose of in manner therein mentioned And this Defendant saith he hath in his possession or power the several documents or writings in the second Schedule to this his answer annexed particularly or agents Solicitors Attorney or Agent divers or any deeds wills probates of Wills Books Books of accounts Accounts receipts vouchers Memorandums letters copies of or Extracts from Letters papers or writings or any deed will probate of a Will Book Book of account Account receipt vouchers Memorandums letters copies of or Extracts from Letters papers or said Bill mentioned or any of them whereby if produced the truth of the said matters or any of them would appear Without this that there is any other matter cause or thing in the or denied is true to the knowledge and belief of this Defendant all which matters and things this Defendant is ready and willing to aver maintain and prove as this Honorable Court shall direct and humbly craves to be hence discharged with his reasonable costs and charges in the Law in this behalf most wrongfully sustained -

[Handwritten signature]

Witness to the signature of the above named Defendant Thomas Cubitt *[Handwritten signature]*

Signed by the above named Defendant Mary McKenzie in the presence of *[Handwritten signature]*

the only

[Marginal notes on the right side of the page, partially obscured and written in a smaller hand.]

20th March 1749

The first Schedule referred to in the foregoing Answer being a Statement of the Personal Estate of Mrs Ann Cutbell deceased come to the hands of the above named Defendant Thomas Cutbell

Money in the hands of the Defendant Thomas Cutbell at the time of the decease of the said Ann Cutbell being the balance of monies from time to time deposited with him by her at interest
 Tenants fixtures in House at Farnham Green in the County of Middlesex but residence of the said Ann Cutbell and sold to the said Thomas Cutbell to Mr George Gouldsmith the owner of the said House at the sum at which they were valued by Mr George Gouldsmith namely
 10. 5. 0
 Debt specifically bequeathed by the said Ann Cutbell to the said Thomas Cutbell valued at the sum of
 £68 11. 0
 Books Books &c specifically bequeathed by the said Ann Cutbell to John Cooper Cutbell valued at the sum of
 £34 10. 0
 Furniture in House at Farnham Green at time of the decease of the said Ann Cutbell now in the hands of the said Thomas Cutbell valued by the said George Gouldsmith at the sum of £147 16. 0

Woods Linn &c bequeathed to Elizabeth Temple valued at £20 13. 0
 Three promissory notes bearing date respectively the 1st day of January 1746 made respectively by T. Macpherson and payable to the said Ann Cutbell as executrix of the late John Cutbell. One of such notes being for the sum of Fifty pounds and payable Twenty four months after the date thereof Another of such notes being for the sum of £50 payable Thirty months after the date thereof and the other of such notes being for the sum of £150 payable Thirty six months after the date thereof all which said notes have been delivered over by this Defendant to Mr Mary McKenzie the Administratrix de bonis non of the said Testator John Cutbell

Thos Cutbell

The second Schedule referred to in the foregoing Answer being a list of Documents in the hands of the above named Defendant Thomas Cutbell

Probate of the Will of Andrew Cutbell granted to the Defendant Thomas Cutbell and dated the 24th of October 1721
 Letters of Administration (with Will annexed) of the goods of John Cutbell the Testator in the pleadings named granted to the said Thomas Cutbell and dated 14th April 1722
 Certificate of value of Bonded Stock in Bonds belonging to Testator John Cutbell
 Valuations of Houses Nos 4 and 5 Middle Row Holborn with statement of disbursements annexed
 Valuation of Plate belonging to Testator John Cutbell
 Inventory of Household Furniture belonging to Testator John Cutbell
 2 valuations of the private Library of the said John Cutbell
 Statement of Bonded Stock bought by Mr Macpherson
 Statement of Books sold for ready money since decease of said John Cutbell
 Statement of rents received for Nos 4 and 5 Middle Row Holborn
 Statement of account of money received in part of Book debts &c up to time of giving up business to Mr Macpherson

Statement of Account between Mr Macpherson and the Administratrix of the said John Cutbell
 Statement of account (in Duplicate) between the said John Cutbell and the Estate of Andrew Cutbell deceased with 4 receipts annexed
 Account of cash paid away for the Estate of John Cutbell
 Statement of account of Mr Stobbs as to sale of Books
 Invention of Mr J. Hudson and Pearson relative to the Estate of Testator John Cutbell
 Copy of Account of residuary Estate of the said John Cutbell passed at the Stamp Office by the Administratrix
 Small account book shewing sundry accounts
 Eight documents or memoranda relating to the account between the Administratrix and Mr Macpherson
 2 Balance sheets shewing amount of residuary estate of said John Cutbell marked A & B
 Probate of the Will of the said Ann Cutbell
 Valuation of the Furniture Plate Books &c of the said Ann Cutbell made by Mr George Gouldsmith

Thos Cutbell

Witness to the signature of the above named Defendant Thomas Cutbell

Henry William K. Cutbell

L. H. H. H.

thousand eight hundred and thirty eight and that John Cutbell in the said Bill named did die some years since that is to say on or about the fourth day of May one thousand eight hundred and thirty nine and that Letters of Administration of her Estate and Effects were on or about the thirteenth day of February one thousand eight hundred and forty nine granted to this Defendant Andrew Munro out of the proper Ecclesiastical Court that is to say the Prerogative Court of the Archbishop of Canterbury and that this Defendant Andrew Munro is the sole legal personal representative of the said John Cutbell and that Margaret Munro in the said Bill named did die some years since that is to say on or about the fourth day of October one thousand eight hundred and forty three and that Letters of Administration of her Estate and Effects were on or about the sixth day of December one thousand eight hundred and forty eight granted to this Defendant Andrew Munro out of the proper Ecclesiastical Court that is to say the Prerogative Court of the Archbishop of Canterbury and that this Defendant Andrew Munro is the legal personal representative of the said Margaret Munro and these Defendants further answering say they do not know and cannot set forth as to their belief or otherwise whether Margaret Temple otherwise Temple in the said Bill named did or not die on the eighteenth day of June one thousand eight hundred and forty seven or at any other time or whether Letters of Administration of her Estate and Effects were or not on the Twenty first day of October one thousand eight hundred and forty eight or at any other time granted to Walter Temple otherwise Temple in the said Bill named out of the proper or any Ecclesiastical Court or whether the said Walter Temple otherwise Temple is or not to him in the said Bill in that behalf mentioned or at any time leave his place of residence or whether or not at Glasgow in the said Bill mentioned or whether she did or not sail in a vessel bound for Ireland or New otherwise or whether ~~or whether~~ anything or what treasure or when since that time been heard of the said Isabella Cutbell or whether she is or not dead or when she did die or who is or was her legal personal representative or representatives or whether such Indenture of Assignment ^{in the said Bill} as is therein mentioned is or not to bear date the first day of February one thousand eight hundred and forty three was or not duly executed by Thomas Cutbell the younger in the said Bill named and the complainant or either of them or whether the same was or not of or to the purpose or effect in the said Bill in that behalf mentioned or of or to any other purpose or effect or how otherwise or is or whether it is or not the fact that under or by virtue of the said alleged Indenture of Assignment all the share and interest of the said Thomas Cutbell the younger in the two third parts of the residuary estate of the said Testator John Cutbell by his said Will bequeathed to the children of his deceased brother ^{son} of his said Sister Elizabeth as well in his (the said Thomas Cutbell the younger's) own right as by representation and as one of the next of kin of his said sister Isabella Cutbell deceased and of his said Mother has become or whether the same is or not now vested in the said complainant or how otherwise And these Defendants further answering say they believe and insist that by reason of the death of the said Andrew Cutbell the Nephew in the lifetime of the said Testator John Cutbell one half of the one third part of his said residuary Estate by his said Will bequeathed to the said Andrew Cutbell the nephew became and was distributable in equal shares amongst the next of kin of the said Testator living at the time of his death but these Defendants do not know and cannot set forth as to their belief or otherwise whether under or by virtue of alleged Indenture of Assignment the said Complainant is or not

Signed by the above named Defendant Mary McKenzie in the presence of

John Currier

one only

first defendant
 speak to a
 what persons in
 that his last
 reduced that
 cannot be set
 and that
 as in the said
 as to the bill
 remain unpaid
 do receive or
 see how much
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 Margaret
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Wm. Hall Esq. v. John Cuttill
1848

1848. C. No. 167.

22nd March 1849.

The joint and several Answer of James Roope, Andrew Munro and Andrew Watt and Elizabeth his wife
Three of the Defendants to the Bill of Complaint of Andrew Cuttill Complainant.

These Defendants answering unto themselves all benefit of exception to the said Bill of Complaint for answer in whole or unto so much thereof as these Defendants are advised it is material or necessary for them to make answer unto jointly and severally answering say they admit that John Cuttill the Testator in the said Bill named was at the time of his decease possessed of or entitled to personal Estate and effects to a considerable amount in the whole (but what amount these Defendants cannot set forth) and consisting of the several particulars in the said Bill in that behalf mentioned respectively and that it was then intended to deliver persons in divers sums of money (but the particulars whereof these Defendants cannot set forth) and that the said John Cuttill did duly sign and publish his last Will and Testament in writing of such date and of or to such purport and effect as in the said Bill in that behalf mentioned respectively except that in the said Bill the legacy of five hundred pounds in the said Will mentioned is by mistake referred to as a legacy of Three hundred pounds but these Defendants for their greater certainty crave leave to refer to the said Will or the Probate copy thereof when the same shall be produced to this Honorable Court but these Defendants further answering say they admit that the said Testator did die on the Twentieth day of March One thousand eight hundred and twenty eight and that he did not in any manner alter or revoke his said Will and that Letters of Administration of his Estate and effects with his said Will annexed were on the Twentieth day of April One thousand eight hundred and twenty eight granted to him Cuttill in the said Bill named out of the Prerogative Court of the Archbishop of Canterbury and that upon the death of the said Testator the said Ann Cuttill did enter into the possession of such parts of his personal Estate as were specifically bequeathed to her by her said Will and possess herself as such Administratrix as aforesaid of the greater part of his other personal Estate and effects and to an amount more (but these Defendants cannot set forth how much more than sufficient for the payment of his funeral and testamentary expenses and debts but whether the said Ann Cuttill did or not also possess herself of the whole or the said Testator's personal Estate or what was the amount thereof in particular these Defendants cannot set forth as to their belief or otherwise but these Defendants further answering say that with and out of such personal Estate and effects so received by her as aforesaid the said Ann Cuttill did as these Defendants believe pay and satisfy all of the said Testator's funeral and testamentary expenses and debts and that after payment and satisfaction thereof there remained in the hands of the said Ann Cuttill a large residue or surplus arising from such personal Estate and effects but whether such residue or surplus did or not amount to the sum of Three thousand six hundred and forty six pounds seven shillings or to what sum in particular or whether or not to a sum less or how much less than sufficient to produce a sum amounting to Three thousand pounds these Defendants do not know these and cannot set forth as to their belief or otherwise And these Defendants further answering say they admit that the said Ann Cuttill did die on the fifth day of June One thousand eight hundred and forty seven and that she did just duly sign and publish her last Will and Testament in writing of such date as in the said Bill in that behalf mentioned but that she did thereby appoint Thomas Cuttill in the said Bill named as one of the Defendants therein sole Executor thereof and that the said Thomas Cuttill did duly prove the said Will of the said Ann Cuttill in the Prerogative Court of the Archbishop of Canterbury on the Twentieth day of July One thousand eight hundred and forty seven and that in due money account and is now the legal personal representative of the said Ann Cuttill and that he did possess herself of her personal Estate and effects but whether or not to an amount more than sufficient for the payment of all her funeral and testamentary expenses and debts including the amounts due from her Estate to the said John Cuttill these Defendants say they do not know and cannot set forth as to their belief or otherwise And these Defendants further answering say that upon the death of the said Ann Cuttill the Administration granted to her of the Estate and effects of the said John Cuttill did determine and that Letters of Administration of the same were on the said day granted as one of the Defendants therein sole Executor thereof to the said Thomas Cuttill and that the said Thomas Cuttill did die in the lifetime of the said Testator and after the date of his said Will and that he did just duly sign and publish his last Will and Testament in writing of such date as in the said Bill in that behalf mentioned and that he did appoint the said Thomas Cuttill sole Executor of his said Will and that the said Thomas Cuttill did on the Twentieth day of October One thousand eight hundred and twenty one just duly prove the same will in the Prerogative Court of the Archbishop of Canterbury and that he is now the sole legal personal representative of the said Andrew Cuttill the Defendant therein and that the persons answering the description of the children of the said Testator John Cuttill deceased brothers and sisters of his said Testator were the several persons in the said Bill in that behalf named and that such several persons were the next of kin of the said Testator John Cuttill living at the time of his decease and that Margaret Frame in the said Bill named did die some years since that is to say on or about the second day of December One thousand eight hundred and forty one and that Letters of Administration of her personal Estate and effects were on or about the sixth day of December One thousand eight hundred and forty eight granted to this Defendant Elizabeth Watt out of the Prerogative Court of the Archbishop of Canterbury and that this Defendant Elizabeth Watt did thereby become and is now the legal personal representative of the said Margaret Frame and that Joan Cuttill in the said Bill named did die some years since that is to say on or about the fourth day of May One thousand eight hundred and thirty eight and that Letters of Administration of her Estate and effects were on or about the thirteenth day of February One thousand eight hundred and forty nine granted to this Defendant Andrew Munro out of the proper Ecclesiastical Court that is to say the Prerogative Court of the Archbishop of Canterbury and that this Defendant Andrew Munro is the sole legal personal representative of the said Joan Cuttill and that Margaret Munro in the said Bill named did die some years since that is to say on or about the fourth day of October One thousand eight hundred and forty three and that Letters of Administration of her Estate and effects were on or about the sixth day of December One thousand eight hundred and forty eight granted to this Defendant Andrew Munro out of the proper Ecclesiastical Court that is to say the Prerogative Court of the Archbishop of Canterbury and that this Defendant Andrew Munro is the legal personal representative of the said Margaret Munro And these Defendants further answering say they do not know and cannot set forth as to their belief or otherwise whether Margaret Temple otherwise Temple in the said Bill named did or not die on the eighteenth day of June One thousand eight hundred and forty seven or at any other time or whether Letters of Administration of her Estate and effects were or not on the Twentieth day of October One thousand eight hundred and forty eight or at any other time granted to Walter Temple otherwise Temple in the said Bill named out of the proper or any Ecclesiastical Court or whether the said Walter Temple otherwise Temple is or not or who else is the legal personal representative of the said Margaret Temple otherwise Temple or whether Isabella Cuttill in the said Bill named did or not at or about the time in the said Bill in that behalf mentioned or at any time leave her then place of residence or whether or not at Glasgow in the said Bill mentioned or whether she did or not sail in a vessel bound for Ireland or how otherwise or whether ~~she~~ anything or what has ever or when since that time been heard of the said Isabella Cuttill or whether she is or not dead or when she did die or who is or was her legal personal representative or representatives or whether such Indenture of Appointment as in that behalf mentioned to be made the first day of February One thousand eight hundred and forty three was or not duly executed by Thomas Cuttill the younger in the said Bill named and the complaint or either of them or whether the same was or not of or to the purport or effect in the said Bill in that behalf mentioned or of or to any other purport or effect or how otherwise or or whether it is or not the fact that under or by virtue of the said alleged Indenture of Appointment all the share and interest of the said Thomas Cuttill the younger in the third parts of the residuary Estate of the said Testator John Cuttill by his said Will bequeathed to the children of his deceased brother John Cuttill Elizabeth as well in his (the said Thomas Cuttill the younger's) own right as by representation and as one of the next of kin of his said sister Isabella Cuttill deceased and of his said Mother has become or whether the same is or not now vested in the said Complainant or how otherwise And these Defendants further answering say they believe and insist that by reason of the death of the said Andrew Cuttill the Nephew in the lifetime of the said Testator John Cuttill one half of the one third part of his said residuary Estate by his said Will bequeathed to the said Cuttill the nephew became and was distributable in equal shares amongst the next of kin of the said Testator living at the time of his death but these Defendants do not know and cannot set forth as to their belief or otherwise whether under or by virtue of alleged Indenture of Appointment the said Complainant is or

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Signed by the above named Defendants
Mary M. Kungie in the presence of
J. W. Cairns

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able costs and charges in the law
William Munro

W. Smith 22nd March 1849.

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distributive share or shares of and in such last mentioned one half of one part or share which vested in or accrued to the said Thomas Cuthell the younger or how otherwise
whether the said complainant has or not made such application and requests to the said Mary McGeorge as in the said bill in that behalf mentioned or any other application
or request or whether the said Mary McGeorge has or not refused or refused to comply therewith or why or whether the said Mary McGeorge does or not
allege that she cannot duly distribute the residuary personal estate of the said Testator John Cuthell except under the authority of this Honorable Court or how otherwise And these
Defendants further answering say that ~~the said~~ ^{the said} ~~Defendants~~ ^{said} James Bruce now resides at Town in the County of Perth in North Britain that this Defendant Andrew Munro now resides
at Glasgow in North Britain aforesaid and that these Defendants Andrew Watt and Elizabeth Watt now reside at Glasgow aforesaid And these Defendants say that they do not
know and cannot set forth as to their belief or otherwise whether the said Mary McGeorge Elias Campbell John Cuthell Walker Semple otherwise Semple and Ann Cuthell or any
or either of them are or not or do or not now respectively residing in any or what places or place out of the Jurisdiction of this Honorable Court or how otherwise or to
where they do respectively reside or whether the said Mary McGeorge and Thomas Cuthell or either of them have or not or both or not now or had or not lately or ever
in their or either of their possession or power or in the possession or power of their or either of their Solicitors Attornies or Agents Solicitor Attorney or Agent divers or any deeds
wills probate of wills books of account accounts receipts vouchers memorandums letters copies of or extracts from letters papers or writings or any deed will
probate of will book book of account receipt voucher memorandum letter copy of or extract from letter paper or writing relating to the several matters in the said bill
in that behalf mentioned or any of them or whether thereby or by any or other means of the same were produced the truth of the several matters in the said bill in that
behalf mentioned would or not appear Without this that there is any other matter cause or thing in the Complainants said bill of complaint contained material or effectual
in the law for these Defendants to make answer unto and not herein and hereby well and sufficiently answered avoided traversed and denied is true to the knowledge and
belief of these Defendants all which matters things these Defendants are ready and willing to aver maintain and prove as this Honorable Court shall direct and humbly
pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained

J. Levan

In witness (s) of above sign
And
Andrew Watt
Elizabeth Watt

Witness to the signature of the above named Defendant James Bruce

Witness to the signature of the above named Defendant Andrew Munro

John Macdonald, of Fife, Scotland, Parishan

Witness to the signatures of the above named Defendants Andrew Watt
and Elizabeth his wife

William McLean of the City of Glasgow Solicitors Clerk

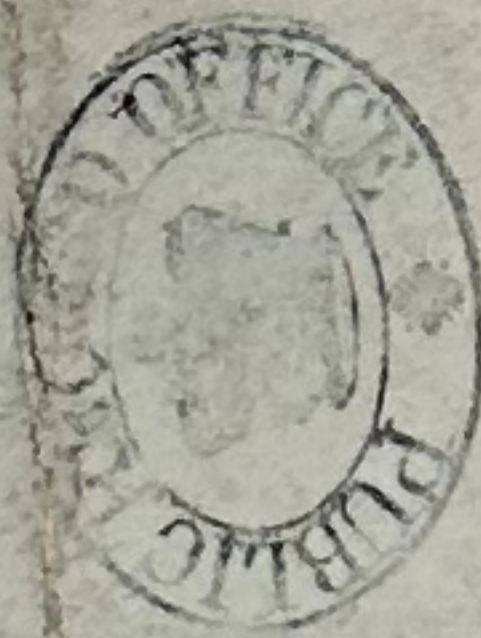
This Answer was signed by the above named Defendant James Bruce, by his affixing thereto his mark in suppression
of his name having first read over and explained to the said James Bruce who appeared personally in court and declared on

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representative or representatives and this Defendant does not know and cannot set forth as to her belief or otherwise whether such Indenture of Assignment as in the said bill mentioned
or one or each of them or whether the same was or is for the purpose of the said bill or for any other purpose or effect or how otherwise And this Defendant submits whether it is or not
the fact that under or by virtue of the said Indenture of Assignment all the share and interest of the said Thomas Cuthell the younger in the said Thomas Cuthell the younger's
residuary estate of the said Testator John Cuthell his said Will bequeathed to the children of his deceased brother and of his said sister Elizabeth as well in his (the said Thomas Cuthell the younger's)
own right as by representation and as one of the next of kin
of his sister the said Elizabeth Cuthell deceased and of his other half brother and whether the same is now vested in the said Complainant or how otherwise and the submitter whether it is or not
the fact that by reason of the death of the said Andrew Cuthell the said Andrew Cuthell the younger became and was distributable in equal shares amongst the said Andrew Cuthell the
younger and the said Elizabeth Cuthell the younger and whether under or by virtue of the said Indenture of Assignment the said Complainant is or is not entitled to receive the distributive
share or shares of such last mentioned one half of such one half
part or share which vested in or have accrued to the said Thomas Cuthell the younger or how otherwise And this Defendant denies that the said Complainant has made such application and requests
to this Defendant as in the said Bill mentioned or any other application or request or that she has refused to comply therewith And this Defendant says that in this behalf the Complainant
has alleged that she cannot distribute the residuary personal estate of the said Testator John Cuthell except under the authority of this Honorable Court however she has only received the accounts herein in that behalf mentioned
And this Defendant admits that the said John Cuthell in the said Bill named the said Walker Semple otherwise Semple and Ann Cuthell in the said Bill named
Scotland the said Defendants John Cuthell and Ann Cuthell respectively in America and the said Andrew Munro and Andrew Watt in the said Bill also named and Elizabeth his wife or some
does not know and cannot set forth as to her belief or otherwise whether for the said Elias Campbell or the said Andrew Munro and Andrew Watt in the said Bill also named and Elizabeth his wife or some
or one or each of them are or do now respectively residing in some or what places or place out of the Jurisdiction of this Honorable Court or how otherwise or where they or each of them do or
do now reside And this Defendant says she has in her possession
the letters of administration of the estate and effects of the said Testator John Cuthell as granted to her as aforesaid and also divers letters relating to the matters in the said Bill mentioned
whenever she is ready and willing to produce but she denies that
she has now or had lately or at any time in her possession or power
thence or otherwise the truth of the matters in the said Bill mentioned or any of them will appear further or otherwise than as appears herein And she says as aforesaid this Defendant denies that she
has now or had lately or at any time in her possession or power
or in the possession or power of her Solicitors Attornies or Agents Solicitor Attorney or Agent divers or any deeds wills probate of wills books of account accounts receipts vouchers
memorandums letters copies of or extracts from letters papers or writings or any deed will probate of will book book of account receipt voucher memorandum letter copy of or extract
from a letter paper or writing relating to the several matters in the said Bill mentioned or any of them and this Defendant does not know and cannot set forth as to her belief or otherwise whether
thereby or by any or other means of the same were produced the truth of the several matters in the said Bill mentioned would or not appear And this Defendant says she claims all such
property and right of return in respect of costs or otherwise as she is entitled to as the representative of the said Testator and also all such beneficial rights and interests as she
is entitled to under her said Will or otherwise however and subject as aforesaid she is ready and willing to act as this Honorable Court may direct on being indemnified against all costs and charges
Without this that there is any other matter
complaint in the bill of complaint contained material or effectual in the law for this Defendant to make answer unto and not herein and hereby well and sufficiently answered avoided traversed
and denied is true to the knowledge and belief of this Defendant all which matters things this Defendant is ready and willing to aver maintain and prove as this Honorable Court shall direct
and humbly prays to be hence dismissed with her reasonable costs and charges

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Signed by the above named Defendant
Mary McGeorge in the presence of

George



James Hopgood
14 King William Street
Strand

Agent for Jardine Stodart
and Treasert of Edinburgh
Solicitors for within named
Defendant Janet Bryce.

and Agent for William
Mathison of Glasgow
Solicitor for within named
Defendants Andrew Munro
and Andrew Watt and
Elizabeth his wife.

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Chancery.

Between Andrew Cuthell — Plt.

D. No 167

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Thomas Cuthell and ors — Defs

These are to Certify that the Plaintiffs Bill in this Cause was regularly Filed on the 25th day of November 1849
Dated this 15th day of January 1849

The 15th day of January 1849

W. Dewdney

is the Master in rotation to whom this Cause is referred.

Richd. J. Hindersley
Junior Sitting Master

J. C. M. A. M.

1845 O.C. No. 167

nancy.

13

[Handwritten signature]

Between Andrew Guthell Plaintiff

and

Thomas Gibbitt, James Miller, Mary McKenzie,
Janet Bryce, Lillias² Campbell, Andrew
Munro, John Guthell, Walter Sempel otherwise
Semple, Ann Guthell, and Andrew Watt and
Elizabeth his wife Defendants.

The Plaintiff in this cause hereby joins issue with the Defendants Thomas
Gibbitt, James Miller, Mary McKenzie, Janet Bryce, Andrew Munro, John
Guthell, Walter Sempel otherwise Semple, Ann Guthell, and Andrew Watt
and Elizabeth his wife.

James Hopgood
14 King William Street Strand
Plaintiff's Solicitor

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167

[Faint handwritten text at the bottom of the page]

1840 C. No. 167

14

Victoria by the Grace of God of the United Kingdom of Great Britain and Ireland Queen Defender of the Faith To John Crompton

John Crompton John Worrall and John Doe Gentlemen
Greeting Whereas Andrew Cuthell Complainant hath lately

presented his Bill of Complaint before us in our Court of Chancery against James Miller Defendant. And whereas we have by our Writ lately commanded the

Defendant to appear before us in our said Chancery at a certain day now past to answer the said Bill. Know ye that we have given unto you
any three or two of you full Power and Authority to take the Answer of the said Defendant to the said Bill and therefore we command you any
three or two of you that at such certain day and place as you shall think fit you go to the said Defendant if he cannot conveniently come to you
and take his Answer to the said Bill on his Corporal Oath upon the Holy Evangelists to be administered by you any three or two of you the said
Answer being distinctly and plainly wrote upon Parchment and when you shall have so taken it you are to send the same closed up under
the seals of you any three or two of you unto us in our said Chancery without delay wheresoever it shall then be together with this Writ Witness our self
at Westminster the Twentieth day of January in the Twelfth year of our Reign

Langdale.

1815, 16, 17
15th February 1849

The Cause of James Miller one of the Defendants to the Bill of Complaint of Andrew Cuthell Complainant.

James Miller says he believes it to be true that John Cuthell the Testator in the said Bill named died at the time of his decease possessed of or entitled to personal estate and effects to a considerable amount in the whole but he knows not and cannot set forth as to his belief or otherwise whether or not the said Testator was at the time of his decease indebted to divers persons in divers sums of money or of so much value or in what sums of money he was so indebted however the said Testator had been informed and believes that some debts of considerable amount in the whole were due and owing from the said Testator at the time of his decease. And this Defendant believes it to be true that the said John Cuthell duly signed and published his last will and Testament in writing of such date and of to such purpose or effect as in the said Bill in that behalf mentioned but the Defendant for his certainty as to the purpose and effect of the said Will craves leave to refer thereto to the Probate Copy thereof when produced. And this Defendant has been informed and believes it to be true that the said Testator died on the twenty ninth day of March one thousand eight hundred and twenty eight and that he never in any manner altered or revoked his said Will and that letters of Administration of his estate and effects with his said Will annexed were on the nineteenth day of April one thousand eight hundred and twenty eight granted to ANN CUTHELL in the said Bill named out of the Prerogative Court of the Archbishop of Canterbury. And this Defendant has been informed and believes it to be true that upon or soon after the death of the said Testator the said Ann Cuthell entered into the possession of such parts of his personal estate as were specifically bequeathed to her by his said Will and that she possessed herself as administratrix of the said Testator of the whole of his other personal estate and effects and to an amount much more than sufficient for the payment of his funeral and testamentary expenses and debts and that with and out of such personal estate and effects the said Ann Cuthell paid or satisfied all such funeral and testamentary expenses and debts and that no such debts now remain unpaid and that after payment and satisfaction thereof there remained in the hands of the said Ann Cuthell a large residue or surplus arising from such personal estate and effects but whether or not such residue or surplus amounted to the sum of Three thousand six hundred and fifty six pounds fourteen shillings or to what sum in particular the sum amounted or whether or not to a sum less than sufficient to produce a clear annual income of Three hundred pounds this Defendant says he knows not and has not been informed save by the said Complainant's said Bill and cannot set forth as to his belief or otherwise. And this Defendant has been informed and believes it to be true that the said Ann Cuthell died on the fifth day of June one thousand eight hundred and twenty seven and that in her last will and Testament in writing of such date as in the said Bill in that behalf mentioned and that she thereby appointed THOMAS CUTHELL another Defendant in the said Bill named sole executor thereof and that he the said Defendant Thomas Cuthell duly proved the said Will of the said Ann Cuthell and that he possessed himself of her personal estate and effects at the amount more than sufficient for the payment of all her funeral and testamentary expenses and debts including the amount due from her as such administratrix as appears to the estate of the said Testator John Cuthell determined and the said Defendant says he has been advised and believes that upon the death of the said Ann Cuthell the administration granted to her of the estate and effects of the said Testator John Cuthell determined and ceased and that letters of Administration of the estate and effects of the said Testator left unadministered by the said Ann Cuthell deceased were on the sixteenth day of October one thousand eight hundred and twenty eight granted to MARY M^{rs} HENZIE another Defendant in the said Bill named out of the Prerogative Court of the Archbishop of Canterbury and that the said Defendant MARY M^{rs} HENZIE thereby became and that she is now the sole legal personal representative of the said Testator John Cuthell. And this Defendant has been informed and believes it to be true that Andrew Cuthell the nephew of the said Testator John Cuthell in his said Will and in the said Bill named died in the life-time of the said Testator and after the date of his said Will but whether or not he the said Andrew Cuthell just duly signed and published his last Will and Testament in writing of such date as in the said Bill in that behalf mentioned or of some and what other date or whether or not he appointed the said Defendant Thomas Cuthell sole executor of his said alleged Will or whether or not the said Thomas Cuthell in the twenty ninth day of October one thousand eight hundred and twenty eight or at some and what other time duly proved the said Will or some ecclesiastical Court or whether or not he is now or who else is the sole legal personal representative of the said Andrew Cuthell this Defendant knows not and has not been informed save by the said Complainant's said Bill and cannot set forth as to his belief or otherwise. And this Defendant says that Elizabeth Miller the sister of the said Testator in her said Will named had three children namely this Defendant Margaret Frame in the said Bill named and Isabella Miller and that the said Isabella Miller many years ago left this country for America where she intermarried with one John Cumbriak by whom she had issue one child and this Defendant says he has not heard of the said Isabella Cumbriak formerly Isabella Miller Spinster since the year one thousand eight hundred and twenty five at which time she had intermarried with the said John Cumbriak and was residing with him at New York but whether or not the said Isabella Cumbriak is now living or is one thousand eight hundred and twenty five at which time she had intermarried with the said John Cumbriak and was residing with him at New York but whether or not the said Isabella Cumbriak is now living or is whether or not she was living at the time of the decease of the said Testator John Cuthell this Defendant knows not and cannot set forth as to his belief or otherwise and save as herebefore appears this Defendant says he knows not and cannot set forth as to his belief or otherwise whether or not the persons answering the description of the children of the said Testator John Cuthell deceased Brothers and of his said sister Elizabeth and who were living at the time of his decease were the several persons in the said Bill in that behalf mentioned or some and which of them or some and what other persons or whether or not such several persons or some and which of them were the next of kin of the said Testator John Cuthell living at the time of his decease however this Defendant says that he the Defendant and the said Margaret Frame were two of the next of kin of the said Testator living at the time of his decease. And this Defendant further answering says that the said Margaret Frame died some years since and this Defendant has been informed and believes that letters of Administration of her personal estate and effects were granted to Elizabeth Wall another Defendant in the said Bill named but at what time in particular or out of what ecclesiastical Court the said letters of Administration were granted this Defendant knows not and cannot set forth as to his belief or otherwise but this Defendant has been informed and believes that the said Defendant Elizabeth Wall is now the legal personal representative of the said Margaret Frame. And this Defendant knows not and cannot set forth as to his belief or otherwise whether or not John Cuthell in the said Bill named died some years since or where she died or whether or not letters of Administration of her estate and effects were at any time granted to ANDREW MUNRO another Defendant in the said Bill named out of the Prerogative Court or whether or not the said Defendant Andrew Munro is or who else is the sole legal personal representative of the said John Cuthell. And this Defendant says he knows not and cannot set forth as to his belief or otherwise whether or not Margaret Munro in the said Bill named died some years since or at some and what time nor whether or not letters of Administration of her estate and effects were at any time granted to the said Defendant Andrew Munro out of the Prerogative Court or whether or not the said Defendant Andrew Munro is or who else is the legal personal representative of the said Margaret Munro. And this Defendant knows not and cannot set forth as to his belief or otherwise whether or not whether or not Margaret Semple otherwise Semple in the said Bill named died on the eighteenth day of June one thousand eight hundred and forty seven or at some and what other time nor whether or not letters of Administration of her estate and effects were on the twenty first day of October one thousand eight hundred and forty eight or at some and what other time or granted to WALLIS SIMPLE otherwise SIMPLE another of the Defendants in the said Bill named out of the Prerogative Court nor whether or not the said last named Defendant is or who else is the legal personal representative of the said Margaret Semple otherwise Semple. And this Defendant says he knows not and has not been informed save by the said Complainant's said Bill and cannot set forth as to his belief or otherwise whether or not Isabella Cuthell in the said Bill named died at or about the time in the said Bill in that behalf mentioned or at some and what time leave her then place of residence or whether or not at Glasgow or whether or not she sailed in a vessel bound for Ireland or how otherwise or whether or not anything or what has been heard of the said Isabella Cuthell since the year one thousand eight hundred and thirty four being the time when as it is in the said Bill alleged she left her then place of residence at Glasgow aforesaid. And this Defendant further answering says he knows not and cannot set forth as to his belief or otherwise whether or not such Indenture of Assignment as in the said Bill mentioned to bear date the first day of February one thousand eight hundred and forty three was duly executed by Thomas Cuthell the younger in the said Bill named and by the said Complainant or one and which of them or whether or not the same was of or to the purpose or effect in the said Bill in that behalf mentioned or of to some and what other purpose or effect or how otherwise or whether or not it is the fact that under or by virtue of the said Indenture of Assignment all the share and interest of the said Thomas Cuthell the younger in the two third parts of the residuary estate of the said Testator John Cuthell by his said Will bequeathed to the children of his deceased Brothers and of his said sister Elizabeth as well in his the said Thomas Cuthell the younger's own right as by representation and as one of the next of kin of the said Testator John Cuthell deceased and of his Mother or the said Bill respectively named has become or whether or not the same is now vested in the said Complainant or how otherwise. And this Defendant submits to the Judgment of this Honorable Court whether or not by reason of the death of the said Andrew Cuthell the nephew in the lifetime of the said Testator John Cuthell one half of the one third part of his residuary estate by his said Will bequeathed to the said Andrew Cuthell the nephew became and was distributable in equal shares amongst the next of kin of the said Testator living at the time of his death or whether such one half or the whole of the said third part of the residuary estate of the said Testator did not by reason of the death of the said Andrew Cuthell at the time aforesaid become distributable in equal shares amongst the next of kin of the said Testator living at the time of the death of the said Ann Cuthell the Widow of the said Testator John Cuthell. And this Defendant also submits to the Judgment of this Court whether the remaining two third parts of the residuary estate of the said Testator has not become distributable amongst such only of the nephews and nieces of the said Testator as were living at the time of the decease of the said Ann Cuthell. And this Defendant says he knows not and cannot set forth as to his belief or otherwise whether or not under or by virtue of the said Indenture of Assignment the said Complainant is entitled to receive the distributive share or shares of and in such last mentioned one half of such one third part or share which as it is in the said Bill alleged vested in or to the said Thomas Cuthell the younger or how otherwise. And this Defendant knows not and cannot set forth as to his belief or otherwise whether or not the said Complainant has made such application and requests to the said Defendant MARY M^{rs} HENZIE as in the said Bill in that behalf mentioned or some other and what application or request or whether or not the said last named Defendant has refused or whether or not she still refuses to comply therewith or why or whether or not the said Defendants MARY M^{rs} HENZIE alleges that she cannot safely distribute the residuary personal estate of the said Testator John Cuthell except under the authority of this Honorable Court. And this Defendant knows not and cannot set forth as to his belief or otherwise whether or not the said Defendant MARY M^{rs} HENZIE and James George Libas Campbell Andrew Munro John Cuthell Wallis Simple otherwise Semple Ann Cuthell and Andrew Wall and Elizabeth his wife Defendants in the said Bill named or some or one and which of them are or is now respectively residing in some or what place or place out of the jurisdiction of this Honorable Court or where they or any or either of them are or does now reside. And this Defendant knows not and cannot set forth as to his belief or otherwise whether or not the said Defendants MARY M^{rs} HENZIE and Thomas Cuthell or either and which of them have or hath now or had lately or once in their or either of their possession or power or in the possession or power of their or either of their Solicitors Attorneys or Agents Solicitor Attorney or Agent drawers or any deeds or deed Wills or Will probates of Wills a probate of a Will books or books books of account or book of accounts accounts or account receipts or receipt vouchers or vouchers memorandums or memorandum letters or letter copies of or extracts from a copy of or extract from letters or letter papers or writings paper or writing relating to the several matters in the said Bill respectively mentioned or some of them or whether if the same were produced the truth of such matters or any of them would appear. Although this that there is any other matter cause or thing in the Complainant's said Bill of Complaint contained material or effectual in the law for this Defendant to make answer unto and not heave and hereby well and sufficiently answered avoided traversed or denied is true to the knowledge and belief of this Defendant. All which matters and things this Defendant is ready and willing to aver maintain and prove as this Honorable Court shall direct and humbly prays to be hence dismissed with his reasonable costs and charges in the case in this behalf most wrongfully sustained.

This answer was taken and the above named defendant James Miller was duly sworn to the truth thereof on the 15th day of February at the Office of John Compton Esquire at Sharncliffe in the Township of Grompton in the Parish of Clatham in the County of Lancaster on the 15th day of February one thousand eight hundred and forty nine by virtue of the commission hereunto annexed before us

James Miller

Milne Parry Milne and Morris

Temple

Agents for John Crompton
of Shaw near Oldham

Lancashire

Solicitor for the within
named Defendant

