

Thomas Smith

To W. H. Miller

1839

August 15

To one Wheat Cleaning Fitzpatrick patent put up in his mill at Buckland  
\$200 – 6 months

**(This is a note presented to the court that was not signed by either the  
plaintiff or defendant) RRT**

On reverse of document- Thomas Smith account \$200, 15 August 1839

August Court 1844 – Damage \$500

Prince William County Clerk's Loose Papers

Wm. H. Miller vs Thomas Smith

Prince William County to Wit:

William H. Miller complains of Thomas Smith in custody &c of a plea &c for this to wit. That the defendant on the 15<sup>th</sup> day of February 1840 at the county aforesaid was indebted to the plaintiff in the sum two hundred dollars for one wheat cleaning machine. (Fitzpatrick patent put up in his mill at Buckland in the county aforesaid) at and before that time sold and delivered by the plaintiff to the defendant at his special instance and request and being so indebted he the said defendant in consideration thereof assumed upon himself and to the plaintiff then and there faithfully promised to pay him the sum of money aforesaid whenever he the said defendant should be thereto afterwards required.

And whereas the said plaintiff on the said 15 day of February 1840 at the county aforesaid sold and delivered to the said defendant at his special instance and request one other wheat cleaning machine (Fitzpatrick Patent) the said defendant in consideration thereof assumed upon himself and promised to pay to the plaintiff whatever the said wheat cleaning machine was reasonably worth. And the plaintiff avers that the said wheat cleaning machine was reasonably worth the sum of two hundred dollars. Yet the said defendant his promises and assumptions aforesaid not regarding but subtly intending to deceive and defraud the plaintiff in his behalf the said several sums of money or either of them or any part thereof to the plaintiff hath not paid although often required to do so but the same to the plaintiff to pay the defendant hereto hath altogether failed and refused and still doth refuse to pay the same to the plaintiff to his damage five hundred dollars and therefore he brings suit &c

Ward p.g.

Prince William County

To Mrs. Mary Smith administratrix of Thomas Smith deceased

Take notice that on Tuesday the 15<sup>th</sup> day of September 1846 between the hours of nine o'clock a.m. and five o'clock p.m. at the Counting Room of Hopkins & Hull in the City of Baltimore I shall take the deposition of William Dean to be read in evidence in the trial of the suit depending in the County Court of Prince William County in which suit I am plaintiff and you are defendant.

William H. Miller

Fauquier County to wit:

Henry C. Weir this day made oath before this subscriber a Justice of the Peace for the County aforesaid that he delivered on this day, to the within named Mary Smith a copy of this notice. Witness my hand this first day of September 1846

John Marr

To the Clerk of the superior Court of Law & Chancery – (Letter postmarked 22 September)  
Prince William County, State of Virginia  
Wm. H. Miller vs Mary Smith administratrix  
Deposition of William Dean

The deposition of William Dean taken at the Counting Room of Hopkins & Hull in the City of Baltimore on the 15<sup>th</sup> day of September 1846 to be read in evidence on behalf of the plaintiff in a suit now pending and undetermined in the Circuit Superior Court of Law and Chancery for the County of Prince William and State of Virginia, in which William H. Miller is plaintiff and Mary Smith administratrix of Thomas Smith is defendant.

William Dean a witness of lawful age appeared who being first duly sworn on the Holy Evangelist of Almighty God true answer to give to the following interrogatory, answers to says as follows –

Interrogatory proposed to witness on behalf of William H. Miller – What do you know about the sale of a Smut Machine by William H. Miller of Alexandria to Thomas Smith of Buckland, Prince William County, Virginia.

Answer – I received a letter from Thomas Smith in which he requested me to call on William H. Miller and get from him a smut machine & send it to him by his wagon. I do not more recollect the price to be paid for it if I ever did know or the terms on which it was gotten but I am under the impression that it was a purchase. I did not at the time make any undetermined bargain with Mr. W. H. Miller about its answering the (illegible word) or not: as I acted only as the agent of Thomas Smith & knowing that the parties had several interviews when the merits of the machine was discussed.

William Dean

We hereby certify that the foregoing deposition of William Dean was taken before the undersigned Justices of the Peace in and for the City of Baltimore and State of Maryland at the time and place and in the manner mentioned in the caption, and we further certify that the answers of the witnesses to the interrogatories of the plaintiff was rendered to writing by said witnesses in our presence.

Given under our hands and seals this fifteenth day of September 1846

F. Hanson Belt (SEAL)

Windham Spencer (SEAL)

The Commonwealth of Virginia

To The Sheriff of Prince William County – Greetings

We command you that you take Thomas Smith if he be found in your bailiwick and him safely keep, so that you have his body before the Justices of our County Court of Prince William, at the Courthouse of our said county, on the first Monday in August next to answer William H. Miller of a plea of trespass on the case – Damage \$500 - And have there this writ, Witness, John Williams clerk of the said court, at the courthouse aforesaid, the 19 day of July 1844, and in the 69<sup>th</sup> year of our foundation

Prince William County Clerk's Loose Papers

Wm. H. Miller vs Thomas Smith

October 4, 1844

Thomas Smith statement

In 1839 previous to August, Jas Cloud partner of W. H. Miller (in milling) & as owner of patent right of a Smuter Wheat Cleaning Machine applied to me requesting that I would purchase from Miller & Company (as I understood) a Smut Machine the price of which he stated was \$200. Thinking the price too high I declined the purchase. In August 1839 Cloud applied to Wm. Dean (then residing in Alexandria & who frequently acted as my agent) desiring to send me one of their machines that I might make trial of it & keep it if I desired. Dean wrote me on the subject & I replied that I could not make up my mind to take one at the price or to that effect (as I believe). Dean however wrote me that he had seen Cloud & agreed that he might send me a machine on trial & I received it in August. As the machine had been sent to me & I was in want of a wheat cleaning machine I consented to have it put up & accordingly at an expense of over \$50 I had it put up in my mill & applied to the purpose of cleaning wheat. I found that owing to an error in adapting one part of the machine to another it could not be properly put together, in consequence of which error the wheat leaks out where it should not & that unless the fault could be remedied it could not be used without great disadvantage & expense in labor not necessary if the machine had been properly made- however as it had been put up at the expense mentioned I endeavored to use it stopping up the places when it leaked with wool &c. I con---ted while it was in operation with Mr. Cloud & others as to how the defect could be remedied but did not succeed in doing so through various expedients were suggested. Some of them tried but without effect. I continued however to use the machine occasionally though with considerable extra labour in consequence of the fault mentioned till last of 1840 beginning of 1841 when other parts of the machine gave way & it became entirely useless – about 24 February 1841 I sent the machine by a wagon at my own expense to Miller & Cloud writing them the state of the case & informing them that I would not have anything more to do with it. They received the machine but did not write me on the subject till Nov. of the same year when W. H. Miller wrote me claiming payment for it, which I refused. I have never received the machine again but have since bought another machine from another person.

To prove the fact as to the state of the machine I can offer as evidence Greenberry Belt millwright who put it up & frequently saw it in operation. Wm. Kelly who acted as assistant miller. Also my son Joseph D. Smith & Wm. H. Smith who can testify to the material facts stated.

Thos Smith

October 4, 1844

I have never given any note or bond for purchase of the machine nor rent for it.

The Commonwealth of Virginia to the Sheriff of Prince William County. Greetings: Whereas an action on the case has been depending in our County Court of Prince William County between William H. Miller plaintiff and Thomas Smith defendant: and before judgment was given or verdict rendered therein the said Thomas Smith died, & administration of his estate hath been

granted to Mary Smith by our said County Court of Prince William County & the plaintiff had applied for a writ of Scire facias against the said defendants administration. Therefore we command you that you make known to the said Mary Smith, administratrix of Thomas Smith deceased that she be before the Justices of our said County Court of Prince William at the Court House of the said County, on the first Monday in August next to shew cause if any she can why the said action should not be proceeded in to a final judgment, and have then there this writ. Witness John Williams, Clerk of our said Court at the Court House of said County this 27<sup>th</sup> day of June 1845 & in the 69 year of the Commonwealth.

J. Williams

Executed by R. Foster, Sheriff

Miller vs Smith- on reverse of document – We the Jury find for the defendant  
Wm. Norvell

RRT

**Summary of case**

**Started August 1844 - continued**

**September 1844 – continued**

**October 1844 – continued**

**November 6, 1844 – continued**

**June 5, 1845 defendant's death suggested & Scifa ordered vs defendants admr.**

**Nov 6, 1845 – continued**

**June 4, 1846 – continued**

**August 5, 1846 – court order issued**

**September 23, 1846 – depositions filed**

**November 4, 1846 – continued**

**March 3, 1847 – continued**

**June 9, 1847 – continued**

**August 4, 1847 – jury sworn, verdict for defendant and judgment accordingly**