

Culcheth vs. Wilson 1688 (TNA, C 5/69/56)

Summary

- Orators: William Culcheth of Middlewich in the County of Chester Mercer and Elizabeth his wife (supplicants)
- Defendants: Thomas Wilson, James Cockayne, John Cockayne, and others
- Date: 27 June 1688
- Dispute:
- John Wilson late of Minshull Vernon in the said County of Chester deceased had a good estate in Minshull Vernon of the value of £80 per annum
 - He had 2 sons, Thomas the elder undutiful & disobedient, John the younger dutiful and obedient
 - Realizing that the family wealth would be destroyed if Thomas inherited
 - Made an indenture in 1651x2 leaving all to his younger son, then the eldest son of his younger son, and only then to his eldest son and his heirs
 - In 1652 his younger son's son died, and realizing that his eldest son might inherit after all, he revoked the indenture and issued a new one allowing also daughters of his youngest son to inherit
 - He held the lands during his lifetime, and his son John until his death in 1675, and his daughter Elizabeth and her husband William Culcheth since then
 - But some years ago, Thomas son of the eldest son Thomas brought suits against William & Elizabeth but lost them in court and seemed satisfied
 - Now a certain James Cockayne claims rights to the property, having paid for the deeds, perhaps obtained from Thomas Wilson, and says Elizabeth's claim is invalid
 - The original deeds went missing during the previous court cases
 - The whereabouts of Thomas Wilson is unknown
 - The court should subpoena the defendants, interrogate them, have them produce what deeds and claims they have
 - Also the testimony of the original witnesses should be recorded before they die

Text

To the Right honourable George Lord Jeffereys Baron of Wem Lord High Chancellor of England

1. In most humble manner complaining show unto your Lordship your oratrix **William Culcheth of Middlewich in the County of Chester Mercer and Elizabeth his wife**
2. That whereas **John Wilson late of Minshull Vernon in the said County of Chester deceased** (your supplicant Elizabeth's grandfather) **about forty years ago** being lawfully seized in his demesne as of fee or of some other **good state** of inheritance by him disposable of and in several messuages cottages and diverse lands tenements and hereditaments thereunto belonging situate lying and being **in Minshull Vernon** aforesaid **of the yearly value of eighty pounds and upwards**
3. and having **only two sons** (viz) **Thomas his eldest son who was very debound and undutiful** unto his father and **John his youngest son (your supplicant Elizabeth's father) who carried himself very dutifully and obediently** to his said father
4. and being so seized the said John Wilson (your supplicant's said grandfather) being very sensible of his said **eldest son's extravagances and debaucheries and inability to govern himself** and likewise well knowing that his **debts then contracted were so great that all**

his estate would hardly discharge the same, but that the same would soon be sold if his said eldest son came to enjoy the same

5. he the said John Wilson the better to secure and settle his estate upon his other issue by his **Indenture** bearing date upon or about the last day of **April** in the **eleventh year of the reign of King Charles the first** over England etc. made between the said John Wilson of the one part John Minshall of Church Minshall in the said County of Chester esquire Thomas Streete of Orileston in the said County gentleman and Richard Streete of Stocke in the County of Worcester gentleman upon the other part did by good advice in law and by the persuasions of all his friends **settle the said premises to the use of himself for life** and from and immediately **after his decease to the use of the said John Wilson his youngest son** during his natural life and from and immediately **after his decease to the use** and behoof **of the first son** of the body **of the said John Wilson the son** and the heirs male of the body of such first son lawfully begotten with other remainder over in tail male upon the issue of the said John the son and **for want of such issue** of the said John the younger son then **to the use of the said Thomas his eldest son** during his natural life and from and after his decease to the use of the first son of the said Thomas and heirs male of his body
6. with diverse other remainders over in which said deed or settlement there is a **power of Revocation** that if the said John Wilson (your supplicant's said grandfather) did or should at any time his life pay or tender to pay to any of the said trustees therein named or to any of their heirs or to any other person or persons to their or any of their use or uses the sum of twelve pounds with intent to revoke and make void the said deed and the uses therein contained and thereupon by any note or writing under his hand and seal in the presence of three or more credible witnesses should declare and signify his meaning and intent to be to revoke the same that then the same deed and the uses and every clause and thing therein should be utterly void revoked and frustrated as in and by the said deed or settlement when the same shall be produced may more fully appear
7. And your supplicants further show unto your Lordship that the said **John Wilson the son had issue** male in the lifetime of the said John his father only **one sole** (viz) **Thomas** who **departed this** life in the lifetime of the said John his father and the said John his grandfather (viz) in May **one thousand six hundred fifty two**
8. whereupon the said John your supplicant Elizabeth's said grandfather perceiving that the said **Thomas his eldest son persisted in his licentious courses and disobedience** and that by the aforesaid settlement the said **lands** and premises **would** after the decease of John your said supplicant Elizabeth's father **descend to the said Thomas** his eldest son **for want issue male of** the body of your said supplicant's father then living the said **John Wilson** (your supplicant's said grandfather) pursuant to the said power of Revocation did revoke and make void the said deed of settlement
9. and afterwards by his **indentures** or deeds of lease and release under his hand and seal duly executed and bearing date on or about the **fourteenth** and fifteenth days of **June** in the year of our Lord one thousand **six hundred fifty two** aforesaid therein reciting that he had **revoked the before mentioned deed** did grant and convey to Peter Venables then Baron of Kinderton since deceased Thomas Cholmondeley of Vale Royall and Jeffrey Shakerley esq. who are both living in the said County of Chester and in the same **Indentures** named all the said messuages lands and premises to the use and behoof of the said John Wilson his youngest son (you supplicant Elizabeth's father) for and during the **natural life of the said John the son** and from and after his decease then to the use and behoof of the first son of

him the said John the son lawfully begotten and the **heirs males of the body of such first son** lawfully issuing and for default of such issue to the second third fourth fifth sixth and every other son of the body of the said John the son lawfully issuing successively the eldest and the heirs male of their bodies being always preferred before the younger and heirs male of their or his body or bodies begotten and for default of such issue male to the use and behoof of all **and every his daughter** and daughters of the body of the said John Wilson the son lawfully begotten and the heirs of the body of the said daughter and daughters lawfully issuing as by the said son any deeds of lease and release relation there unto had may appear pursuant to which said settlement

10. he the said **John Wilson your supplicant Elizabeth's said father enjoyed the said land and premises during his life** and your supplicant further show unto your Lordship that your **supplicant Elizabeth being the only surviving daughter and heir of the said John Wilson the youngest son** your supplicant or one of them have **quietly held and enjoyed the said lands and premises ever since the decease of John** your supplicant's said father which happened in or about February **one thousand six hundred seventy six** as the proper right and inheritance of your supplicant Elizabeth and ought so to do without any interruption or disturbance whatsoever
11. But so it is Right Honourable may it please your Lordship that **Thomas Wilson son of the said Thomas Wilson the eldest son of your said supplicant's grandfather and cousin to your supplicant Elizabeth one of the defendants** hereunto did **some years ago** set up several titles and **brought several actions of ejection against your supplicant** for the said lands at the great sessions held for the County of Chester upon trial whereof your **supplicants have obtained several verdicts whereupon the said defendant Wilson seemed to rest satisfied** well knowing the premises to be true and that your supplicant had a just and legal right and title to the said lands and premises
12. until of late that one **James Cockayne (another defendant hereunto) begins to pretend some title to the said lands and premises under the said defendant Wilson** and gives out in speeches that he has laid out great sums of money upon the same by way of mortgage or otherwise and being a monied man has encouraged and drawn into confederacy with him the said other defendant Thomas Wilson and one John Cockayne and diverse other persons unknown to your supplicants whose names when discovered your supplicant craves leave to insert into this bill and by apt and fit words to charge and make parties defendants hereunto
13. the said **defendant James Cockayne at his own proper cost** and charges as **feigned lessee to the said defendant Thomas Wilson though without the said Wilson's knowledge** he having left the Kingdom or absconds himself (as your supplicants are informed) has in the term of Easter last past brought one action of trespass in ejectment against the said John Cockayne as his casual ejector before the Barons of his Majesty's honourable Court of Exchequer at Westminster
14. and has likewise brought another like **action of trespass** in ejectment for trial of title to the said lands and premises **at the last Assizes** or great session held **for the County of Chester** and has caused **your supplicant William Culcheth** and his tenants in possession of the said lands and premises to be served with declarations in ejectment in both the said actions and vigorously proceeds to obtain judgement therein

15. and the said **defendant** and confederates have made and contrived sundry secret and fraudulent estates to and amongst themselves sometimes **pretending a title under the said Thomas Wilson** and that the said **John your supplicant Elizabeth's grandfather made no such settlement** of the premises as is pretended but that the said deeds are forged and that the hand of the said John Wilson put thereunto is **not his own handwriting** and that he the said **John was either blind or non compis mentis** at the time the same are pretended to be seals and at other times they set up a title under one John Wilson in Staffordshire brother to the said defendant Thomas Wilson and sometimes title and at other times another title on purpose to impoverish and oppress your supplicant contrary to all right equity and good conscience the premises tenderly considered
16. and for as much as your supplicants for **want of the said deeds which having been several time produced and proved at the said several trials at law are either lost or by some sinister means come to hands of the said defendants** and confederates or some of them and which are so privately shifted and handed from one to another that your supplicant cannot come to the knowledge of the same as also for that your supplicants' witnesses are so aged and infirm that they are not like to live till a trial at law can be had your supplicants are therefore remediless at and by the strict rules of the Common Law of this Realm
17. and for a **discovery of the said deeds and of the said James Cockayne and Thomas Wilson pretended titles to the said lands and premises** as and for preferring of the testimony of your supplicants' said aged witnesses and for stay of the said suit at law and to be bequited in possession of the said premises and for prevention of multiplicity of suits your supplicants are properly releweable in this Honourable Court of Equity where the said defendants and confederates when discovered may upon their corporal oaths in answer hereunto set forth and discover the truth of all and every the premises which they may do
18. And that the said **defendants Cockayne and Wilson** or one of them may set forth **whether they** or one of them and which of them? Not or do not know or have heard and from whom or **believe that there was such settlement made by the said John Wilson** (your supplicant's grandfather) **and power of Revocation** as aforesaid and whether the same were not revoked and such deeds of lease and release to the effect aforesaid or what other effect made or executed by the said John Wilson (your supplicant's said grandfather) and set forth the date and full effects of the same and who are parties and witnesses thereunto and what is become of the same and when and where they or either and which of them last saw or heard the same read and whether the said John Wilson your supplicant Elizabeth's grandfather was not compis mentis at the sealing thereof and of good right memory and understanding
19. And that the said **defendants Wilson and Cockayne may severally set forth their several and respective titles to the said lands and premises** and by what deed or deeds and when and where sealed or executed and by and from and under whom particularly derived and what sum or sums of money the said James Cockayne or whom else on his behalf has laid out or paid or satisfied and when and to and before whom for all or any or what part particularly of the said lands and premises and how is the same secured and when payable
20. and **whether the said James Cockayne did not know or had heard of your supplicant's title to the said lands and premises** and if so why would he hazard or lay out his money upon the same and wherefore he has brought such actions as aforesaid whether was or are the sum or either and which of them brought and presented by and with the consent or approbation of the said defendant Thomas Wilson and in which of them he intended to

proceed and at whose charge properly were their same or either and which of them brought and who funds or lays out money to prosecute the same

21. and that the said **James Cockayne may also set forth and discover where the said Thomas Wilson now dwells** or resides whether in this kingdom and if so in what County or part thereof
22. And that the said **defendants and confederates when discovered may set forth the yearly value of the said lands and premises** and wherefore they or some and which of them has brought such Actions as aforesaid against your supplicant and for what particularly and why they multiply suits so vexatiously
23. And to the end that **the testimony of your supplicants said aged witnesses may be preserved in perpetuum memoria** and that the said **deeds may be produced into this Honourable Court** and that your supplicants may be quieted in the possession of the said lands and premises and the said several suits at law stayed by the order and injunction of this Honourable Court
24. And that your **supplicants may be further and fully righted and relieved in all and every the premises** in such manner as to your Lordship upon discovery of the truth thereof shall appear to be most agreeable to equity
25. May it please your Lordship to grant unto your supplicants his Majesty's most gracious writ or **writs of subpoena to be directed to the said Thomas Wilson James Cockayne John Cockayne and other** confederates when discovered hereunto appear and answer and thereupon to order according to equity
26. But also, his Majesty's **writ of injunction** for the purpose aforesaid thereby requiring and **commanding the defendants Thomas Wilson and James Cockayne their counsellors attorneys agents solicitors from all further proceedings** and presentations at law for quieting of your supplicants possession of the said premises and your supplicants as in duty bound shall ever pray qv

John Hunt