

*Gilbert Murdock*, by his answer on oath to this petition, positively denied the whole charge of a breach of the injunction

And on the same day, the defendant also excepted to the same report of the auditor; *first*, for that the auditor has not charged the complainant with the defendant's share of his father's personal estate, decreed against the complainant as executor of his said father, by the Orphans Court of Baltimore county; *second*, for that the allowances made to the complainant, per accounts of ferriages, Nos. 4 and 5, are not authorized by the proof in the cause, but are conjectural; *third*, for that the auditor has refused, against proof in this cause, to allow the defendant for thirteen years' ferriages as manager of the farm on *United Friendship*; *fourth*, for that the auditor has refused to allow to the defendant the credit side of the account C., No. 5, proved by William Hammond and Zachariah McCubbin, to have been admitted by the complainant, and also established by the defendant by other proof in the cause; *fifth*, for that the auditor, misconceiving the decision of the Chancellor, has rejected evidence to establish the truth of the facts stated, and items entered on the credit side of the said account C., No. 5; *sixth*, for that the auditor has refused to make to the defendant an allowance of the several items established and proved against the complainant, by John Dorsey, exhibit B.; Archibald Moncreiff, exhibit C. C. and E. E.; William Russell, exhibit D. D., and also the items proved by Elam Bailey, Allen Dorsey, and Samuel Godman.

21st May, 1800.—HANSON, Chancellor.—The day appointed for arguing the exceptions to the auditor's report having arrived, and the Chancellor being ready to examine said exceptions, and to hear the arguments; neither the defendant nor his counsel appeared. On account of the absence of said counsel, the defendant, perhaps, had he been present, might have had the cause adjourned; but the complainant and his counsel being anxious for a speedy decision, prayed the Chancellor to proceed without hearing any argument, or receiving any observations on either side. The request appearing, under all circumstances of the case, to be reasonable, the Chancellor has accordingly examined the said exceptions, with all the papers and proceedings referred to, and has had certain explanations from the auditor, without which, it was extremely difficult, if not impossible, to understand the merits of the exceptions.

The Chancellor considered first, the complainant's exceptions, *first* and *fourth*. He conceives that the complainant is entitled to the bar of the act of limitations against all the articles in accounts Nos. 6 and 7, except the two last articles in No. 7, which appear to be charged within the three years next preceding the filing of the bill. The manner in which the complainant has claimed the benefit of the said act, appears to be proper. It was indeed the only manner in which, under the circumstances of the case, he could have claimed it. As to the said two articles in No. 7, it appears to the Chancellor that they are not sufficiently proved. The said accounts, therefore, Nos. 6 and 7, ought to have been wholly rejected by the auditor, except the article of £1 10s. 0d., charged for the complainant in No. 6, which, as the auditor states, was admitted by the complainant. *Second*, as to the second exception, it appears to the Chancellor indefinite and uncertain. It does not specify the money and particular articles chargeable, as it says, in account. Is the Chancellor expected to go all over the five books referred to, and to find out from conjecture which are the particular articles meant by the exceptions? Besides the said books not being considered as evidence for the defendant, the auditor states that he did not consider them as admissible for the complainant. The said exception is disallowed. *Third*, with respect to this exception, the auditor states, that there was