

REPORTS
OF
CASES
ARGUED AND DETERMINED
IN THE
SUPREME COURT OF APPEALS
OF
VIRGINIA.

—
VOLUME III.
—

BY WILLIAM MUNFORD.

NEW-YORK:

PUBLISHED BY I. RILEY, No. 27 WILLIAM-STREET,

Van Winkle & Wiley, Printers.

1816.

Southern District of New-York, ss.

BE IT REMEMBERED, that on the twenty-first day of August, in the forty-first year of the Independence of the United States of America, Isaac Riley, of the said district, hath deposited in this office the title of a book, the right whereof he claims as proprietor, in the words following, to wit:

“Reports of Cases argued and determined in the Supreme Court of Appeals of Virginia. Vol. III. By WILLIAM MUNFORD.”

In conformity to the act of the Congress of the United States, entitled, “An act for the encouragement of learning, by securing the copies of maps, charts, and books to the authors and proprietors of such copies, during the times herein mentioned;” and also to an act, entitled, “An act, supplementary to an act, entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books to the authors and proprietors of such copies, during the times therein mentioned and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints.”

THERON RUDD,
Clerk of the Southern District of New-York.

ment was set aside; and the defendant pleaded *non assumpsit*, to which the plaintiff replied generally." No exception was taken to the Court's opinion. A general verdict was afterwards found for the defendant, and judgment accordingly; from which the plaintiff appealed.

OCTOBER,
1811.

Campbell
v.
Price and
others

Wickham, for the appellant, made a point that the Court below erred in granting a new trial without directing the payment of *costs*, no reason being *specified*.

But, on *Wednesday*, the 1st of *April*, the president pronounced the following opinion of this Court.

"It appearing, in this case of record, that there were sufficient reasons to justify setting aside the verdict, without the payment of costs by the appellee, this Court is of opinion that there is no error in the judgment, and that it be affirmed."



Campbell against Price and others.

Wednesday,
April 1st,
1812.

AFTER the affirmance, by the Court of Appeals, on the 15th of *November*, 1799, of the late Chancellor WYTHE'S decree in this case, bearing date the 14th of *March*, 1797, (for which see *Price v. Campbell*, 2 *Ca'l*, 116.) it was discovered that a mistake had been committed in that decree; the sum decreed being *currency* when it should have been *sterling* money; as incontestibly appeared from the documents spread on the record. The Chancellor "being of opinion that such an error, discoverable at the first glance, might be corrected without a formal procedure by bill of review," made an order, on motion, to that effect on the 6th of *March*, 1800. Upon an appeal, this order was reversed by this Court,

The Court of Chancery cannot correct on motion, or by bill of review, any error, apparent on the face of the proceedings, in a decree which has been affirmed by the Court of Appeals.

OCTOBER,
1811Campbell
v.Price and
others.

the 15th of *May*, 1804, without any reason assigned. The plaintiff (*Campbell*) was, on the 8th of *June* following, allowed, by leave of the Court of Chancery, to file a bill for reviewing, as well the decree pronounced the 14th of *March*, 1797 as the order made the 6th of *March*, 1800, setting forth in his bill the error above mentioned in the original decree, and that the correction thereof by the Chancellor had been disapproved by the Court of Appeals, merely "because it had not been done by means of a *bill of review*." To this bill the defendant demurred; and the cause coming on to be heard the 27th of *February*, 1809, Chancellor TAYLOR dismissed the bill with costs; "being of opinion, that after an affirmance of a decree by the Court of Appeals, a bill of review should not be received, but for new matter which *could not* be produced or used by the party claiming the benefit of it at the time when the decree was pronounced, and *proved* to have been discovered since;* and not for errors of law, or fact, which *appear upon the face of the proceedings and decree*." Whereupon, the plaintiff appealed to this Court.

Williams, for the appellant.

Warden, for the appellee.

Thursday, April 2d, the president reported the opinion of the Court, that after a decree of the Court of Chancery has been affirmed by the Court of Appeals, a bill of review cannot be received, on the ground of any error in the decree, which is apparent on the face of the record.

Decree dismissing the bill of review *affirmed*.

* Note. See *Winston v. Johnson's executors*, 2 *Munf.* 305—310.