

1802-004

SOUTHAMPTON COUNTY
CHANCERY PAPERS

MABRY VS. TREASURER OF SOUTHAMPTON 11/1802
COUNTY ET AL

other SURNAMES:

Blunt, Barnes, Kello,

Hill, Millar, Hart,

[Wynne + Kelly], Wynne,
Kelly

To the Justices of Southampton in Chancery
sitting

Robert Mabry late Sheriff of this county complain-
ing sheweth to the court, that at a court held
for said County in the month of September 1801
there was a judgment ^{at law} entered against your Com-
plainant in favor of the justices of the said
County for the sum of £247.14.2 — and by
rule of court all just credits to be allowed in
the settlement of the said judgment: That in
justice your Complainant ought, in the said settle-
ment, to have credit for a large sum, to wit
for the sum of £85. paid to certain William
Barner pursuant to an order of this court in the
month of 1798 for building a bridge across the
three creeks & ~~for the~~ ^{for the} farther sum of £4.0.0
paid Lemuel Hart being about his propor-
-tion for building a bridge pursuant to an order
of this court in the month of 1798.
That the said ~~the~~ ^{the} ~~settling~~ ^{settling} the said judgment the
Justices & Sheriff of this county refuse to allow
the said credits unless they are endorsed with pro-
-per receipts. Which, may it please the court, from
the peculiar circumstances in which your complaint

is placed, ~~if~~ not in his power to do, unless he
receives the aid & assistance of this court. For
the said Barnes, after having received the sum of
£ 37. 10 as per his receipt and the further sum of
£ 47. 10 agreeable to an order drawn in favor of
Wynne & Kelly late merchants of this county, refers
to give your comptrol^r a receipt on the said
~~order~~ ~~under~~ because he is uncertain whether
he has credit on the books of the said Wynne
& Kelly for the said sum of £ 47. 10 notwith-
standing your comptrol^r has the said Wynne & Kelly
receipt for the said sum entered in the
of the said Barnes. Your comptrol^r farther
states that he paid to the Lemuel the said £ 4. 0
on the 12 day of November 1798 that at that time
the said Lemuel being uncertain as to the precise
amount of his proportion of the order of October
1798 & having other accounts to settle with your
comptrol^r, did not give a receipt for the said
£ 4. 0. requesting ~~your~~ ~~comptrol^r~~ ~~to~~ ~~take~~ ~~a~~
memorandum of same, which ~~comptrol^r~~
did on the back of a copy of the said order
of ^{October} 1798 which at that time your comptrol^r
had

& which he prays may be taken as part of
this bill. From these oppressive circumstances
your comptrol^r prays that the court will give that
relief properly grantable by a court of equity
and in consideration thereof your comptrol^r
prays that the court will injoin the said judg-
ment & every person interested therein from
farther proceedings untill this matter be farther
heard in equity. and your comptrol^r more
particularly prays that the sd Tom Barnes be
made deft to this bill that he answer make
an corporal oath as to the allegations concerning
him particularly whether your comptrol^r has not paid
off the said £ 85. as before stated - And that
Benjamin Blount the treasurer of ~~the~~ sd
upon his corporal oath true answer make
to the above allegations from his own knowledge
and what has come to his knowledge from the
knowledge of others ~~your~~ ~~comptrol^r~~ prays
that the court ~~may~~ ~~make~~ any other order or decree
which they may think agreeable & just

I will ever pray to

Robt Mabry

I went to in Court

loc: 2000.

4

Apr 1802 Dishes

May 1899
Miss G. M. G. G.

doctors

treasurer of Union

Prabhu
or
Z. L.

54

County }
17 } Copy
Mabry } Indgn

September court 1801

Justice of Sampson vs Mahy former Shff Motion Notice
acknowledged Judgt for two hundred and forty seven
pounds fourteen shillings and two pence & costs which are
Mem^d 2 dollars and 90 cents
By order of Court all just credits are to be allowed

Sam^l Wells Esq

1800	By amount brought forward	523	2	9 ³ / ₄
Aug. 15 th	By paid James Darden for Pattingling	1	7	0
	Robert Adams for a ^o	1	5	6
	John Glover for a ^o	1	7	0
	Matthew Garamus for a ^o	1	7	0
	Matthew Johnson for a ^o	1	5	6
	Silas Pledger for a ^o	1	13	9
	William Johnson for a ^o	1	13	9
	John Pledger for a ^o	1	13	9
	Benjamin Johnson for a ^o	1	13	9
	William Barnes for a ^o	1	5	6
	Jermiah Cobb for plank for Centry box	1	5	9
	Samuel Turner for repair of Bridge across Blunt Mill pond	9	10	0
	Nicolas Britter for guarding Negro kid	0	15	6
	Jermiah Cobb for guarding Negro kid	0	15	6
	Elias Cambell and Robert Eum for Roundhill bridge & carriage	11	15	0
	Abraham Williams for conveying Urguharts Negro to J. Ton Jail	10	9	
1801	Nathaniel Newton for guarding James	1	1	0
Sept. 19 th	By paid Benjamin Branch for repair on little bridge over Round hill	5	7	0
	Britain Bryant for flattwamp bridge near Mrs. Harris	25	0	0
	Cash paid the Treasurer	37	10	4 ³ / ₄
		640	2	2 ³ / ₄

1801th Dec. 14th Amount brought forward - 1150 2 0
 To Negro Town Lewis which was returned
 in return and money collected - } 5 0
1150 7 0

1802 May 25th To balance due the County as per contra 265 13 3⁴

Also to this balance per an Execution
 The County vs. ~~Stacy~~ ^{Stacy} ~~Stacy~~
 Also the cost of Judgment for balance
 of County Lewis for 1797 & 1798 -

Ans. Exr.

1801th Dec. 24th Amount brought forward - 648 2 2¹
 By paid Simon Court for rebuilding Flat
 - Swamp Bridge - } 23 4 11
 William Blow for plank &c. about the
 Bridge near Jerusalem - } 13 16 0
 Solomon Dawson, this Counties proportion
 for repairs of Hailys Bridge - } 19 4 11¹
 By paid the several Allowances, by court of
 1799 claims for 1798 (see the State of Levy &c.) } 117 5 7¹
 1801 Sept. 13th By Involunt (as per list) for 1798 - } 29 10 0
 Dec. 24th By paid John Bricklow, in part of his
 order for rebuilding Courthouse - } 76 0 0
 paid John Bricklow balance of his order
 for rebuilding Lower Creek Bridge in 1798 } 7 10 0
 1802 May 25th Balance due the County - } 215 13 3⁴
1150 7 0

Ben. Blunt Treasurer
 for the County

True copy true

Sam. Wells &c

1000²³

Aug. 15th To amount brought forward

1150 2 0

1150 2 0

1790	By amount brought forward	259 10 9
	By paid Benjamin Hines & Henry Sim- mons for taking off plank &c. for Carys Bridge	6 0 0
	John West Comtable for publick services	7 4
	William Barnum for rebuilding angelus bridge	3 0 0
	William Pladger for Patrolling	1 11 6
	Samuel Barham for repair of Blackoon bridge	15 0 0
	Willis Francis Comtable for publick services	12 0
	Niles Cary for repair of Carys bridge	36 15 0
1799 Jan ^y 3	By paid James Millar for repair of Buckhorn d ^o	7 10 0
	Lemuel Stowe for a sign Post	18 0
	William Smith for work at the mouth of a Gut near the bridge	60 0 0
	Spencer Pierce on acc ^t of building Clerks Office	1 16 11 1/2
	Thomas Camp for 200 feet of Plank &c	3 12 0
	John P. Petway for repairs of bridge near the Court house	0 15 6
	Elisha Williams for guarding Negro Ned	0 15 6
	Thomas DeLoach for guarding Negro Ned	11 17 0
	James Drew for building a bridge over Myricks Mill Swamp	11 1 1/4
1800 Jan ^y 7	By cash paid the Treasurer	71 12 0
Aug ^y 15 th	By paid Spencer Pierce on acc ^t of Clerks Office	3 13 6
	John Dorden on account of South Quay bridge	1 7 0
	Elijah Lewis for Patrolling	523 2 9 3/4

Dr. 1 May. Robert Mabury late Sheriff of Son. to Son County

Dr.

Continued

6¹

1797th To 4654 county levies at 3/ each put
Oct. 21 into your hands to collect for the year 1797 } 690 2 0
1799th To 4520 county levies at 2/ each put into
Jan. 1 your hands to collect for the year 1790. } 452 0 0

1797th
Dec. 30

By Sheriff's Salary for 1797	7	10	0
Sheriff's Commissions (to wd 5 p. 6 ¹ for col- -lecting £690.2.0	34	10	1
Insolvents as p. list 157 Lethables at 3/	23	11	0
By paid John Brightlow in part for rebuilding Lower Creek Bridge & repair of Apamoooth bridge	30	14	9
paid Samuel Corbit for a sign post	7	6	
Jonah Vick for keeping by pass bridge	2	0	0
Butain William for Patrolling	10	0	
William Brightlow junr. for Patrolling	1	2	6
John Plager for do.	1	11	6
Dewey Porter for do.	1	7	0
Benjamin Johnson for do.	1	16	6
Miles Cary for keeping logs from Carey bridge	5	5	0
Robert Adams for Patrolling	13	6	
Skiv B. Pierce his dam. for signposts	2	5	0
William Brightlow for repairs of bridge at Jerusalem	3	12	0
William Wilton for repairs of Roundhill bridge	7	1	0
Spencer Pierce in part of his order for building Jail and Office	119	10	5
William Parish for upper Capunco bridge	0	0	0
	259	10	9

1130 2 0

1790

To amount brought forward.

1150	2	0
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1150 2 0

Southampton Jc.

James Mellar of Lacofull age being first sworn on
the holy Evangelist of Almighty God, deposes & sayeth
That he recollects being on the Bench at a Court held
for the afores. County some time on or about the
latter end of last Summer when Benjamin Blunt as
County treasurer moved the said Court for a judg-
ment vs. Robert Mabry, as Collector of the County
levy, the said Blunt then holding in his hand
an acct. stating the balance due from said Mabry
to the County, the precise amo. of which this deponent
doth not recollect, but believes it to be between three
& four hundred Pounds. This deponent further sayeth
that said Blunt did observe to the Court, that he
had some reason ^{to believe} from the information of Mabry, &
others, that said Mabry had paid sum where about
80. or 100 pound to Barnes & others, which was not

Concluded, owing to said Mabry, not having produced
proper vouchers, the said Blunt further Observed
that it might be a hardship on said Mabry
to give a judgment for the balance as stated
in her acct. the Court taking the same into
consideration, This Depoent believes and allow
the afores. C^t of ~~about~~ 80 or 100 pound or some
where thereabouts I gave a judgment for the ba-
-lance only, I further this Depoent sayeth not

James Mellar

Southampton County Va.

This day personally appeared before
us the above named James Mellar & made oath to the
truth of the above written deposition or affidavit -
the J^{ff} - Rob^t Mabry being present & acknowledging
due notice. Given under our hands this 19th -
day of July 1802.

W. Vick Jst

James Es

Francis Will maketh oath that at a Court held for
the County of ~~St. John~~ in the month of ~~1800~~ 1801.

(to the best of his recollection) he was present when
~~motion was made on behalf of the Justice of the S County~~
thru the agency of Benjamin Blunt esq. as Treasurer
~~of the S County~~ ~~for the sum of~~ against Robert ~~esq.~~
~~late Sheriff of the S County~~ for the
sum of ~~as by the records will appear~~

That previous to the entry of the Judgment the
said Blunt observed that altho' from the acc.
current of the S County with the County the sum of
~~£247.14.2~~ (as he then mentioned) appeared to be due
yet that he had been induced to believe from the
information of the S County that there were sundry
~~credits~~ payments which he had ^{made} in favor of the
County which would reduce the S sum to the
sum of £247.14.2 ~~or thereabouts~~ as near as he could
well recollect at that time, ^{this deponent further said} from the observations
and suspicions then used by the S Blunt he appeared
to be favorable to the S County, as wishing not to
expose him to a ~~charge~~ ^{charge} for more than what
might be the ^{real} balance upon an admission that
the information of the S County was true & correct,
and under these circumstances it appeared that
the aforementioned judgment was rendered -

By Will
July the 14th 1802

Sole Hampton Co. Is.

The within named Francis Hill personally appeared
before us Justices of the Peace for the County of
Suffolk to the within aff. Given under our hands this
19 day of July 1882 - The Deft. Robert Ellaby being
present & acknowledged said notice before us.

L. Vick L.

James Hill

Southampton county, Tenn

The deposition of Sam Kello of lawful age taken this day of July 1802 in a suit between Robt Malby late Ct. of the county levy and the justices of the said county the said Sam being sworn deponent and sayeth that a judge was entered on the minutes of the said Malby for the sum of £247¹⁴/₂ and costs and that he then took the minutes as deputy & also that there was a rule of court for all just credits to be allowed - that Colo Blunt the County Treasurer procured the aid on which this judge was obtained ~~But~~ the aid thereof this deponent does not recollect ~~the~~ considerably more than the judge went for and that there were several ~~assists~~ but the particular items of those he does not remember and that those credits were considerable and redeemed the debts to the said Sam for which the judge went for -

Sam Kello

Southampton County Tⁿ This day personally came before us the above named Sam Kello & made oath to the truth of the above written deposition or affidavit - Given under our hands the 19th day of July 1802 - Robt Malby the self being present & acknowledged due notice

James Lee J^r

Jo. Vick J^r

R Mahy
By Lane Sig?
41 Sentences L

know all men by these presents that we Robt Malby and
Robt Malby are held and firmly bound unto
the justices of the county court of Sampson
with the sum of one thousand dollars

to whose payment well and truly to be made to the
Justices & their heirs executors and administrators we bind
ourselves our heirs executor and admⁿ jointly and severally
firmly by these presents sealed with our seals and dated
this 17 day of May 1802

The condition of this obligation is such that where as the
S^r Justices afores^d hath obtained a judgment at common
law against the said Robt Malby late Sheriff of
Sampson for the sum of two hundred and forty
seven pounds fourteen shillings & p^{ts} and costs and where as the above
bound Robt Malby hath obtained an injunction

to stay the proceedings on the said judgment & costs untill
the matter thereof in equity or a bill filed for that pur-
pose can be heard now if the S^r Malby

shall well & truly pay or cause to be paid unto the S^r
Justices of & to their heirs executors & administra-
tors the amount of the S^r judgment & costs & all damages
that may arise in case his S^r bill in equity shall be
dissolved then this obligation to be void or else to remain
in full force

sealed & delivered in
presence of
Hullo

Robt Malby Seal
Robt Goodwyn Seal
Seal

6
The answer of Benjamin Blunt Treasurer for the County
of Devon Debt

to

The bill of Robert Mabry late Sheriff of Devon . Comptrolr

This debt saving preserving to himself, now, & at
all times hereafter, all, and all manner of advantage &
benefit of exception, that may be had or taken to the
many uncertainties, & misrepresentations in the said bill
contained in answer thereto, or so much thereof as he is
advised is material answereth ~~with~~ — That true it
is a judgement was entered against the Comptrolr for the
sum of £ 247. 14. 2. in behalf of the County of Devon as stated
in the bill, ~~only~~ — The reasons whereof will be easily
understood from attention to the following detail of facts.

At the time of notice being given the Comptrolr, there
appeared to be due the sum of £ 453. 19. 6³/₄, but subsequent
thereto the debt had recd. some payments, viz, insolvents
to the am^t of £ 29. 10. and order cash to the am^t of
£ 88. 5. 4³/₄, and being satisfied ^{at that time} from the information of
the Comptrolr, that he was entitled to a further credit of
£ 85. as paid Wm Barnes for rebuilding a bridge, and
other sums not entered in the A/c current of the County
with the said Mabry, for the want of proper vouchers, the
said several sums of money were added together and
subtracted from the [£] 453. 19. 6³/₄ reducing the claim at

that time to 245. or 6 L or thereabouts — but as this information was from mere memory and not the result of a strict & accurate statement in writing the Court gave a Judgment for the sum of £247.14.2. to prevent any loss that the County might otherwise sustain, and annexed a qualifying condition to the judgment "that all just credits should be allowed", under the favor of which, the Deft as treasurer aforesaid has done, and been always willing to do the Compt. ample justice — The Deft further saith that altho' the County was possessed of the power & the right to obtain a Judgment against the Compt. for the sum of £453.19.0³/₄. Yet as the Court were satisfied by the admission of this Deft to which ^{in part} he was led by the Compt's information that the credits before mentioned ~~were~~ were just — they, on the suggestion of this Deft (from motives of tenderness to the Compt.) not wishing to expose him to the alarm which might arise from the sound of so heavy a Judgment were induced to render ^{it} ~~the judgment~~ in manner & form as before stated — This Deft further saith (being thereto required) that he knows nothing as to the transactions between the Compt & Wm Barnes but from the declarations of the parties — but in a conversation with Barnes respecting this payment the S^r Barnes informed him that the Compt. had not paid him the amount

of the County order for £85 — but at what precise time, he doth not recollect; however it was subsequent to the declaration of making relative to the payments — The difference of opinion concerning this business may be easily reconciled, and the subject perhaps more fully understood by adverting to the following statement, to wit, in the year '97 the sum of £209.2. & in the year '98 the sum of £452 were owing for the Co. of Devon; which will appear on reference to the proceedings of the Court of claims for those years, and the sum of 5/ 6^d by a free negro returned insolvent to their debts the Compt. has been credited by divers & various sums of money &c reducing the balance now due to the County to £215.13.3³/₄ as will fully and evidently appear from the Acc^t. 13 p^{ts} unto annexed of marked n^os. (2, 3, 4.) and made part of this answer — from which will ~~also~~ be deducted all credits not before allowed that are or can be supported with proper vouchers & authority — But herein the Deft expressly charges that in the rendition of the afo^r judgment the sum of £85. was particularly noticed, as being of magnitude, together with other credits above named as composing the am^t. of that deduction, which was then made, in the manner and for the reasons before given, from the sum of £453.19.0³/₄ —

Blunt

ad

Wm. by

James

The deft further saith that the sum of £7.10. the last item in the annexed acc^t as p^c in '98 should have been deducted from the amount of the sum stated to be due at the time of giving the notice but not from the balance of the a/c current it having been credited in May ~~1802~~ 1802. - as to the sum of £4. stated by the Comptrol^r the deft knows nothing but hopes this Court will require the most satisfactory proof thereof -

This deft, denying all fraud &c. requests to be hence dismissed, with costs &c

Wm. Bill for
The deft

Before us.

Benjamin Blunt esq^r personally appeared before me a Justice of the Peace for R^e County, and made Oath, that the substance & matters of fact in the foregoing answer so far as they relate to his own knowledge are true and so far as they are derived from the information he believes them of others not herein concerned, he believes to be true - Given under my hand this 22 Day of June - 1802

William Blunt J^{es}

Wm. Barnum
Answer to
a Bill of Complaint
by Robt. Mabry

1802

The answer of William Barnes - - - Def^t

10

The bill of Robert Mabry late Sh^r of St. Ton county Compt^r

This def^t saving and reserving to himself, now and at all times hereafter, all, and all manner of advantage and benefit of exception that may be had or taken to the many uncertainties and manipulations in the said bill contained, for answer thereto, or so much thereof as he is advised is material, answers etc and saith -

That true it is, he this def^t did repair a bridge across the three creeks, for which he was to receive of the county of St. Ton the sum of eighty five pounds, and that he did at Feby court 1799, obtain an order for the Sh^r to pay the said sum of 85 £ to him, and that he did on the 30th day of Jan^y 1800, receive of the said Mabry the sum of thirty seven pounds nine shillings, ^{in part} and that he did draw an order on the said Mabry, in favor of Wynne and Sully, for the sum of 17 or to the full amount of the balance of his said order of court, and that he now is, and always has been willing, to deliver the said order with the necessary receipt to the said Mabry, provided he could receive his order on said Mabry with the receipt of Wynne and Sully for the sum of forty seven pounds eleven shillings, the balance due on his order of court - This def^t further saith, that altho he has made frequent applications to the said Mabry, for the order drawn on him, in favor of Wynne & Sully, with

their suit, he has not received the same, but has always
been amused by Mabry's declaring to him, that the money
was paid agreeable to his order, and that on Saturday the 19th
inst he this def^t saw Joshua Glaid, who acts as agent for the
firm of Wynne and Kelly, and did apply to him to know
whether Mabry had discharged the order, he had drawn on him,
when Glaid replied, he had not, and after ^{this def^t} hearing that Mabry
had lodged a bill of complaint against him, he did on
the 22^d of the present month June, call on the said Mabry
and demand of him Wynne & Kelly's receipt on his order, when
he the Compl^t produced their receipt for the sum of twenty
six pounds 11s only, leaving a balance due on the order, of
the sum of twenty one pounds 3s the Compl^t then request-
ed him, this def^t to deliver to him, the aforesaid order of
court, and said that himself and Joshua Glaid could easily
settle the balance due, which this def^t refused to do, unless he
produced a proper receipt from the agent of the firm of Wynne
and Kelly for the balance of his order of court, as above stated.
The balance due on the said order of court will now fully ap-
pear by reference to the following account which this def^t
prays may be made a part of this answer — This def^t
further saith, that he is not acquainted with the allega-
- ons contained in the bill of the Complainant except ~~the~~
~~with respect~~ the parts that relate to himself. This def^t

denying all fraud &c. requests to be hence dismissed with his
costs —

~~Obtained of the Court to the said~~

Southampton County to William Barnes — . . . D^r

1799 Feb^r To repairs of Smiths bridge across the creek — £ 05. 0. 0

1800 Jan^y By paid by Rob^t Mabry late sh^r — £ 37. 9. 0

By paid by the same to Wynne and
Kelly in part of my order — . . . } 26. 7. 10. 63 16. 18.

Wm. Barnes — . . . £ 21. 3. 12

William Barnes

Southampton Co

William Barnes personally appeared
before me a Justice of the Peace for the said county and
made oath that the substance and matters of fact con-
- tained in the foregoing answer are true — Given un-
- der my hand this 28th day of June 1852

James Miller J.P.