

1814-008

SOUTHAMPTON COUNTY
CHANCERY PAPERS

BARNES

VS. THOMAS' EXECUTORS & al
5/18/4

other surnames: Newsom,
Revill, English, Gorley

Barnes }
is } Bill -
Gurley & } }

Barnes }
or } Bill
Gurley & } }

June 1804

Bills filed & Times
to Answer

To the justices of Southampton county, sitting in chancery, humbly complaining, sheweth to the court your orator John Barnes.

That on the 20th day of February. A.D. 1797. Messrs George Gurley and Henry Thomas executors of William Thomas dec'd and guardians of John Thomas orphan of the said William Thomas rented to your orator for the term of six years a small tract of land belonging to the said orphan for the sum of fifteen dollars per annum. That the said George Gurley and Henry Thomas in their said agreement promised and undertook to allow your orator for any reasonable improvements which he might put upon the said land during the said term such as buildings and orchards. That your orator relying upon the power and integrity of the said guardians did during his said occupancy build a dwelling house, a smoke house, a kitchen, a milk house &c. and also did set out 464 apple trees, all of which will more fully appear by reference to the written contract of the said guardians and to the orator's account hereto annexed as a part of this bill. Your orator avers that all these buildings &c. were absolutely necessary on the said premises and have considerably enhanced the value thereof. That as there were no houses thereon at the time of the contract he considered such improvements indispensably necessary to render the place tenantable. That he had the work done upon the most reasonable terms he could, and that the expenses of the whole amounted to £97. 8. That by crediting the ~~rent~~ debt with £27. the amount of the rent for the six years, your orator can only claim £70. 8. with interest from the last of December 1801. That he has repeatedly applied to the said George Gurley and Henry Thomas for the said balance, as well as to the said John Thomas since his arrival to full age, but that all his said applications have been unjustly rejected.

In tender consideration whereof, and for as much as your orator is remediless at law, he solicits the aid of this court.

To the end wherefore he prays,

that the said George Gurley, Henry Thomas, and John Thomas may be made defendants to this bill of complaint, and that they may upon oath, full, true and perfect answer make to all and singular the allegations aforesaid, and that as fully as if the same were here repeated, and they thereto particularly required. He prays that the said George Gurley, Henry Thomas, and John Thomas may be decreed to pay to him the last mentioned sum of £70.8. with interest from the last day of December 1801. or that your worships will make such other order or decree in the premises for your orators relief as may seem just and equitable.

May it please the

Rich^d. Lee. Rynd
p. 2

Barnes }
is } Bill
Gurley & }.

Barnes }
vs } Bill
Gurley & }

June 1804

Bills filed & Times

to Answer

Garley & Co

adst

Barnes.

Demurrer

The joint and several demurs of George Gundry Henry Thomas & John Thomas
defendants to the bill of complaint of John Barnes — complainant

The said defendants by protestation, not confessing or acknowledging all or any of the matters or things in the complainants said bill of complaint to be true, in such sort, manner and form, as the same are therein and thereby set forth and alleged, for answer to the said Complainants bill of Complaint, these defendants do demur in Law, and for cause of demurrer say that it appears of the plaintiffs own shewing in his said bill of Complaint, that he claims or demands a compensation in the nature of Damages, for certain buildings by the complainant erected on a Tract of Land to him leased by the defendants as executors of William Thomas deceased by deed of Lease ^{or covenant} bearing date the 20th day of February, 1897, in the complainants said Bill mentioned and set forth, which is a matter merely tryable at Law, and touching which the complainant may sufficiently ascertain his claim or demand by action or actions of covenant to be brought at Law, wherefore and for as much as the Complainants said bill of complaint doth not contain (as these defendants are advised) any matter of equity sufficient to establish any right or demand against these defendants or either of them, nor to draw them into suit into this worshipfull Court touching the matters complained of in the complainants said bill of complaint, and also for many other errors and imperfections in the complainants said bill of complaint ~~contained~~ these defendants do demur in Law thereto, and humbly crave the judgment of this worshipfull court, whether they ought to make

answer to the said bill of complaint, and humbly pray to be hence
dismissed with their costs, in this behalf most wrongfully
Sustained.

Taylor for defendants

Exhibits to
affidavit
Barnes
Dunmore

Barnes ^{N^o 45}

vs
Gurley &c } Bills

Jan^y 18 05

Bills filed & rule

To answer

~~Dismissed~~ filed

&c

1814 may continue

Ch^y ipuer

The deposition of Thomas Verosom sen^r being taken at the dwelling house of John Barnes, agreeable to notices in a suit in Chancery, depending in the County Court of Southampton, wherein John Barnes is Complainant & Thomas, George Gurley, & John Thomas, Defendants, ^{who} being first sworn on the holy evangelist of almighty God deposed and saith that whereas present at the time that M^r Gurley & M^r Thomas gave M^r Barnes a lease for the plantation belonging to John Thomas on an of M^r Thomas do^t that M^r Gurley & M^r Thomas agreed to pay M^r Barnes ~~M^r Barnes was to be paid~~ for all necessary building that he should put on the plantation Iust by John Thomas ~~or you think that I put any unnecessary buildings on the plantation and I do not~~ Iust by the same did not leave the plantation in good repair - answer - did - Iust by the defendants Did not M^r Barnes make and burn several thousands and bricks on the plantation whilst he lived there ^{which he sold} I have heard that he did Iust by the same did not M^r Barnes employ a cooper to work on the plantation, did he not get the lime off of the sand he had leased, answer I do not know Iust by the same did you ever hear that M^r Barnes had a parcel of manure off of the plantation answer I did not, only some shovels I heard that he carried away from there Iust by the John Barnes do you think that my making bricks to sell off of the plantation was any injury to it and I do not think it was any - and further than

deponent saith not
March 10th 1803 Sworn to before us in due form
J^m Plover
H. Blount
J^m Plover

Edw Gurley the 1st of Oct. 1803
And on John Thomas and Perry Thomas
the 18th of October 1803

Thos Standley Esq
for
J Brown Esq

to New York 1803

Gurley & Co Esq

Beames) Spec
agent

13 York

The commandeth of Virginia to the sheriff of
Southampton County greeting you are hereby com-
manded to summon George Gurley and Henry
Thomas and John Thomas to appear before the justices
of our said court at the court house of the s^d county
on the third Monday next to answer
John Barnes a bill in chancery exhibited ag^t
them by John Barnes and that they shall in no
wise omit under the penalty of \$100 each and
have show thereon this writ withu^t Sam^l H. Clerk
of our said court at the court house the 22nd day
of September 1803 and in the 28th year of the Com-
-mandeth —

Sam^l H. Clerk

Barnes
VS } Comme
Thomas L }

The Commonwealth of Virginia to Henry Blount &
William Blount Gentlemen Justices of the

county of Southampton greeting knoweth that we trusting to
your prudent Circumspection in diligently examining
Holladay Revill Nathan English Thomas Newsum
Jens. and Wm Newsum Jun. witnesses as well on
behalf of John Barnes Comptt as on behalf of Henry
Thomas George Gurley and John Thomas defendants

and we do Command You to call and Cause the Said
Witnesses to come before You when and where You shall
appoint and diligently examine them on the holy Evangelist
of Almighty God and their examination so taken that
You return to us enclosed under Your hands & as also this
with Witness Sam Kells Clerk of our said Court at the
Chancery the 4 day March 1805 And in the 29 Year
of the Commonwealth

Sam Kells

Hampton county feb Benja Edwards

This day, personally appeared before me and
made oath that on ^{the} sixth — ~~the~~ day of this present mo.

he did deliver to Henry Thomas George Guley and John
Thomas True Copies of the within notice. Given

March. 15th 1805

Benja Edwards

Sworn to before me

A. Blom ~~To be kept~~

Witness My Thomas George Guley and J^r Thomas

Take notice that on Friday the 15th of
this present month (March) between the hours of 10^o Clock
A. Meridian and 4^o Clock P. M. at my house I shall
proceed to take the depositions of Holladay Revell Nathaniel
English Thomas Newsum Sen and William Newsum Jun^r
to be read as evidence in a suit ~~at law~~ in Chancery now ~~at~~
depending in the County Court of Southampton wherein I
am Complainant and yourselves defendants to

Samptown
March 5th 1805

Jno Barnes

The deposition of Holladay Revell taken at the
dwelling House of John Barnes agreeable to
Notice in a suit in chancery now depending
in the County Court of Southampton wherein
John Barnes is complainant & Henry Thomas, George
Gurley & John Thomas defendants who after
being sworn on the holy Evangelist of almighty
God. depose and saith - that ~~that~~ ^{about the}
time ~~after~~ John Barnes ~~was~~ ^{proves} guilty of the planta-
tion of John Thomas which he had leased
to ~~John Thomas~~ in this deposition & Nathan
English was called upon to value the improvement
put on the plantation by John Barnes which
he understood the defendants were to pay
him for & after viewing the ^{same} Improvements
I together with Nathan English valued the
same to 10 Eighty odd pounds & thereabouts -
Durst by the complainants did not George
Gurley & Henry Thomas agree to abide by the
valuation, and they did Durst by the same
and Henry Thomas & George Gurley appear to be
satisfied with the same after it was made
and they did - but after ward W Thomas
observed that he thought as the Log Houses -
were rather old & that John Barnes having
had the use of them, that they were valued
rather high Durst by the defendant did you
value the improvements as they then stood on when
you supposed the cost of such was when built
Durst we valued them at what we thought it worth to
put them there Durst by the same did we appear

Satisfied with the same after you had valued
them - and you did - and further this deponent
saith not -

15th March 1805 -

Sworn to before us in
due form -

Wm Blom

H. Blom

his
Attest + Seal
Mark

The deposition of William Newsom ~~depon~~ taken at the dwelling house of John Barnes, agreeable to notice in a suit in chancery depending in the County Court of Southampton, wherein John Barnes is Complainant, & Henry Thomas, George Gurley & John Thomas Defendants who, being first sworn, on the holy Evangelist of Almighty God upon being Questioned depose & saith -

Question by the Complainant - do you recollect any thing of the bargain between myself, Henry Thomas & George Gurley, with respect to leasing J^r. Thomas's land Answer I don't recollect that I was present when the bargain was made - Question by the same; do you think that I put any unnecessary buildings on the plantation -

Ans^r. I do not - Question by the same did I not leave the plantation in good repair Ans^r. you did -

Question by the Defendants - Did not M^r. Barnes make & burn several thousands Bricks on the plantation whilst he lived on it, which he sold - Ans^r. Not that I know of -

Q^{ues}. by the same did not M^r. Barnes employ a cooper to work on the plantation, & did he not get the timber off of the land he had leased. Ans^r. I saw the cooper at M^r. Barnes's but never saw him at work -

Question by the same did you ever hear that M^r. Barnes hauled a parcel of manure off of the plantation; never

Ans^r. I never did - And further this deponent ~~depon~~ saith not -

15th March 1805 -

William Newsom

sworn to before us -
in due form

Wm Blower

H Blower

The deposition of Nathan English taken at the house
of John Barnes agreeable to notice in a suit in
Chancery now depending in the County Court of Southham-
ton wherein John Barnes is complainant & Henry Thomas
George Gurley & John Thomas defendants who after being
sworn on the Holy Evangelist, depose and saith -

That ~~at~~ ^{at or about the} time after John Barnes ~~was~~ ^{was about to}
the plantation of John Thomas's, which he had lease
that he this deponent together with Holliday ^{Revel} was call'd
on to value the improvements put on the plantation by
John Barnes, which he understood, the defendants were
to pay him for which after viewing the ^{Revel} improvements
this deponent together with the said Holliday ^{Revel} valued
the improvements to Eighty odd pounds or thereabouts

Question by the Complainant? did not George Gurley
& Henry Thomas, agree to abide by the valuation -
Answer: They did - Ques: by the same did Mr. Thomas &
Mr. Gurley, appear satisfy'd with the same, after it was
done Ans: They did, but afterward Mr. Thomas Abscond
that he thought, as the Log houses were rather old & Mr
Barnes having had the use of them, that they were valued
rather high - Question by the defendants did you value
the improvements, as they then stood, or what you supposed
the cost of such was when Built - Ans: We valued them
at what we thought it took to put them there Question
by the same - did. we appear satisfy'd with the same after
you had valued them. Ans: you did - And further

This deponent saith not

13th March 1805
Sworn to before us in open court

Nathan English

W. Blou

H. Blou

Amount of the buildings at John Barnes put on
the plantation of John Thomas. Valued by Nathan
English & Holliday Revel December 1801

Dwelling House £60-

Smoke House .. 6-

Kitchen ditto .. 11

Mills ditto .. 1-4

For the remainder .. 6-
£ 84 " 4

264 Apple trees } 13-4
@ 1/2 per } £ 97 " 8

Contra Cr

By rent of land 6 years } 27-

@ 15 Dollars per } £ 70-8 Balance to John Barnes

To all to whom these presents may come. Know ye that we
George Gurley and Henry Thomas Executors of William Thomas dec^d
of the County of Southampton and State of Virginia, for divers good causes
and Valuable considerations, but more especially for and in consideration
of the Yearly rent of Fifteen Dollars Year do Lease a Certain tract or
parcel of Land the property of John Thomas Orphan of William Thomas
dec^d for the Term of Six Years, to commence from the Twentieth day
of December One Thousand Seven Hundred and Ninety five unto John
Barnes of the County aforesaid without any let or interruption of us
the said George Gurley & Henry Thomas, or any other Person or Persons
whatsoever, & we the said George Gurley & Henry Thomas do agree to
and with the said John Barnes to deduct out of the said rent ~~the~~
~~the~~ the Value of such Buildings as may be necessary to erect on the
said tenament during his Occupying the same, as also to raise
and set out two Hundred and fifty Apple Trees, one Hundred of
which to be grafted on good stocks, one Hundred seedlings & fifty
Noise Apple Trees, and to be deducted one Shilling for each of the
above mentioned trees, out of the above mentioned rent. And the
whole to be left in good tenatable repair at the expiration of the
above mentioned six Years. In Witness whereof we have hereunto
set our Hands and affixed our Seals This 20th day of February
One Thousand seven Hundred & Ninety seven

Signed Sealed &
W^m Newson

Robert Newson
William Newson

Geo Gurley jr Seal
Henry Thomas Seal