

1842-003

SOUTHAMPTON COUNTY
CHANCERY PAPERS

DILLARD

VS. HARRISON etal

10/1842

Other SURNAMES: Darden,
Briggs

Dillard

belts - \$2.37
 Saw: - 1664
 \$ 19.03

n. } Papers

Harrison

1842

July. Will filed Sp. ip. Or. Pub. v.
 Df. Darden -

Aug: Sp. Executed.

Oct. Set for hearing it as to Df.
Harrison

" 8 Depositions filed

" Leave for Df. Harrison to ans. an.
 filed. resp.

Dillard
by Rice &
Stanislaus

last Hollman Expense

Smith's

Filed July Rules
(1842 June 20)

20. Nichol & Baker Esq. judge of the Circuit Super
Court of law and ch. in the County of Southampton,
humbly complaining, shew to the Court, your
complainant William Dillard of said County,
that some time ago, to wit, about the 6th of Apr.
1840, your orator secured out a spon. in ch. in his
favor agt. Edwin Harrison and Setho N. Dand
in the Circuit Superior Court of law & ch. for
said County, on the ch. side of said Court, and
he filed his bill against them in 1840, by which,
setting out among other things, that a settlement
of a pecuniary transaction had been made
between the said Harrison and Dillard, that
the amt. due by the said Dillard to the execs
of his father to E. Harrison Jr. of Mary Dillard
was paid over to him and that a receipt
was executed by said Harrison to remem-
-ber, which having been lost or mislaid for
a time, your orator was induced by the
false representation of said Harrison &
his own forgetfulness of the true facts of the
case, to execute his bond to said Harrison
for a large sum of money, whereas in fact
and in truth, but a small part thereof
was due, and asking relief in the premises,
to the said bill, the said Harrison filed his answer,
an order of publication was taken against
said Dand who is a resident of North Caro-
-lina, and other proceedings had in the said
cause, and on the 6th of April 1841, the said
cause came on to be heard, the bill of the
complainant was dismissed with costs to the
defendant - all which proceedings will
more fully and at large appear by a copy
of the record in the said cause, taken from
the records of the Court of said County of
Southampton, hitherto annexed, marked A,
and which is prayed to be taken & received
as a part of this bill. -

And you orator now state to the Court, that since
the decision of the said suit, he has learned
that he can prove by one Bennett Briggs of
the County of Southampton, that he was present
with the said Edwin Hanson and your
complainant at the house of Mr Briggs
when the receipt alluded to in the bill
of your complainant against Hanson
& Darden, was executed by said Hanson
to said Dillard, and that he the said
Briggs saw your orator pay to the said
Hanson many bank notes, at the time
and place, when and where the said receipt
was executed and delivered (which money
was in truth all that your orator then owed
to Hanson, except what he was to pay of part-
and your orator avers that he has discovered
the said testimony since the same was given
him, signifying his said bill was decreed,
and that he had no previous knowledge
of such testimony, and he could not therefore
have known of it by any active diligence
on his part, and it was not until some
weeks after the cause aforesaid was decided
that he was in conversation with others
about the subject, and the said Bennett Briggs,
who happened to be present, told your orator
what he knew upon the subject, and which
your orator is convinced, had he known
in season time, would have enabled him to
obtain the relief sought by the proceeding
in the suit in the said Circuit Sup. Court
of law and chj. for S. O. Southampton County vs
said E. Hanson and said Darden,
and this new matter has come to the knowledge
of your complainant since the time of the
same in the cause aforesaid; and your orator
further states, that from the lapse of time, ~~but~~ he
was wholly uninformal of the fact of the payment
of the said Bennett Briggs when he and Hanson

settled -

You orator conceives that he has been materi-
ally injured by the same of your honor
in the aforesaid suit in his favor apts. Hanson
& Darden - in this that he ought to have been
relieved from the payment to the said Hanson
or to Darden his assigned, of the obligation
to in the said proceeding, except as to the
sum of \$140.15 with interest thereon from the
1st of October 1832 till paid, and he believes he
would have been so relieved, had he been in the
possession before the trial of said cause, of the
facts known by the said Briggs, but of
which your orator was not advised, and
no means of knowing until the same time
apts. him of the same aforesaid in the said
inhibit alluded to. - Your orator further states
that a suit has been instituted apts. him in the
Circuit Superior Court of law and chj. for the
County of S. O. Southampton, by the said Darden apts. of the
said Hanson, founded upon the obligation
which he was induced by mistake of his part
to make to the said Hanson, and a judgment
was rendered, at the last Court of your honor
for said County of Southampton apts. your orator
for the sum of \$1200 on the above. ~~This same~~
which he has paid to the attorney \$9.00, and he is now
threatened with execution apts. him for said
balance so remaining unpaid
in consideration whereof, your orator prays
that he may be allowed to file his bill of
review, so that the same hereafter res. and
can be reviewed, and the premises fully
considered - that you will restrain the
said Darden and Hanson and all others
concerned from carrying into effect hereafter
the judgment rendered at law as apts. and as
to the obligation of said judgment remaining unpaid
until the matter and things herein con-
tained can be fully heard & decided,
this he especially prays, because he apprehends
that if the said Hanson or Darden be
allowed to enforce this judgment at law,

of the said Harrison hearing,
-may in any instance, you or a ~~man~~ ^{man} not
be able to be remunerated, if in the ~~the~~ ^{the}
opinion of the Court, he shall be found
entitled to the relief now herein sought
to be obtained - And he prays that the said
Harrison, Sethus R. Dandee, and
all other proper persons, may be made eqts.
to this bill, and be compelled on their oaths
to answer the same fully and veraciously,
that you will agree that the money herein referred to
and that you will make any order in
the premises which to the Court may seem
consistent with the principles of equity,
and calculated to restore to the complainant
his just and proper rights

I do declare &

Attest in p. 9

(signed)

Atty. Gen. June 11. 42. - Leave is given to Mr. Dillard.
Like a Bill of Review, but the injunction prayed for to the judgment at law
in the Bill referred to is refused. Reil. H. Baker

Scrip. County J. W. This day came before
the undersigned who is a justice for said
County Wm Dillard, who made oath that
the foregoing allegations are true to the best
of his knowledge and belief - And the
said Dillard further made oath
that since the rendition of the former decision
- in the bill of Dillard, Harrison & Dandee
in the Circuit Sup: Ct. of Law and Equity for
the District of Columbia, he has ascertained from Bennett Briggs
that he was present and saw the said Dillard
make payment of money to said R. Harrison
on the day when the settlement occurred
between said Dillard and R. Harrison & Dandee;
and that he had no means of knowing the
said fact until since the decision of the
court of said and that in the said suit
such new matter recently occurred could
not be used by him - given under my hand
this 22nd day of June 1842. -

Drawn by

(JP)

Chapter 1st.

Wilkes } answer of
 17 }
 Garrison & } Dr. Manning

The Hon. Richard St Baker judge of the Circuit Superior
Court of Law & Chancery for Southampton. The answer
of Edwin Harrison to a bill of review exhibited in
this court against him & Letitia Harrison by Wm Dilliant
This Respondent having to himself &c for answer to &c
much of the competency all as he is advised it is inadvisable
for him to answer, says - that for answer to all the facts
and allegations stated in the competency bill, relative to the original
settlement between claim &c execution of the bond alluded to, he
open to his answer to the original bill filed by the competency. That
his answer are exhibited by the 1st competency. In that answer
this respondent set forth the truth according to the best of
his knowledge and belief. But your wisdom is advised, that
all matters arising in the case as originally brought before this court
have been settled by a decree of your honor, and that the act right
of the competency to open the matter again, is by bill of review, and
that for newly discovered testimony, which by proper diligence
he could not have discovered before the decree alluded to above.
Upon this ground your respondent is advised, the competency would fail
apart from the justice of the case - for your honor will perceive
from the competency bill, that the only discovered witnesses, of
Barnett Thigges the one of the most who follow the case
between the competency and your respondent, who it seems was present
at the settlement, which the competency says, he had forgotten.
Your respondent is informed that the witness, upon whose
testimony, the competency now rests, was at the date of
the settlement, a lad of not over fourteen years of age,
and that the competency intimates, he expects to prove, in that
he saw many bonds not paid. Your respondent submits
to your honor, whether according to the competency
showing, he used the proper diligence to procure the testimony
he was not able to use, and should your honor be of opinion
that he has, then your respondent relies upon the fact, that
the 1st testimony is of an age that these statements are
altogether, vague and indefinite and wholly unsatisfactory.
And your respondent having answered, prays to be heard
dismissed &c

Signed - (Harrison)

Southampton County to wit. This day Edwin Harrison
personally appeared before me a justice of the peace for the county
aforesaid and made oath that the foregoing answer contains the
truth to the best of his knowledge and belief. Given under my
hand this 31 day of Oct. 1842.

J. M. Harrison

Sellam
as.
Harrison } arms of

... J. Darden.

Octo. Year 1842.

To the Hon. Rich^d H. Baker Judge of the hi. Sup. Court
of Law and Chancery for the County of Southampton
The answer of Sethus Warden to a bill exhibited against
Edwin Harrison & himself by William Hildland

This Respondent saying to him self &c. for answer to
so much of the Pff's bill, as he is advised it is material
for him to answer, says - that it is not denied
that the 1st Han is an owed your respondent the amt. which
was paid to him, and that under no circumstances
can your respondent be held responsible for any claim
which the Pff may have against Edwin Harrison -
This respondent does not owe the 1st Hildland - he has
as yet, that he was entitled to - But your respondent
thinks according to the Pff's own showing, he is
not entitled any relief, it because he ~~did~~
^{will} use the proper diligence to get the evidence, which
by his bill of review he seeks to introduce, &c. &c.
because that evidence (when introduced) if it proves
what the Pff says, it will prove ~~and~~ will not entitle
him to recover. The witness, of whom the Pff speaks
was your respondent's informant, was only 12 years old
when the transaction took place - and your respondent
is not surprised, that youth should now recollect that
many Bank notes passed - a very few bank notes, are
considered by children as a great deal of money. But
your respondent as ^{before} stated can not be held respon-
sible, because he ^{does not} owe the Pff - And having
answered, prays to be hence dismissed with his
costs &c.

Dillard

to } Or. Pub.

Harrison & Co

Reported at C. H. door.

At Rules holden in the clerks Office of the Circuit Superior Court of Law and Chan-
cery for the County of Southampton on the 4th day of July 1842.

William Dillard

against

Edwin Harrison and Jethro R Darden

Plff.

Def.

In Chancery

The defendant Jethro R Darden not having entered his appearance and given
security according to the Act of Assembly and the rules of this Court and it appearing by satis-
factory evidence that he is not an inhabitant of this County it is ordered that the said defendant
do appear here on the first day of the next Term and answer the bill of the plaintiff and that a
copy of this order be forthwith inserted in some newspaper published in the Town of Petersburg
for two months successively and posted at the front door of the Courthouse of this County.

Dillard

v 3 Dec
Harmon

to be returned

R.H.B.

Bill and
vs. E. Bruce
Harrison

This cause came on this day to be heard on the Bill and answers with general replication thereto and exhibits and examination of witnesses, and was argued by counsel on consideration whereof the Court doth adjudge order and decree that the Bill of the Plaintiff be dismissed and that he pay to the Defendants their costs by them, about their defence in it this behalf expended -

Leads

Dillard

Sp^o in Chy.

Harrison & P

1842. August Rules

Fr.

Executed on Review

Massion

Letitia R. Dear on no. 100.

A. M. Howell of
Wm L. Everett Throff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon

Edwin Harrison and Sethro R. Darden

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in *August* next, to answer a Bill in Chancery exhibited against *them* in the said Court by *William Dillard*

And unless *they* shall answer the said Bill within ~~four~~ ^{two} months thereafter, the Court will take the same for confessed, and decree accordingly. And this *they* shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON

R. EDWARDS, Clerk of our said Court, at the Court-house, the *4th* day of *July* 1842, of the *106th* year of the Commonwealth.

R. Edwards Clk

[One Copy to be delivered each Defendant.]

Depos: of
Wm Briggs

Dillard

to } Dep: Wm Briggs

Harrison Jr

Came to hand under seal October
5/1842. SRE

The deposition of Wm Briggs S^r of the County of
Southampton taken at the House of said
Wm Briggs, on the 4th day of October 1842
between the hours of six o'clock A. M. &
3 o'clock P. M. of the same day, to be
read as evidence in the suit in the Circuit
superior Court of Law and Chancery for
Southampton County, in which Wm Dillard
is complainant and Edwin Harrison
and Jeth: R. Sanders are defendants.
The said Wm Briggs having been sworn
according to law - made the following
answers to the following interrogato-
ries -

First interrogatory by J. P. H. Look upon a
paper bound with corners by a wafer,
marked with the letter F - and purporting
to be the receipt of E. Harrison for of
Edwin Dillard to Wm Dillard, and attested
by "Wm Briggs S^r" and say whether E. Harrison
did sign and acknowledge said receipt
in your presence?

Answer of Wm Briggs to said interrogatory.

Asks requested by Wm Dillard either
Answer I was requested by one or both of the parties. I do not recollect
which either Wm Dillard or Edwin Harrison mentioned in the Interrogatory
to write the receipt refused to in the same. I did write said receipt
& Edwin Harrison assigned & acknowledged said receipt in my
presence & I attested the same

William Briggs S^r

second in interrogatory of the Reff:

Be pleased to look upon the paper hereto annexed marked D purporting to be a list of bonds &c. by Wm. Dillard to E. Harrison, & say what you know about that paper - and be pleased to relate any matter within your knowledge touching the controversy between the parties in the cause - answer of Wm. Briggs -

2^d Qst. Answer by William Briggs I know concerning the paper marked D. that I was requested to, & did write & attest the understanding written therein referring to debt due from John Hart of \$156.15. as to any other matters touching the controversy between the parties to this suit I know nothing further than to say, after making out the Guardian act of Nancy Dillard, as Master Commissioner, I left the room, & in it William Dillard & Edwin Harrison, when I returned to the room I was requested to make & attest the understanding contained in the paper marked D. signed by William Dillard, at the same time with the receipt marked F. Further I know not.

1st question by Defendant E. Harrison, who made out the list of of Bonds mentioned in paper marked D.

Answer I do not know.
2^d question Do you recollect of William Dillard offering to pay me as guardian of Nancy Dillard, in bonds due from persons living in Sussex County.
Answer to 2^d question. before I left the room. & previous to any settlement that I know of between Wm. Dillard & Edwin Harrison.

I heard something said about bonds of persons living in Sussex County, & remember that Edwin Harrison said he would not take them but only bonds due from persons living in Southampton County or his neighbourhood.

3^d question. did you see William Dillard pay me any money on the day of making out the Guardian act of Nancy Dillard.
Ans. I did not.

William Briggs

S. o. after County Geo. I certify that on this 4th day of October 1862 at the house of Wm. Briggs in said County, the Dep. Clerk made & signed the foregoing exposition before me a justice in said County - to be read & recorded in the next in the Circuit Sup. Ct. of Law & Eq. to be taken in which Wm. Dillard is left & Edwin Harrison an defendant & which exposition was taken & mentioned before given under my hand & seal this 4th day of October 1862 -

Wm. H. Nicholson (Sp)

1832 Oct. 14th This day received of William Dillard Exr. of James Dillard decd, who was late Guardian of Nancy Dillard, The sum of one Thousand Six Hundred Twelve ~~and~~ seventy Eight Cts in full, as per Master Comrs report -

Test.
Wm. Briggs. sw.

E. Harrison

F

Shew something said about bonds of persons living in
Deer County, & remember that Edwin Davis said he would
not take them but only bonds are from persons living in
Southampton County or his neighbourhood
3rd Question. How far are William Dilson & Jay one any money
or the way of making and the Guadalupe act of a Henry Deane
and I did not

William Briggs in

Do after County Geo. Deane. I did not see the 4th
day of October 1842 at the house of Mr. Deane in
Deer County. He says he saw a man in a white
the largest of position before me a white
man in the county to be made a road in the
unit in the circuit of the 4th of October 1842
20 after in which the Deane is left
Deane is a man in a white and white
position was taken a man in a white
Deane is a man in a white and white
October 1842

Wm. F. Chisholm (22)

William
+ 3
Ransom

exhib.
by H. H.

Ans Boykin note on demand 25 th Dec ^r 1828.	\$10.00
Int to 17 th Oct ^r 1832	2.87
E Harrison note on demand 1 st Jan'y 1826	34.00
Int to 17 th Oct ^r 1832	13.86
J. Parker note due 17 th March 1833	~~466.66~~
Int to 17 th Oct ^r 1832	466.66
R. N. Baker note due 1 st Jan'y 1823	16.32
Int to 17 th Oct ^r 1832	184.16
Hunter & Gardiner note due 1 st Jan'y 1821	102.30
Int to 17 th Oct ^r 1832	39.80
Int to 17 th Oct ^r 1832	28.14
Int to 17 th Oct ^r 1832	156.15
Int Hart's note due 17 th Oct ^r 1832	1044.126
	1512.98
	<u>568.52</u>

It is hereby understood that
 William Dillards is to get John Harts
 Note & security for \$156.15. or act for so much
 as he fails to get - Recured

Int

Wm. Briggs

Wm Dillards

(L)

Leaves of

Boisj

Dillard

to } Depo

Harrison Jr

Came to hand under seal Oct.

8/1842.

- LRE

The deposition of Bennett S Briggs of the
County of Southampton, taken on the 4th day
of October 1862, at the House of W^m Briggs
Senior, in the said County, taken between
~~6.06~~ 6.06 Clock ^{7.06} Clock
~~in the morning~~ in the morning and ~~in the~~
in the Evening of same day, to be read
as Evidence in the suit in the Circuit Sup^r
Court of Law and Chancery for S^campton
County (on the Ch^y: side of said Court,
in which M^r Dillard is p^lff: & E^r Harrison
- vs - and Jeth^r: R Darden an d^{ft}: -
The deponent having been sworn to speak
the truth, says ~~that on the~~ or makes the
following answers to the following
interrogatories - to wit:

1st Interrogatory by p^lff:

Do you know any thing of a settlement
made between W^m Dillard or exor: or
admo: of Jams Dillard with E. Harrison
for: of Nancy Dillard: if so, say what
you do know, and speak of any facts
and circumstances connected with
the settlement, within your own knowledge
known to above parties -

I was present at the settlement referred to in the fore-
going question and heard something in relation to W^m
Dillard, paying E Harrison a part in bond I also recollect
his taking out his pocket book from which he drew out a
parcel of bank notes and spread them on the table as he
counted them and paid them to Mr. E Harrison - The
Amount I do not know

Bennet S Briggs

second interrogatory of the p^lff:
 When did you first communicate
 to the p^lff: your knowledge of the
 facts you have stated - be it for
 or to give the year, and as near the
 exact time as you can, & moreover
 state any thing else you know con-
 -cerning the subject of controversy between
 the p^lff: and the defense and -
 Answer of Bennett S Briggs to second
 interrogatory -

I do not recollect the precise time but know that
 it was within a year or two -

Bennet S. Briggs

First Question by Deft. E Harrison

State in or about what year this Settlement ^{between}
 Wm Dillard & E Harrison took place

Ans. I do not know -

2nd Quest: What is your age?

Ans. In my 24th year

3rd Quest. - Can you not remember your age at the time
 of this Settlement?

Ans. I think I was 12 or 14 years of age

4th Quest. Do you recollect whether you were going to
 School at the time of the Settlement?

Ans. - I was not going to School at that time but had
 been going during the year -

5th Quest. - Do you recollect the cause of your not going
 to School at that time?

Ans. I do not recollect the cause

6th Quest. Do you or do you not know for what purpose this mo-
 ney was paid over to E Harrison -

Ans. I understood that E Harrison had become guardian to Nancy Dillard
 and this money was paid to him as guardian

7th Quest. How and why did you understand so?

Ans. - From the circumstance of my Father's making out the ^{dr}
 acct. of Nancy Dillard in my presence and their meeting there
 for the purpose of settling it; and what I understood from their conversation

8th Quest. - Do you recollect any specific part or portion of that conversation?

Ans. I do not.

9th Quest. Do you recollect whether the bank notes were large or small?

Ans. I think they were large -

Bennet S. Briggs
 Southampton County, Va. J. H. Nicholson
 a justice of the peace for Southampton County,
 do hereby certify that at the time appointed and
 in the caption of the foregoing deposition,
 and at the place therein named, the said
 deposition of Bennett S. Briggs was taken
 on oath and signed by him, to be read
 as evidence in the suit of Dillard & Harrison
 in Circuit Sup. Ct. of Ch. Southampton -
 Given under my hand this 18th day of October 1842 - J. H. Nicholson

Dillard

v. } Copy Record

Harrison Jr

Dillard

v. }
Harrison Jr

exhibit

A

At a Circuit Superior Court of Law and Chancery for Southampton County
holden at the Court house thereof on the 10th day of April One Thousand Eight
hundred and forty One.

It is remembered that heretofore to wit on the 15th day of June 1840 Came
William Dillard by his counsel and said out of the Clerk's office of our said
Circuit Superior Court a Subpoena and decree nisi against Edwin Harrison
and John R Darden and his wife Nancy formerly Dillard which Subpoena
and decree nisi together with the return thereon is in these words and
figures to wit. The Commonwealth of Virginia to the Sheriff of
Southampton County to wit: "We command you that you summon Edwin
Harrison and John R Darden and his wife Nancy formerly Dillard to
appear at the Clerk's office of our Circuit Superior Court of Law and Chancery
for the County of Southampton at the rules to be holden for the said Court
on the first Monday in July next. to answer a bill in Chancery exhibited
against them in the said Court by William Dillard, And until they shall
answer the said Bill within two months thereafter the Court will take the same
for confessed and decree accordingly. And this they shall in no wise omit
under the penalty of One hundred pounds each, And have that these are
writ, Witness Myself John R Edwards Clerk of our said Court at the Court house
the 15th day of June 1840 in the 64th year of the Commonwealth.

Sheriff's Return.

J. R. Edwards Clk.

Executed on Edwin Harrison by delivering a true copy

June 26/1840

Pepe Drury Deputy of
Thomas Britton shff

The within named John R Darden and Nancy his wife are not inhabitants
of this Commonwealth as I am advised. Edwards Britton Deputy of

Th. P. Britton shff

And afterwards to wit. At Rules holden for the said Court on the first
Monday in July 1840 Came the plaintiff by his counsel and filed his bill
in these words to wit. To the Judge of the Circuit Superior Court of
Law and Chancery for Southampton County sitting in Chancery humbly
Complaining shews to your Honour your Orator William Dillard of the
County of Surry that some years ago James Dillard of Sussex County
then qualified in the County of Southampton as guardian of Nancy
Dillard and received her estate and afterwards to wit. about the day
of June 1832 he departed this life having made his last will and
Testament and appointed your Orator his Executor, an order was then
made by the County Court of Southampton directing Mr Briggs Comr. of the

Court of said County to examine state and settle the transactions of
said testator as late guardian of Nancy Dillard. One Edwin Harrison
having become his guardian before the County Court of Southampton
as will appear by exhibit (A) which is prayed to be taken as a part
of this bill the Master Comr. Mr. Briggs on the day of
A.D. in the presence of the said E. Harrison and your orator made
up the said guardian account and after finding the amount
due from the Estate of the said James Dillard, your orator delivered
over in the presence of the Comr. to Harrison bonds of £ taken to the
late guardian amounting to the sum of £1612. 26 and paid him
at the same time in Cash the sum of £ making within
£50. 74 the whole amount of debt from said Estate to the ward.
It seems that the sum of £1612. 78 was found as the Executor
and then the ward was charged with Comr. fee of 5

Clock tickets

12

and stated in ap paid by the Exr. to Harrison

1612 74
£1619 78

The account as as aforesaid made up by the Commissioner after entering
the Credit for the payment then made by your orator in bonds and
Money left the sum of fifty dollars and seventy four cents
appearing to be due from the estate of the said James Dillard as will
appear by a copy of the account taken from the records of Southampton
County hereto annexed marked (B) and prayed to be considered as
a part of this bill. Your orator begs leave to state that among the claims
paid by him over to the said E. Harrison as guardian of Nancy Dillard
was one against one John Hart to which there was no security or not
such as to be satisfactory to said Harrison who objected also to receiving
it because there existed some connection by marriage between him
and the said John Hart and it was apprehended a suit might
be necessary to enforce payment thereof. Your orator therefore took back
and received from the said E. Harrison the said claim to Hart and
agreed in writing that he would get John Hart note and security to
£166. 15 or account for so much as he might fail to get secured the
said agreement as well as the list of claims paid to said E. Harrison will
appear to the Court by exhibit (C) which is hereto annexed and prayed
to be taken as a part of this bill at the time of the settlement between
your orator and Harrison the said Harrison executed his receipt
as follows "1832 October 17 this day received of Mr. Dillard Esq. of
James Dillard and who was late guardian of Nancy Dillard the

Sum of One thousand six hundred and twelve dollars and 74 cents in
full as pr. Master Comr. report.

Teste

Mr. Briggs Sec.

E. Harrison

all which will fully appear by the said receipt marked (F) and prayed to
be taken as a part of this bill. Your orator afterwards proceeded to collect
of Hart the amt of his note and applied to E. Harrison to pay it over
to him. your orator claiming to be entitled to deduct therefrom the sum
of fifty dollars due for the board of said Nancy Dillard for the year 1832
the same not having been charged in the settlement Harrison informed
your orator that there was some £50. or thereabouts due still from
the estate of James Dillard to his ward and that could go towards
discharging the claim for board the account made up by the Comr.
was not then before them and Harrison believing that the true
amount could not then be ascertained the settlement was deferred to
some more convenient time. A considerable time elapsed before
any thing more was said or done on the subject and on the day
of A.D. your orator being on a visit to his step Mother
in the County of Sussex he recd. a note from Mr. Harrison requesting
him to meet the said Harrison at St. James in the Neighbourhood
we met there and Harrison pulled out the aforesaid statement marked
(D) and said that your Complainant owed him the - £569. 52
appearing on said paper. besides the amount of Hart's note. Your orator
was struck with surprise at the demand and declared that all had been paid
at the time the app. was made up except the amount of Hart's debt. Your
orator left home in hurry without expecting to see Harrison and had no papers
with him and such was the apparent confidence of the said E. Harrison in
his demand and such the faith of your orator in the integrity of the same
that he actually went into a brief settlement with him deducted from the price
of board say £60 the supposed amount that Harrison alleged was a mistake in
the app. made up by Comr. Briggs and gave his bond to Harrison for the sum
of £ as though it were true that he had not paid in money the
sum of £569. 52 on the day of settlement neither he or Harrison having then
a copy of the app. The whole transaction was then carried on and effected in a
few minutes at Mr. James's as not to give your Complainant time for reflection
about the old transaction the bond having been delivered by him to Harrison your
orator went home in hurry and the impression still being strong with him that
he had paid the money he examined his papers and soon found the receipt of
the said Harrison which is before mentioned and filed herewith as exhibit (F)

and which receipt he had forgotten at the time his bond was executed.
All doubt ^{having} there ^{substantiated} he concluded that E. Harrison like himself had
forgotten the receipt and that it was only necessary that he should show
the receipt to E. Harrison to satisfy him of the error under which the bond
had been taken and to obtain the same by paying the sum of \$156.15
with interest thereon being the amount received of Hart Subject however
to an abatement for the ¹⁰th difference between \$100 for bond and the
supposed amount due in account of guardianship which your Orator
supposed was correct and proper and which he supposed would at once
be acceded to - Your Orator soon went to the house of Abram Redwine
in North Carolina in the neighbourhood of Harrison and got Redwine
to accompany him to the house of Mr. Harrison to whom he
communicated the fact of the receipt having been found the error
which they had fallen into and offered to pay what was really due and
to take in his bond and cancel it. Mr. Harrison said he admitted
the genuineness of the receipt but that he had forgotten all about it
that he wished the matter settled amicably that he was then too unwell
to transact business and that it should soon be adjusted. Sometime thereafter
your Orator ~~and~~ Harrison met at Southampton Court and they referred the
matter to Mr. French and Ridley attorneys at Law who came to the conclusion
as he understood that your Orator was right and that upon paying the amt.
which he stated to be due to Harrison the latter should deliver up the bond
but Harrison has refused and failed and still refuses and fails to do the
same to the very great injury and oppression of your ~~orator~~. Your
Orator understands and believes it to be true that upon the intermarriage
of ^{one} John R. Garden of North Carolina with the said Nancy Sillard to whose
guardianship your Orator had committed this bond upon the said Harrison paid
over and transferred the said obligation to the said Garden in part satisfaction
of what was due to her by her last guardian and therefore it is as he believes
that so much delay and difficulty has arisen in the settlement of the aforesaid
transaction and the of this paper and as understanding that the
same has been transferred to Garden he has applied to him as well as Harrison
and respectfully solicited that justice should be done to him and the
bond cancelled inasmuch as he has requested that he should be paid and
if in their opinion necessary and that at least he should be relieved
from his embarrassment so as it is may it please the Court the said Harrison
combining together to injure and oppress your Orator refuse to institute any
suit against him on the bond or to deliver it up to be cancelled but the same

is in the possession of one of them and unless your Orator can be relieved it is
likely after his death justice may not be done in the premises in tenant
consideration whereof and for as much as your Orator is otherwise without
relief he prays that the said Edwin Harrison father of R. Garden and
his wife Nancy to whom he was married on the day of AD
and other persons concerned be made defendants to this bill and Compelled
upon their Corporal oath full true perfect answer to make to all and
singular the allegations aforesaid as fully as if the same were herein again
repeated and they should specially interrogated that the said Harrison say if
it is not true that he was guardian of Nancy Sillard did he not execute
the receipt herewith filed marked (F) is it not true that he or the said
Garden or some person and who has the bond of your Complainant which is
the amount due and charged thereof ever it not given at N. Lunas
and was not the consideration thereof a supposed debt to him as for
Nancy Sillard what in fact was the consideration of the said obligation
and that he be compelled in his answer to set out the said bond fully
and completely that the said Garden and wife say if it is not true that
the bond of your Orator has been transferred to him or to them in
whose possession is the same now and has not the said Garden long
since been requested to sue on it and advised of the Equity on the part
of your Orator. And your Orator prays that the said Harrison Garden
and wife and all persons to whose possession the same may have come
or now be may be enjoined and restrained from paying away
or creating disposing of or in any way prosecuting said bond until
the matters in difference can be adjusted in this Court that your
honor will allow your Orator to discharge the said obligation by
paying \$156.15 with interest thereon from 17th October 1832 till paid
and that the person holding the same may be compelled to deliver it up
to be cancelled and that you will make any other or further order in
the premises that may tend to the relief of your Orator and as in
duty bound he will pay \$5. He prays the writ of Habeas Corpus
of Commanding \$5.

(Exhibit A)

Southampton County Court July 16th 1832
Nancy Sillard Captain of Richmond Sillard and wife with the approbation of the
Court made choice of Edwin Harrison for her guardian who together with
William Harrison and Edwin Laughlin his secretary entered into & acknowledged a bond
in the penalty of five thousand dollars conditioned according to Law.
D. R. Edwards Clk

(The other exhibits mentioned in the bill were withdrawn by the plaintiffs counsel). And the defendants Jethro R. Darden and his wife Nancy not having entered their appearance and given security according to the act of Assembly and the rule of this Court and it appearing by satisfactory evidence that they are not inhabitants of this County it is ordered that the said defendants do appear here on the first day of the next Term and answer the bill of the plaintiffs and that a copy of this order be forthwith inserted in some newspaper published in the Borough of Norfolk for two months successively and posted at the front door of the Court House of this County.

And afterwards he to wit, At Rule held for the said Court on the first Monday in August in the year aforesaid came the defendant Edwin Harrison by his counsel and filed his answer to the plaintiffs bill in three words to wit.

The separate answer of Edwin Harrison to a bill of Complaint exhibited against him Jethro R. Darden and Nancy his wife late Dillard by William Dillard in the Circuit Superior Court of Law and Chancery in and for the County of Southampton. The said Defendant reserving to himself all fit and proper exceptions to the manifold errors and misstatements in said bill contained for as much as he is advised it is material for him to answer unsworn and oath. It is true as charged in the Complainants bill that James Dillard in his lifetime acted as the guardian of Nancy Dillard and that sometime after the death of the said James Dillard he (Edwin Harrison) qualified in Southampton County as her guardian and attended before Master Commissioner Briggs with William Dillard Executor of James Dillard in order to have a settlement of James Dillard's guardianship of Nancy Dillard. That the Commissioner proceeded to state the account and found a balance due the ward of \$1613.74 for which William Dillard avowed he was ready to settle and began to look over his books to make out that amount. That the said Dillard did produce bonds to the amount of \$1000.00 for against persons known to the said Edwin Harrison which the said Harrison agreed to accept requiring however that notes against John Hart for \$156.14/100 should be secured and these notes were returned by Dillard for the purpose of giving Hart to give security to them when they were to be returned to the said E. Harrison. That the said Dillard did at the same time produce other bonds against persons in Sussex sufficient to pay the remaining sum of \$568.52/100 and prepaid the said

Edwin Harrison to accept them who refused saying their collection would be very inconvenient to him and that he did not know the persons whom they were against. The said Edwin Harrison denies positively that he received of Dillard in the settlement before Briggs any money or bonds in the payment of the \$568.52. Bonds against persons in Sussex were prepaid upon him but he refused to accept them and Dillard left the Commissioner promising to collect money enough in Sussex on the bonds which he tendered to pay the \$568.52 and also to secure the payment of John Hart's note, which would make a final settlement of the whole matter. The said Harrison says with regard to the receipt (see exhibit F) it was within expectation of a settlement and signed by him written he thinks by the Commissioner who expected a settlement signed by him Harrison probably when Dillard was getting out his bonds and when no settlement was expected the receipt was returned through inadvertence or to enable him (Dillard) to settle his father's estate. The said Harrison admits his intimacy with and great confidence in Mr. Dillard and therefore trusted him to collect money enough to pay over the balance due. The said Harrison says that again and again a reasonable time having been afforded Mr. Dillard to collect and pay over the amount due after the settlement with Briggs he urged him to a settlement or to let him overrule him and finally so anxious was he to settle this matter that he Harrison went up to Selkirk expressly to see Mr. Dillard having that he would be there at a wedding. That he met Dillard at Capt. Nath. Sands and there had a settlement Dillard giving his bond for the said sum with interest and correcting a mistake of \$59.74 and charging for board \$60. for the year which was omitted. The said Harrison says that he paid over the bond in controversy to Jethro R. Darden who married Nancy Dillard and that the said Darden has been anxious to see Mr. Dillard where he (Darden lives) as the said Dillard has a sister and another in Law living near him Darden whom he sometimes visits that the Sheriff has had a writ for sometime and has one now as he believes which shows that he has manifested no disposition to a judicial settlement of this matter but only wished to avoid if possible the trouble and expense of going to Surry to see him. The said Harrison again denies that he ever received the money charged to have been paid him in a settlement with Dillard before Briggs and calls for strict proof of payment as for proof of all the allegations contained in Complainants bill denying all which he has not specially admitted and having answered prayer to be heard dismissed with his costs &c
E. Harrison

This day personally appeared before me Lemuel P. Nicholson a justice of the peace for the County aforesaid Oliver Harrison who being duly sworn deposed and said that the facts stated in the above answer are true to the best of his knowledge and belief. Given under my hand and seal this 21st day of July 1840

Lemuel P. Nicholson J.P. *(Seal)*

And afterwards to wit. At Rules held for said Court on the first Monday in September in the year aforesaid came the plaintiff by Counsel and replied generally to the answer of the defendant Harrison -

And afterwards to wit. At Rules held for the Court aforesaid on the first Monday in November in the year aforesaid. On the motion of the plaintiff by Counsel this Cause was set for hearing -

And now at this day to wit. At a Circuit Superior Court of Law and Chancery held for the County aforesaid on the day and year first herein aforesaid to wit the 6th day of April 1841. This Cause came on this day to be heard on the bill and answer with general replication thereto and exhibits. and was argued by Counsel on Consideration whereof the Court doth adjudge order and decree that the bill of the plaintiff be dismissed and that he pay to the defendants their Costs by them about their defence in this behalf expended -

Drafts. Costs of 21.07.

A Copy
Teste. L.R. Edwards. *(Seal)*

156-15

misc \$50.00

10

Board 60

10

146-15

by Dillard with bill to

from 183

exhibit to.

List of Bonds
paid by
W Dillard
For
E Hamers

$$\begin{array}{r}
 857.18 \\
 57.07 \\
 \hline
 902.25- \\
 6 \\
 \hline
 5413.5-0 \\
 902.25- \\
 \hline
 556.38
 \end{array}$$

$$\begin{array}{r}
 902.25- \\
 40.68 \\
 \hline
 861.57
 \end{array}$$

$$\begin{array}{r}
 902.25- \\
 6 \\
 \hline
 5413.5-0 \\
 2706.75- \\
 125.3.34 \\
 \hline
 40.60.12
 \end{array}$$

Oct
17-1832

11111.

$$\begin{array}{r}
 368.52 \\
 14.6.15- \\
 \hline
 774.676
 \end{array}$$

$$\begin{array}{r}
 42.88.02 \\
 714.67 \\
 \hline
 757.55-
 \end{array}$$

$$\begin{array}{r}
 757.55- \\
 6 \\
 \hline
 757.55-
 \end{array}$$

$$\begin{array}{r}
 757.55- \\
 803.00 \\
 \hline
 6
 \end{array}$$

$$\begin{array}{r}
 48.18 \\
 803. \\
 \hline
 851.18
 \end{array}$$

$$\begin{array}{r}
 851.18 \\
 57.07.08 \\
 \hline
 804.11
 \end{array}$$

3721

copy of the
note

2

On the 17th June 1837, ~~with~~ I had a settlement
with 2 Hammers for of Am R. Pillan
for him upon the settlement 939-28 -
Given even my hand and seal the 17th
June 1837 -

W. R. Pillan (S)

To
Who it does -

Dill and W. Harrison.

1. objection to a decree for ~~judgment~~ ^{that the new witness is} is, ^{such} according to the ~~judgments~~ ^{fact} now showing as might have been discovered with ordinary diligence before the decree - 2, Rob. 416
- x2. objection ~~to~~ that cumulative evidence bearing upon a litigated fact in the original case & as to which other evidence was taken before is not ^{in general sufficient} ~~thoroughly~~ to authorize a bill of review. *Livingston vs. Stillb.* 3 John. 124.
3. " that a party who asks for a bill of review must show that he has performed the decree especially as regards the payment of money - *Id.*
4. " that the evidence of Bennett Briggs is altogether too indefinite and uncertain to justify the decree asked for.