1844-001 SOUTHAMPTON COUNTY CHANCERY PAPERS

BARHAM VS. BEALE & al

S/1844

other SURNAMES: URQUHART

~~24~~ 31

Peff costs

Clk	$9.63
Stff	2.42
Printer	5.50
Sam	16.16
Tax	71
	34.92

Barham

v. } Papers

Beals &c

Dft Urquhart Costs

Clk	$2.06
Sam	16.66
	$18.72

1844 May Durm

Barham

v. } Statement.

Beale &c.

There may be a
decree in Beale, but
not any transcript who
can not come to be
entitled to the former

R. H. B.

1842.

July 19th - Subpa & Restg order issd.

Augt R - Subpa ret'd Exd on Barham
Beale no inhabitant - Bill filed.
Or: Pub & Dft: Beale.

Sept: R. Answr Urquhart & Reply -

Oct T. Continued

Nov R. Set for hearing as to Urquhart -

1843

Apl T. Leave to amend bill &c.

Aug R. Amended Bill & Subpa issd
& Order Pub & Dft Beale

Sept " Subpa Ret'd Executed

Oct 1 " Answr of Dft. Urquhart & Cross
Reply

Decr " Set for hearing as to Dft U

1844

May - T. Decree v Beale - Bill
dismissed as to Urquhart with
Costs -

Barham

v Bill & Ex

Beale

(R & S)

To the Hon. Judge of the Circ. Sup. Court of Chancery
for the County of Southampton

Your complainant Curtis D Bowman of the County of Southampton humbly shews that sometime since in the month of June 1841, he obtained a judgement in the County Court of Southampton, against Thomas B Beale, then a citizen of the County aforesaid, for the sum of $79.23, with legal interest from the 12th day of October 1840 until paid, and also for the further sum of $4.66 which were adjudged to your complainant for his costs in obtaining said judgement expenses; that an execution was issued on the said judgement and regularly returned no effects, all of which will more fully appear from a true copy of the judgement and execution, herewith filed, and prayed to be taken as a part of this bill (Marked A)

Your complainant also shews, that the said Thomas B Beale is indebted to him in the further sum of $90.13 with legal interest from the 9th day of October 1841 until paid which sum your complainant paid as security for the said Beale in full of an execution in favour of Lewis Harrell which will appear from the receipt of the Deputy Sheriff, herewith filed and prayed to be taken as a part of this bill (B). Your complainant avers that the said Beale removed out of this County some time since and is now a resident of another State and that by so removing out of this State, and evading the process of the Court Your complt cannot obtain satisfaction of his claims aforesaid in a Court of law but is compelled to resort to a Court of equity where matters of this kind are cognizable. Your complainant, further shews, that the said Thomas B Beale is entitled to certain money or effects in the hands of ~~Charles F~~ Blanchard of the County of Southampton, which your Complt

charges will be sufficient to satisfy his claims
before mentioned - In tender consideration of all which
and to the end that justice may be done your Com-
plainant prays, that Thomas B Beale and Charles H
Urquhart be made defendants to this bill, and to
that effect that the Commonwealth writ of Subp- may
issue directed to the said defendants and calling on
them to answer the premises on oath - and that the
said Thomas B Beale be compelled to pay to your
complainant the sum of $79.23 with interest from
the 12th October 1840 together with the sum of $4.66
and also the sum of $90.13 with interest from
the 9th October 1841, and that the said sums may
be satisfied out of any money & effects which the
defendant Urquhart may have, or at any time
have in his hands belonging to the said Beale
and for such other and further relief as is
consistent with equity and justice, and the na-
ture of his case and your Complt will, as in
duty bound, ever pray &c-

Brittay & Goodwyn

Barham

2 3 amend: Bill

Balance

1843 August Rules.

To the Hon. Judge of the Circ. Sup. Court of Law and Ch. for the County of Southampton, sitting in Chancery

Your complainant Cuthbert D Banham comes & obtained leave to amend his bill of complaint: to which Charles F Urquhart and Thomas B Beale are defendants, for amendment thereto, leave leave to represent that at the time of the service of the subp: on the defendant Urquhart; the defendant Beale was living with him, in the capacity of an agent or manager and receiving a salary of $200. pr year, and your complainant charges that at the time of the service of the subp: on the defendant Urquhart, he had not paid to the said Beale the whole or any part of said salary for the year 1842. and your complainant contends that he has right to receive so much of the said Beales salary as had not been paid him, at the service of the subp. Your complainant charges that the said Beale is still living in the employ of the said Urquhart; and has effects in his hands belonging to the said Beale. Your complainant prays that Thomas B Beale and Charles F Urquhart be made defendants to the Bill, that they answer the premises, and the defendant Urquhart be required to state particularly, whether he has paid to the said Beale any part and if any, what part of his wages for the year 1842, at the date of the restraining order. Your complainant prays that your Honor would grant him relief in the premises, and that the defendant Urquhart may be compelled to pay him so much of the said Beales wages for the year 1842. as he, the said Beale was entitled to, at the date of the said restraining order, and for such other and general relief as your complainant may be entitled to from the facts and nature of his case and he will as in duty bound ever pray &c.

Ridley & Goodwyn
for Compl't.

Durham

v. } Ans of Dft: & F.
Urquhart.

Bicke &c.

Dec: 15: 1842

1842 August 15

The defendant answer of Charles F Longuehart
to a bill of complaint, by way of foreign
attachment, against him and one Thomas
B. Beale, by Gabbett & Bertram, his
honorable Court.

This defendant having and reserving to
himself all manner of benefit and advan-
tage of exception to the said complainant's
bill, for answer thereto or to such part
thereof as is material for him to make
answer unto, answering says -

That he has no effects in his hands
belonging to the said Beale - That it is
true, that the said Beale is employed
by him, as manager of a estate in the
Commonwealth of Kentucky, for
his services, this defendant has agreed to pay him by
the end of this present year 1842, the
sum of $225, provided the said Beale
executes faithfully his duties accord-
ing to the terms of the said agreement -
But the said Beale has been acting as
his agent for the sale of considerable
quantities of produce from the said
farm, & there has been no settlement
of these transactions between them, nor
can he say, whether at the end of the year
he will owe anything to the said Beale
or not but if upon a final settlement
of all the transactions between them
any thing should be due to the said Beale
he is willing to hold the same, and apply
it as this Court may please to direct after
paying and satisfying himself for any
moneys that he may be obliged to expend
in defending this suit and this defendant
having fully answered, prays to be hence

his name with his reasonable costs in that behalf expended C. F. Urquhart -

Southampton County to wit

Personally appeared before me a justice of the peace for the said county, Charles F Urquhart, who made oath that the facts stated in the above account, are true & according to the best of his belief

John P. Mallory

Barham

v } Ans. of Defts Urquhart to amended Bill.

Beale &c

1843 October Rules.

The Answer of Charles F Mercyhart to the Amended Bill filed to him & one Beal, by one Cuthbert & Barham in the circuit Sup. Ct. of Law & Ch. for the County of Northampton. This respondent reserving & saving to himself the benefit and advantage of exception to the many defects, errors &c, in the said Amended Bill found &. for answer thereto, answers, & says. that it is true, at the time of the service of the restraining Order (or Subpoena) on S. Bill mentioned, the said Beal was living on a farm of this respondent, in the state of North. Carolina, - in the capacity of overseer, manager, agent &c for which, should he, the said Beal, faithfully, honestly & properly discharge the duties of his trust, and account for matters & entrusted to his custody, he this respondent was, at the end of the year, to wit, the year 1842, pay him the sum of $225: 00. That all along, during the year 1842, the S. Beal sold the produce of the farm, or what had been made thereon, & retained in his own hands, the proceeds intending to account for them on settlement, and in this way doubtless paid himself in advance for his services which however, this respondent conceived from the nature of the bargain he was not bound to allow until the end of the year, yet was willing to allow him to use S. proceeds in payment of his salary. that is, your respondent means to say, that the obligation on him to pay the $225 - to Beal, would have depended on his a proper, which being done, would have made proper the use by Beal of the S. proceeds of sale of produce &c faithful & continuous discharge of his duties for the entire year; that therefore, while, at the time of the service of S. order, he this respondent had not paid himself to Beal any money, yet that Beal had received doubtless a large amt of what might be due him. That at that time he could not possibly say what had been received by S. Beal, or what would be coming to him at the end of the year, if indeed any thing; for upon a settlement at the end of the year 1842, the S. Beal was indebted to this respondent in the sum of $72.52, - besides several amts of money expended by this respondent for Beal: the S. $72.52, being in fact, money which Beal in discharge of his duty, belonging to this respondent, but applied to his own uses, so therefore, he was not indebted to him, but on the contrary Beal owed this respondent. That at the S. time mentioned, this respondent had no effects of S. Beal in his possession, nor has he had any since, nor has he any now. That he was not indebted to the S. Beal, at the date of the S. restraining order; and that this respondent has reason to believe that Beal was in advance to him

as it appeared upon the result of final settlement - between us
Here. That having fully answered the complainants Bill, he prays
to be hence dismissed with his costs, in this behalf expended
C. F. Urquhart (2d)

Southampton County: to wit-
Charles F. Urquhart, personally appeared before me
G W T Stevenson a justice of the peace for the county
aforesaid and made oath, that the facts, in the above answer
specified are as therein stated, to the best of his knowledge & belief.
G W T Stevenson D J P
Southampton Sept 18th 1823.

Barham

To } Br. Pub.

Beale Esq.

Posted at Ch House door by
LRE

At Rules holden in the Clerks Office of the Circuit Superior Court of Law & Chancery for the County of Southampton on the first day of August 1842.

Cuthbert D Barham Plff.

against

Thomas W Beale & Charles F Urquhart Dfts. } In Chancery

The defendant Thomas W Beale not having entered his appearance and given security according to the Act of Assembly and the rules of this Court and it appearing by satisfactory evidence that he is not an inhabitant of this Country, it is ordered that the said Defendant do appear here on the first day of October Term next 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 -

Barham

$\bar{2}\ \frac{3}{3}$ Dicem

Beale

To be entered
R H B

1844 May Term

Barham
&
Beale &c

Decree

The defendant Thomas B Beale &c is out of this Country and against whom the plaintiff appears to have proceed in the mode prescribed by law against absent defendants, & he failing to appear and answer, on motion of the plaintiff by Counsel, his bill is taken for confessed as to that defendant, and the cause coming on to be heard on the bill, exhibits and answer of the defendant Urquhart, was argued by Counsel On consideration whereof the Court doth adjudge order and decree that the defendant Thomas B Beale pay to the plaintiff Cuthbert D Barham the sum of $79-23. with Int thereon from the 12th day of October 1840 till paid together with the sum of $4-66. and also the further sum of $90-13 with Int thereon from the 9th day of October 1841 till paid, together with the costs of this suit And the Court doth further order, adjudge and decree that the plaintiffs bill be dismissed as to the defendant Urquhart and that he recover of the plaintiff his costs expended in defending this suit

To restrain the defendant Charles F Urquhart from paying, conveying away or secreting the debts by debts by him owing or the effects in his hands belonging to the defendant Beale until the order of the Court to the contrary.

Ridley & Gooderum p.q

Teste L R Edwards clk

6 56

Burhans

vs

Spc. & Test. order

Beale &c

1842 August Rules

Execution on Cheeves
Attachment Thomas
& Beale vs Absalom.

Williams & Wells Sts
Williams & Scott Sts

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon Thomas B Beale & Charles F Urquhart —

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 Cuthbert D Barham

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 19 day of July 1842, in the 66 year of the Commonwealth.

L R Edwards clk

[*One Copy to be delivered each Defendant.*]

616

Barham

v } Spt in Chy

Beale Xp

1843 September Rules.

Executed on Charles

Fl Urquhart

Thomas B Beale Defendant

William A Bell Deptty

William L Everette Sheff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon Thomas B Beale & Charles F Urquhart 5

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 September next, to answer a Bill in Chancery exhibited against them in the said Court by

Cuthbert D Barham

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 22. day of August 1843, in the 68th year of the Commonwealth.

L R Edwards clk

[*One Copy to be delivered each Defendant.*]

Barham

to Or: Pub:

Beale

Copy posted up at Ct House door Aug: 22/43

At Rules holden in the Clerks Office of the Circuit Superior Court of Law & Chancery for the County of Southampton on the first Monday in August 1843.

Cuthbert D Barham Pltff } In Chancery

against

Thomas B Beale and Charles F Urquhart Dfts

The defendant Thomas B Beale not having entered his appearance and given Security according to the Act of Assembly and the Rules of this Court and it appearing by satisfactory evidence that he is not an inhabitant of this Country 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 Court house of this County.

IN CHANCERY—VIRGINIA; At rules holden in the Clerk's office of the Circuit Superior Court of Law and Chancery, for the County of Southampton, on the first Monday in August, 1843:

Cuthbert D Barham, Pltff.

AGAINST

Thomas B Beale, and Charles F Urquhart, Defts.

The defendant Thomas B Beale, not having entered his appearance and given security according to the Act of Assembly and the Rules of this Court, and it appearing, by satisfactory evidence, that he is not an inhabitant of this commonwealth: 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 court-house in this county.

A copy—Teste,

[illegible] EDWARDS, c. c.

Printers fee $ 5.50
100

TOWN OF PETERSBURG, TO WIT:

Personally appeared before me (an Alderman of said Town) John D Harwood Clerk of the Intelligencer Office, and made oath that the annexed Order of Publication has been published weekly for Eight — weeks, successively. Given under my hand, this 24th day of April 1844.

Jno A Patterson Ald'm

IN CHANCERY—VIRGINIA—At Rules holden in the Clerk's Office of the Circuit Superior Court of Law and Chancery for the county of Southampton, on the first day of August, 1842:

Cuthbert D. Barham, Pltff.

AGAINST

Thomas B. Beale and Charles F. Urquhart, Defts.

The defendant, Thomas B. Beale, not having entered his appearance and given security according to the Act of Assembly and the Rules of this Court, and it appearing by satisfactory evidence that he is not an inhabitant of this Country: It is ordered, that the said defendant do appear here on the first day of October Term next, and answer the bill of the plaintiff; and that a copy of this order be forthwith inserted in some new paper published in the Town of Petersburg, for two months successively, and posted at the front door of the Court-house of this county.

A Copy—Teste,

aug 6 L R EDWARDS, c c.

Printers fee $ 5.50
100

TOWN OF PETERSBURG, TO WIT:

Personally appeared before me (an Alderman of said Town) John D Harwood Clerk of the Intelligencer Office, and made oath that the annexed Order of Publication has been published weekly for Eight — weeks, successively. Given under my hand, this 24th day of April 1844.

Jno A Patterson Ald'm

Barham

2 3 proff order

Beadle

Barham

v. } Co: Judgt. & Exrs:

Beale

A

Southampton County Court June 21st 1841.

On the motion of Cuthbert D Barham against Thomas B Beale. This day came the plaintiff by his attorney and it appearing to the Court that the defendant hath had legal notice of this motion he was solemnly called but came not. Therefore it is considered by the Court that the plaintiff may have execution against the Defendant for Seventy nine dollars and twenty three cents with legal interest thereon from the 12th day of October 1840 till paid which sum the plaintiff has been compelled to pay as the Defendants Security on an execution issued from the Clerks Office of this Court in favour of Wm I Cocke guardian &c. against the Defendant and the plaintiff as his Security and his costs by him about his motion in this behalf expended. And the said defendant in Mercy &c

Pffs Costs $4.66.

The Commonwealth of Virginia. To the Sheriff of Southampton County. Greeting. We command you that of the goods and chattels of Thomas B Beale late in your bailiwick you cause to be made the sum of Seventy nine dollars and twenty three cents with legal interest thereon from the 12th day of October 1840 till paid which Cuthbert D Barham lately in our County Court of Southampton ~~County~~ hath recovered against the said Beale by motion. also the sum of four dollars and 66 Cents which to the said Barham in the same Court were adjudged for his costs in that suit expended: whereof the said Beale is convict as appears to us of record. and that you have the same before the Justices of our said Court at the Courthouse, on the first day of August Term to render to the said Barham of the debt and costs aforesaid. And have then there this writ.

Witness Littleton R Edwards Clerk of our said Court at the Courthouse this 28th day of June 1841 in the 65th year of the Commonwealth.

L R Edwards CC

Sheriffs endorsement & Return. "Came to hand July 2d 1841. No effects.

Wm I Pebrell Dy for Thos Preston Shff."

Copy Teste L R Edwards clk

B

L. D. Barbeau

Drury
To 3 Recpts
Barbeau

B

Recd Octr 9/1841 of Cuthbert D Barham the Sum of Nine
Dollars and 13/100. in full of a fi fa in favor of Lewis Worrell
Jose Q Searcy sh
Wm Hudson Shff

Barhaven

v Record

Beale

of Law and Chancery for Southampton County hath Recovered against the said Beale by a decree of the said Court also thirty four dollars and 91 cents which to the said Barham in the same Court were adjudged for his costs by him about his suit in that behalf Expended: whereof the said Beale is convict as appears to us of Record and how You shall have Executed this writ Make known at the Clerks Office of our said Circuit Superior Court of Law and Chancery at the Rules to be holden for the said Court on the first Monday in august Next and have then there this writ" Witness Littleton R. Edwards Clerk of our said Court at the Courthouse this 13. day of May 1844 in the 68. Year of the Commonwealth"

LR Edwards Clk.

Sheriffs Return" No Effects" W B Jarrad Dpty of S B Howes shff.

The Commonwealth of Virginia" To the Sheriff of Southampton County" Greeting We Command You that of the goods and Chattels of Cuthbert D. Barham late in your Bailiwick You cause to be Made the sum of Eighteen dollars seventy two cents which Charles H Urquhart lately in our Circuit Superior Court of Law and Chancery for Southampton County hath Recovered against the said Barham for his costs about his defence of a certain suit in Chancery brought by the said Barham against Thomas B. Beale and the said Urquhart whereof the said Barham is convict as appears to us of Record and how You shall have Executed this writ Make known at the Clerks office of our said Circuit Superior Court of Law and Chancery at the Rules to be holden for the said Court on the first Monday in august Next" and have then there this writ" Witness Littleton R. Edwards Clerk of our said Court at the Courthouse this 13 day of May 1844 in the 68 Year of the Commonwealth". LR Edwards Clk.

Sheriffs Return" satisfied of D Mazenbury Dpty of S B Howes shff.

At a Circuit Superior Court of Law and Chancery for the County of Southampton at the Court house of the said County on this 6 day of May 1844

Be it Remembered that heretofore to wit on the 19th day of July 1841 Cuthbert D Barham by his Counsel sued out of the Clerks office of the said Circuit Superior Court of law and Chancery a subpoena and drever Nisi against Thomas B. Beale & Charles F Urquhart which subpoena and drever Nisi and return thereon with the endorsement made is in these words and figures to wit: The Commonwealth of Virginia: To the Sheriff of Southampton County Greeting: We Command you that you summon Thomas B Beale & Charles F Urquhart to appear at the Clerks 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 Cuthbert D Barham and unless they shall answer the said bill within two Months thereafter the Court will take the same for confessed and drever 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 17 day of July 1841 in the 66 Year of the Commonwealth: LR Edwards Clk

Endorsement: To restrain the defendant Charles F Urquhart from paying conveying away or secreting the debts by him owing or the effects in his hands belonging to the defendant Beale under the order of the Court to the contrary: Ridley & Godwyn p.q.

Test
LR Edwards C.

Sheriffs Return: Executed on Charles F Urquhart; Thomas B. Beale No Inhabitant: Williams A Brel Dy of William L Everett shff:

And at another day to wit: At Rules held in the Clerks office of the said Circuit Superior Court of law and Chancery on the first Monday in August 1841 came the plaintiff by his counsel and filed his bill in these words to wit: To the Hon Judge of the Circuit Superior Court of Law & Chancery for the County of Southampton: Your Complainant Cuthbert D Barham of the County of Southampton Humbly shews that sometime during in the Month of June 1841 he obtained a Judgment in the County Court of Southampton against Thomas B Beale then a citizen of the County aforesaid for the sum of $79.03 with legal interest from the 17 day of October 1840 until paid and also

for the further sum of $4.66 which were adjudged to Your complainant for his costs in obtaining said Judgment Expended; that an Execution was issued on the said Judgment and regularly returned No Effects: all of which will more fully appear from a true copy of the Judgment and Execution hereunto filed and prayed to be taken as a part of this bill (Marked A) Your Complainant also shews that the said Thomas B. Brake is indebted to him in the further sum of $90.13 with legal interest from the 9th day of October 1841 until paid which sum Your Complainant paid as security for the said Brake in full of an Execution in favour of Lewis Worrell which will appear from the receipt of the Depty Sheriff hereunto filed and prayed to be taken as a part of this bill (B) Your Complainant avers that the said Brake removed out of this County sometime since and is now a resident of another state and that by so residing out of this state and evading the process of the Court. Your Complt cannot obtain satisfaction of his claims aforesaid in a Court of law but is compelled to resort to a Court of Equity where Matters of this kind are cognisable. Your Complainant further shews that the said Thomas B. Brake is entitled to certain Money or effects ~~of Money~~ in the hands of Charles K. Urquhart of the County of Southampton which your complt charges will be sufficient to satisfy his claims before Mentioned: In Tender Consideration of all which and to the end that Justice may be done Your Complainant prays that Thomas B. Brake and Charles K. Urquhart be made defendants to this bill and to that effect that the Commonwealths writ of Sbo may issue directed to the said defendants and calling on them to answer the premises on oath and that the said Thomas B. Brake be compelled to pay to your Complainant the sum of $78.23 with interest from the 12th of October 1840 together with the sum of $4.66 and also the sum of $90.13 with interest from the 9th October 1841 and that the said sums may be satisfied out of any Money or effects which the defendant Urquhart may have or at any time have in his hands belonging to the said Brake and for such other and further relief as is consistent with Equity and Justice, and the Nature of his case and Your Complainant will as in duty bound ever pray &c

The Following Exhibit was filed with the bill:

(A)

Southampton County Court June 21st 1841: On Motion of Cuthbert D.

Barham against Thomas B. Brake: This day came the plaintiff by his attorney and it appearing to the Court that the defendant hath had legal Notice of this Motion he was solemnly called but came not. Therefore it is considered by the Court that the plaintiff may have Execution against the defendant for seventy Nine dollars and twenty three cents with legal interest thereon from the 12 day of October 1840 till paid which sum the plaintiff has been compelled to pay as the defendants security on an Execution issued from the Clerks office of this Court in favour of Wm. J. Locke Guardian &c against the defendant and the plaintiff as his security: and his costs by him about his Motion in this behalf Expended: and the said Defendant in Mercy &c

Pffs costs $4.66"

The Commonwealth of Virginia: To the Sheriff of Southampton County Greeting: We Command you that of the goods and chattels of Thomas B. Brake late in your bailiwick you cause to be made the sum of seventy Nine dollars and twenty three cents with legal interest thereon from the 12 day of October 1840 till paid which Cuthbert D. Barham late in our County Court of Southampton hath recovered against the said Brake by Motion: also the sum of Four dollars and 66 cents which to the said Barham in the same Court were adjudged for his costs in that said Expended: whereof the said Brake is convict as appears to us of Record and that you have the said sums of Money before the Justices of our said Court at the Court house on the first day of August Term to render to the said Barham of the debt and costs aforesaid and have then there this writ: Witness Littleton K. Edwards Clerk of our said Court at the Court house this 28 day of June 1841 in the 65 year of the Commonwealth: LK Edwards Clk

Sheriffs Endorsement Returned: Came to hand July 5 1841: No effects: Wm. J. Sebrell Dy of Thos Prillow shff:

Copy Teste LK Edwards Clk

(B)

Rec'd Oct 9/1841 of Cuthbert D. Barham the sum of Ninety dollars and 13/100 in full of a Fi Fa in favor of Lewis Worrell: Jesse Drewry Dpt

Thos Prillow shff:

And The Defendant Thomas B. Brake Not having entered his appearance and given security according to the act of Assembly and the Rules of this Court and it appearing by satisfactory 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 October Court next and answer the bill of the plaintiff and that a copy of this order be forthwith inserted in some News paper published in the Town of Petersburg for two Months successively and posted at the front door of the Court house of this County:

And at another day to wit: At Rules held in the Clerks office aforesaid on the first Monday in September in the year 1843 came the Deft Charles F Urquhart by his Counsel and filed his answer in the following words and figures to wit:

The Separate Answer of Charles F Urquhart to a bill of complaint by way of foreign attachment against him and one Thomas B Brale by Cuthbert D Bartlett in this honorable Court: This defendant saving and reserving to himself all Manner of benefit and advantage of Exception to the said complainants bill for answer thereto or to such part thereof as is Material for him to make answer unto answering says: That he has no Effects in his hands belonging to the said Brale that it is true that the said Brale is employed by him as Manager of an Estate in the Commonwealth of North Carolina for his services this defendant has agreed to pay him at the end of the present year 1843 the sum of $ 300 provided the said Brale Executes faithfully his duties according to the Terms of the said agreement but the said Brale has been acting as his agent for the sale of considerable quantities of produce from the said farm & there has been no settlement of their transactions between them nor can he say whether at the end of the year he will owe any thing to the said Brale or not but if upon a final settlement of all the transactions between them any thing should be due to the said Brale he is willing to hold the same and apply it as this Court may please to direct after paying and satisfying himself for any monies that he may be obliged to expend in defending this suit and this defendant having fully answered prays to be hence dismissed with his reasonable cost in this behalf expended:

C F Urquhart

Southampton County to wit: Personally appeared before me a Justice of the Peace for the said County, Charles F Urquhart who made oath that the facts stated in the above answer are true according to the best of his belief:

Thos Parker (Seal)

To which answer the plaintiff by his Counsel replied generally

And At another day to wit: At a Circuit Superior Court of Law & Chancery held for the County aforesaid on the 4 day of November 1843 this cause was continued till the Next Term:

And At another day to wit: At Rules held in the Clerks office aforesaid on the first Monday in November in the year aforesaid this cause was set for hearing as to the Defendant Urquhart:

And At another day to wit At a Circuit Superior Court of Law Chancery held for the County aforesaid on the 8 day of April 1844 on the Motion of the plaintiff by his Counsel leave was given him to amend his bill he paying to the Defendants the costs occasioned them by such amendment and this cause is sent to the Rules for that purpose:

And At another day to wit At Rules held in the Clerks office aforesaid on the first Monday in August 1844 came the plaintiff by his counsel and filed his amended bill in these words to wit:

To The Hon Judge of the Circuit Superior Court of law and Ch for the County of Southampton sitting in Chancery: Your Complainant Cuthbert D Bartlett having obtained leave to amend his bill of complaint to which Charles F Urquhart and Thomas B Brale are defendants for amendment thereto hath leave to represent that at the times of the services of the suit on the defendant Urquhart the defendant Brale was living with him in the capacity of an agent or overseer and receiving a salary of $ 300. a for year and Your complainant charges that at the time of the services of the suit on the defendant Urquhart he had not paid to the said Brale the whole or any part of said salary for the year 1843 and Your Complainant contends that he has right to receive so much of the said Brales salary as had not been paid him: at the services of the suit Your Complainant charges that the said Brale is still living on the employ of the said Urquhart and has Effects in his hands belonging to the said Brale Your Complainant prays that Thomas B Brale and Charles F Urquhart be made defendants to this bill that they answer the premises and the defendant Urquhart be required to state particularly whether he had paid to the said Brale any part and if any what part of his wages for the year 1843 at the date of the restraining order Your Complainant prays that Your Honor would grant him relief in the premises and that the Defendant Urquhart may be compelled to pay him so much of the said

Brales wages for the year 1843 as he the said Brale was entitled to at the date of the said restraining order and for such other and general relief as Your Complainant may be entitled to from the facts and Nature of his case and he will as in duty bound ever pray &c.

Whereupon a subpoena and dreave Nisi was awarded against the Defts therein named to answer the said bill: And the defendant Thomas B. Brale not having entered his appearance and given security according to the act of assembly and the Rules of this Court and it appearing by satisfactory 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 Court House of this County."

The Subpoena and dreave Nisi awarded against the Defendants together with the return thereon Made is in these words & figures to wit:

The Commonwealth of Virginia" To the Sheriff of Southampton County Greeting" We Command you that You summon Thomas B. Brale & Charles St Urquhart to appear at the Clerks 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 September next to answer a bill in Chancery Exhibited against them in the said Court by Cuthbert D. Barham and unless 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 £100 and have then there this writ Witness Littleton R. Edwards Clerk of our said Court, at the Courthouse the 22 day of August 1843 in the 68 year of the Commonwealth. LR Edwards Clk"

Sheriffs Return" Executed on Charles St Urquhart & Thomas B Brale No Inhabitant: William A Bree Depty of William L Everitt Shff"

And at another day to wit: At Rules held in the Clerks office aforesaid on the first Monday in October 1843 came the Defendant Urquhart by his Counsel and filed his answer to the amended bill in the following words and figures to wit"

The Answer of Charles St Urquhart to the amended bill filed against him & one Brale by one Cuthbert D. Barham in the Circuit Superior Court of law & Chy for the County of Southampton: This Respondent reserving & saving to himself all benefit & advantage of exception to the many defects errors &c in the said amended bill found & for answer thereto answering & saying that it is true at the time of the service of the restraining order (or subpoena) in & bill mentioned the said Brale was living on a farm of this Respondent in the state of North Carolina in the capacity of overseer manager agent &c for which should he the said Brale faithfully honestly and properly discharge the duties of his trust and account for Matters &c within his control: he this Respondent was at the end of the year to wit the year 1841 pay him the sum of $333 & that all along during the year 1842 the said Brale sold the produce of the farm & what had been Made thereon & retained in his own hands & used the proceeds intending to account for them on settlement and in this way doubtless paid himself in advance for his services for which however this Respondent conceived from the Nature of the bargain he was not bound to allow until the end of the year yet was willing to allow him the use of proceeds in payment of his salary that is Your Respondent means to say that the obligation on him to pay the $333 to Brale would have depended on a proper & faithful & continuous discharge of his duties for the entire year which being done would have made proper the use by Brale of the said proceeds of sale of produce &c that therefore which at the times of the service of said order this respondent had not paid himself to Brale any Money yet that Brale had no doubt as large sum of what might be due him that at that time he could not possibly say what had been rec'd by said Brale or what would be coming to him at the end of the year if indeed any thing for upon a settlement at the end of the year 1842 the said Brale was indebted to this Respondent in the sum of $77.52 besides several sums of Money assumed by this respondent for Brale the said $77.52 being in fact Money which Brale in discharge of his duty belonging to this Respondent but applied to his own use so therefore he was not indebted to him but on the contrary Brale owed this Respondent that at the said time mentioned this Respondent had no effects whatsoever of said Brale in his possession nor has he had any since nor has he any Now that he was not indebted to the said Brale at the date of the said restraining order, and that this Respondent has reason to believe that Brale was in advance to him and appeared upon the result of final settlement between them that having fully answered the complainants bill he prays to be hence dismissed with his costs in this behalf expended" C St Urquhart

Southampton County to wit: Charles F. Urquhart personally appeared before me F.A.W. Newsom a Justices of the peace for the County aforesaid and made oath that the facts in the above answer specified as therein stated to the best of his knowledge & belief: F.A.W. Newsom J.P.

To which answer the plaintiff by his counsel replied generally

And at another day to wit: At Rules held in the Clerks office aforesaid on the first Monday in December 1843 This cause was set for hearing as to the Defd Urquhart

And now at this day to wit: At a Circuit Superior Court of Law and Chancery held for the County of Southampton on the 6 day and year first herein aforesaid to wit on the 6 day of May 1844:

The Defendant Thomas B. Brale who is out of this County and against whom the plaintiff appears to have proceeded in the mode prescribed by law against absent defendants still failing to appear and answer on Motion of the plaintiff by Counsel his bill is taken for confessed as to that defendant and the cause coming on to be heard on the bill and amended bills Exhibits and answers of the defendant Urquhart was argued by counsel on Consideration whereof the Court doth adjudge order and decree that the defendant Thomas B Brale pay to the plaintiff Cuthbert D Barham the sum of $78.13 with interest thereon from the 12 day of October 1840 till paid together with the sum of $4.66 and also the further sum of $40.13 with interest thereon from the 9 day of October 1841 till paid together with the cost of this suit: and the Court doth further order adjudge and decree that the plaintiffs bill be dismissed as to the defendant Urquhart and that he recover of the plaintiff his costs expended in defending this suit

The Executions which issued upon the foregoing decree together with the Sheriffs Return thereon are in the following words and figures to wit

"The Commonwealth of Virginia" To the Sheriff of Southampton County Greeting We Command You that of the goods and chattels of Thomas B Brale late in your bailiwick You cause to be made the sum of Seventy three dollars twenty three cents with interest from the 12 day of October 1840 till paid together with the sum of $4.66 and also the further sum of Forty dollars & thirteen cents with interest from the 9 day of October 1841 till paid which Cuthbert D Barham lately in our Circuit Superior Court