

1848-001 SOUTHAMPTON COUNTY
CHANCERY PAPERS

BISHOP

VS. BARNES etal

5/1848

other SURNAMES: Story,
Powers

#12 883.

Bishop

v. } Papers

Barnes. Ye.

Nov 47.

Celks — 89.91

Shiff — 3.63

Coats 2.50

Law 8th 17.46

33.45

1.1.2

May '18 34.87

Bishop

v. { Statement

Barnes & Co

John A Bishop

v.

James O Barnes. Carr Bowers late Sheriff & Committee of the estate of James Bishop
& Polly Story adm^r with the will annexed of Saml. Story -

1844 Jan^y. 1st Subpoena issued returnable to February Rules.

Feb^y. R. Subp^a returned executed on Polly Story. Bowers & Barnes not found - Bill
Filed & new Sp^e. aw^d to Bowers & Barnes -

" March " Subp^a ret^d Executed on Bowers. Barnes no inhabitant.

" Apr^l " Cause set for hearing as to Dft. Story adm^r & Sp^e.

" May " Cause set for hearing as to Dft. Bowers Shff. & Com^r. & Sp^e.

" Term. Cause heard by consent. & decree for an account of James O Barnes:
- guardianship of John A Bishop -

" Nov. T. Continued.

1845. May. Continued.

" Nov. Continued -

1846 Nov. Continued.

1847. May - Decree ~~reversed~~

" July 21. Report.

" Nov T. Decree & Barnes.

Bishop

i } Bill
v } a
Ex: 65

Barnes do-

Jan. 21st

(R. G.)

To the Hon. Judge of the Circ. Sup. Court of
Law & Chancery for the County of Southampton,
in Chancery -

Your complainant John H
Bishop of the State of S. Carolina, formerly
of the County aforesaid, humbly sheweth, that
on the 26th day of March in the year 1826
James C. Barnes was appointed guardian
at law to your complainant, by the County
Court of said County, and duly qualified
as such, with one James Bishop and
Gerruel Story as his securities to the
guardian bond; all of which will appear
by a true copy of said bond, herewith filed
and prayed to be taken as part of this
Bill - Your complainant further states,
that the said Barnes, as his guardian, took
possession of his property, which consisted
of money and other property, which your
complainant has never been able to ascer-
tain; his guardian having rendered no ac-
count whatever, as he is required to do by
law. That since his arrival to the age of 21
years, he has never been able to effect a set-
tlement with the said Barnes his former
guardian, and receive his property from his
hands, although he has frequently pressed
it upon him; all of which is contrary to
equity and justice. In tender consideration
of the premises and for as much as your
complainant is only relievable in a
court of equity, he prays that the said
James C. Barnes, Barr Barnes late sheriff
& committee of the estate of James Bishop
and ~~Gerruel Story~~ ^{Raffly Story & others} with the said James C. Barnes, may be made de-
fendants to this bill, that they be compelled
to answer the premises, and that the
said Barnes, his former guardian, may
be compelled to render before a commissioner

of this Court, a true and accurate account
of his guardianship - and that the Hon Court
will decree to him such balance as may be
found in his favor - Your complainant
prays the usual and proper process against
the said Barney who is now an inhabitant
of the state of S. Carolina, and such other
and general relief as he may be entitled
to from the facts of his case, and he will
as in duty bound ever pray &c -

Rielly & Goodwyn
attys

Bishop

& {Answer of D^r. Barnes

Barnes Jr

1844 May 3 filed by court.

The separate answer of James C. Barnes to a Bill of complaint exhibited against him and others by John Henry Bishop in the Circuit Sup. Court of Law & Chancery for Southampton

This defendant reserving to himself all fit and proper exceptions to the many errors and misstatements in Plaintiffs Bill contained in answer thereto, or to so much thereof as he is advised it is material for him to answer answers and says - It is true he qualified as the guardian of Complainant, and gave the securities mentioned, as will appear by reference to the Guardian bond -

He also states that but a small sum ever came into his hands as Guardian belonging to the said Bishop, and that sum was expended in raising and educating the plaintiff, and indeed a much larger sum was necessarily expended than he was entitled to - it being laid out and advanced by this Respondent as absolutely necessary to the raising of his ward, who was a mere child when he took his Guardianship, and utterly incapable of rendering any assistance to himself or of being bound out -

This Respondent offers no objection whatever to the account asked for but has at all times been ready to settle his account when called on - The amount in controversy is very small, and the account simple, ~~and~~ and the Respondent Barnes not being a resident of Virginia is the reason why his account has not been returned - and now having answered prays to be hence dismissed with his

B is top

to } Deener

Bornes

To be entered

RHB

Bishop

2

Bornes &c

Deane

This day this cause came on
to be heard by consent of parties, on the bill
& exhibits and answer of the defendant Bornes
and was argued by Counsel. On consideration
whereof, by consent of parties the Court doth
order that James C. Bornes render an
account of his guardianship of John Henry
Bishop before Commrs. Cobb, who is hereby
directed to ascertain settle and report thereon
together with any matter deemed pertinent
by himself or which may be required to
be so stated by either of the parties

Bishop
i
Barnes

3
3
3
And: Decree

To be entered
R. H. B.

1847 May Term

Bishop

May Term 1847

2

Decree. amended

Bornes &c.



This day this cause came on again to be heard on the papers formerly read and was argued by counsel. On consideration whereof the Court doth order that so much of the order entered in this cause at May Term 1844 as requires the defendant James C. Bornes to render an account of his guardianship of John H. Bishop before Comr. Cobb, be and is hereby amended so as to require any Comr. of this Court to a clerk who is hereby authorized and directed to audit, state and settle said account, and report the same to Court with any matter claimed pertinent by himself or which may be required to be specially stated by either of the parties.

V. Bishop

Wm. D. Barrett

Barnes

A Copy

July 20th

Southampton Circuit Superior Court - May Term 1845

John W Bishop

Plff -

against $\frac{3}{4}$ In Chancery

James & Barnum Carr Bowers late Sheriff and committed of
the estate of James Bishop and Polly Story administrators
with the Will annexed of Saml Story Defendants

This day this cause came on again to be heard on the
papers formerly read and was argued by counsel on
consideration whereof the court doth order that so much
of the Order entered in this cause at May Term 1844
as requires the defendant James & Barnum to render an
account of his Guardianship of John W Bishop before
Commissioner Cobb - be and is hereby amended so as to
require any Commissioner of this Court to act who is hereby
authorized and directed to audit said and settle said account
and Report the same to Court with any Matters deemed
pertinent by himself or which may be required to be
specially stated by either of the parties

A copy Issued L R Edwards Clk

Bishop
i } Secra
Borneo

To be entered
RHB

1847 Nov Term

Bishop

i

Bornesse-

Decree

Nov: Term 1847

This day this cause came on again to be heard on the papers formerly read and the report of Commissioner Goodwyn made pursuant to the order of May Term 1847 to which no exceptions have been filed, and was argued by counsel, on consideration whereof the Court confirming said report, doth order and decree that the defendant James C. Bornes pay unto the plaintiff John H. Bishop the sum of one hundred and ninety seven dollars and 75/100, with Int. thereon from the 1st day of January in the year 1844. till paid, together with the costs of this suit. And liberty is hereby reserved to the plaintiff to proceed against the other defendants in the cause, should this decree prove unavailable.

Bishop

i } Leena

Barnard

To be entered

R. H. B

1818. May

Bishop v Bowers & others

May Term 1848

It appearing to the Court that Polly Story
adm^r with the will annexed of Lemuel Story has died since
the last term, it is ordered that she name be suggested on the
record. And the cause coming on again to be heard, by consent
of parties, on the papers formerly read, was argued by counsel.
On consideration whereof, it appearing to the Court that the
deeds entered in this cause at November Term 1847, be as
found unavailing, the Court ^{by consent of Parties.} doth adjudge order and decree
that the defendant Carr Bowers former sh^{ffs} Comm^r of the
estate of James Bishop, out of any appts of said Estate in his
hands, pay unto the plaintiff the sum of one hundred
ninety seven dollars and 75/100 with Int thereon from the
1st Jan^y 1844 till paid, together with the costs of this
suit.

Bishop

in Sp. in Chy

Barnes & Co

1844 February Rules

Executed on Pally Story.

~~Left Bishop John~~~~2 Bishop John's~~~~Bishop and Co~~~~Bishop and Co~~~~Bartholomew & Co. Barnes & Co~~~~C. D. Bishop Dr of~~~~Mr Lewis & Co~~

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *James L Barnes, late Barrister late*
Sheriff of Southampton County & administrator of James Bishop
de^d & Polly Story Administrators of Samuel Story de^d.

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

John A Bishop

And unless *they* shall answer the said Bill within ^{*four*}~~four~~ 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 *1st* day of *January* 18*44* in the
68th year of the Commonwealth.

L R Edwards

[One Copy to be delivered each Defendant.]

Bishop

to } Spain City

Barnes Jr

1846 & 1847 Rules

Carr Esq. on
 of Messrs
 W. L. Carr Esq. Sheriff
 James C. Barnes
 No Inhabitant
 of Messrsburg by Sheriff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *James C Barnes & Lewis Dowers*
late Sheriff of Southampton County & administrators of
James Bishop dec'd

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 *March*
next, to answer a Bill in Chancery exhibited against *them* ^{*& another*} in the said Court by

John A Bishop

And unless *they* shall answer the said Bill within ^{*two*} ~~four~~ 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 *5th* day of *February* 18*44*, in the
68th year of the Commonwealth.

L R Edwards Clk

[One Copy to be delivered each Defendant.]

the all knowledge series of the within
notice —

I acknowledge the within
Notice

Can. Bowers

I acknowledge the within Notice

P. D. Story

Mary + Story
mark

Bishop
i } Notice
Borne

~~Longer than the above~~
~~and the above is the~~
~~the above is the~~
~~the above is the~~

Wm: James C Barnes, Carr Bowers late Sheriff & Committee
of the estate of James Bishop decd: and Polly Story admr:
with the will annexed of Lamb: Story decd: —

I take notice that on the 10th day of October next at the Law
office of William C. Smith, in Murfreesboro: Hertford
County N. Carolina, I shall proceed to take the depositions of L. J
Spicer and others to be read as evidence in a chancery suit now
depending in the Circ: Sup: Court of said Chancery in the County
of Southampton, State of Virginia, in which I am plaintiff
and you are defendants —

Sept: 16th 1846 —

John H Bishop

Bishop
2 } Conn. Police
Burns &c

July 20th 1847

Circuit-Superior Court-
Southampton County, Virginia
Shff

John H Bishop
against-

James C Borne, Carr. Borne, late shff. & committee of James Bishop decd.
and Polly ~~Stony~~ admx: with the will annexed of said: Stony decd: Deft.

Pursuant to a decree of the Circuit-Superior Court of law & Ch-
for the County of Southampton entered at May Term in the year 1844
and amended at May Term 1847. the above named parties are notified
that the undersigned Commissioner has appointed Tuesday the 28th July
next, at 10 O'clock, at the Commr. office in Jerusalem, County & State aforesaid
for the purpose of taking the account therein required. At which
time and place said parties are required to appear with the necessary
papers to enable the Commr. to make up the account

H. A. Goodwyn
Commr. in Chancery

May 24th 1847

State of North Carolina

Hulford County

Before me Geo. W. Harrell
one of the acting Justices of the peace in and
for said County, duly commissioned and qualified;
this 5th day of June 1847, personally appeared ~~John~~
P. Bridger one of the Constables of said County
who makes oath, that he the said Bridger, left a
Copy of the annexed notice at the house of J. C. Barnes
directed to him on the 2nd day of June 1847, he the said
Barnes not being present; and the said Geo. P. Bridger -
Constable aforesaid, further makes oath, that he also
delivered personally to said J. C. Barnes the day
of the date of this affidavit another true and correct
Copy of the annexed Notice directed to him (said
Barnes) at the same time stating its contents to him
or further with not,

Given to and subscribed,

this 5th day of June 1847, before
me, Geo. W. Harrell

Geo. P. Bridger Const

Bishop

v. } Depositions

Barnes &c

Came to hand sealed October 18

1846 -

State of North Carolina }
Hertford County }

Pursuant to the annexed commission from the Circuit Superior Court of Law and Chancery for the County of Southampton in the State of Virginia and according to notice we John W. Harrell and John V. Lawrence acting Justices of the Peace for the County of Hertford in the State of North Carolina duly commissioned and sworn proceeded this 10th day of October A.D. 1844 at the office of W. A. Smith in the Town of Martinsboro in said Hertford County to take the deposition of Lewis T. Spivey

to be used in evidence on behalf of the Plaintiff in a certain Suit in Chancery, depending in the said Circuit Superior Court in which John A. Bishop is Plaintiff and James C. Barnes Barr Bawertote Sheriff and Committee of the Estate of James Bishop Dec'd and Polly Story Adm'or, with the will annexed of Lamb Story are defendants.

The said John A. Bishop and James C. Barnes both being present, L. T. Spivey being produced a witness for the Plaintiff and duly sworn deponee answers and says.

Question by Plaintiff
Please to state if you ever heard the defendant J. C. Barnes speak of his

Guardian account with the plaintiff
if so when and where and what was
said

Answer of S. J. Spier

On the 30th of Sept. 1845 I was in the town
of Weymouth in this County, John A. Bishop
the plaintiff and James C. Barnes the defend-
ant were both present. Mr Barnes had
with him a statement of his Guardian
accounts with the plaintiff, and I
heard him say to Mr Bishop that
that was all the account which he
had with said Bishop up to that
time. I examined the accounts which
the said Barnes exhibited at the
request of the said Bishop then by
him, and compared it with the
annexed copy which he Mr Bishop
had, and found them to be exactly
alike, the copy spoken of as being
in the possession of Bishop is the
same here with annexed marked
A, I am thus particular in my recolle-
ction of what occurred and of this
copy from having made a memoran-
-dum on it, at the time
and further forth not

Subscribed and sworn to before us this 30th of
1845.

John A. Bishop
James C. Barnes

We John A. Bishop and John A. Lawrence
Justices of Peace certify that we are
acting Justices of the Peace in the
County of Westford and State of
North Carolina ^{and duly commissioned and sworn} and that the foregoing
deposition of Lewis J. Spier was taken
and reduced to writing in our presence
at the time and place stated in the
caption in presence of both parties
each having full liberty to interrogate
the witness

John A. Bishop
John A. Lawrence J.P.

Bishop

v. } Com:

Darius ye

The Commonwealth of Virginia: To any two Justices of the peace in
the ~~the~~ State of North Carolina who will certify themselves ^{to be such} Greeting:

Know ye that we trusting in your fidelity and provident circumspection
in diligently examining whatsoever witnesses on behalf of the plaintiff
in a Suit in Chancery depending in our Circuit Superior Court of Law
& Chancery for the County of Southampton in the State of Virginia
in which John H Bishop is plaintiff and James C Barnes, Carr Bowers
late Sheriff & Committee of the estate of James Bishop dec^d and Polly
Story administratrix with the will annexed of Saml. Story Defendants —

command you, or any two or more of you, that at such day and place as you
shall appoint, you assemble yourselves, and the witness is aforsaid before you,
you call and cause to come, and diligently examine on the Holy Evangelist
of Almighty God, and their — examination into our said Court dis-
tinctly and plainly without delay you send and certify enclosed, returning also
this writ: Witness, ^{L. R. Edwards} ~~James Rochelle~~, Clerk of our said Court, at the
Courthouse this 15th day of September 1846
in the 71st year of the Commonwealth.

L. R. Edwards *clerk*

Mr Alfred W. Garden

Dear Sir/

I have enclosed
these notices and want you to execute
them immediately.

Very Respectfully
Ch^o H. Bishop
" " "

Executed 27th Sept.
1846 by leaving
a copy at the house
and with the wife
of James C. Burns

A. S. Perry M^y
By A. S. Perry M^y

To James C. Barnes

You are hereby notified that, at the office of William N. H. Smith in the Town of Manassasboro County of Hertford, State of North Carolina, on the tenth day of October next, I shall proceed to take the depositions of Lewis T. Spiers and others, to be used as evidence on the part of the plaintiff, in a certain suit in chancery depending in the Circuit Superior Court of Law & Chancery for the County of Southampton in the State of Virginia wherein John H. Bishop is plaintiff, and James C. Barnes Carr Bowers, late Sheriff and Committee of the Estate of James Bishop dec'd, and Polly Story administratrix with the will annexed of Sam^l Story are defendants; and if the evidence is not taken on that day, the Case will be continued from time to time until completed, where and when, you can attend & put such interrogations as you deem proper

September 26th 1846

John H. Bishop
" " "

Bishop
i } Reports
Burnes

1847 July 21st

Bishop
i
Barnes

Commissioners office
Jerusalem July 20th 1847

John H Bishop

In account with James C Barnes Guardian

1839			Dr	Cr
Jan'y.	1	By this amt: due from last report	145	75
1834		" Int: shown from Jan'y 1-1829 to Jan'y 1-1844-	131	10
Octo: 31		" Amt received of E Beets	52	00
		" Int shown to Jan'y 1-1844.	28	60
		To this amt: paid board and other expenses of		
1844		ward from Jan'y 1-1829 to Jan'y 1-1844		159 70
Jan'y.	1	By bal: due the ward -		197 75
			357 45	357 45
"	"	By bal: due the ward but down	\$ 197 75	
		With Int shown from this day till paid		
		Respectfully submitted		
		W. S. Goddard		
		Comm: in the		
		Comm: fee \$ 2.50		
		chd: to plff		

The Comm: beg leave to state specially that the above account is made up from a deposition filed in the cause and a copy of an account ~~submitted~~ by the Guardian and furnished the ward filed with the deposition. It appears from said copy that the Guardian expended more than the whole estate of his ward: both principle and Int: The Comm: credited the Guardian with the whole of the Int: and profits of his ward's estate, and only charged him with the principle received with Int: from the 1st Jan'y: 1844, the time at which the suit was commenced, there being no evidence before ^{him} as to the time at which the ward arrived at full age. There is nothing before the Comm: to show that the Guardian ever obtained orders from the County Court permitting him to expend any portion of the principle of his ward's estate, and it is certain that no such orders were ever made.

W. S. Goddard
Comm:

13 weeks
to 3 Exchanges with paper bill.
Darius V

John H. Bishop's
Guardian Bond

A copy

for 36 Cents

Know all men by these presents that we James C. Barnes
James Bishop and Samuel Story are held and firmly Bound unto
James S. Moseburg Jephthah Darden Alexander P. Peeto and Charles
W. Goddard Gentlemen justices of Southampton County Court who
sitting in the sum of five hundred dollars the payment whereof
well and truly to be made to the said justices and their successors
we Bind ourselves & each of our heirs Exors & Adors jointly and
severally firmly by these presents sealed with our seals and dated
this 20th day of March 1826

The condition of the above obligation is such that whereas the above
Bound James C. Barnes hath been appointed Guardian to John St.
Bishop orphan of Lawrence Bishop dec^d Now therefore if the said
James C. Barnes Guardian as aforesaid shall well & truly pay
and deliver or cause to be paid & delivered unto the said John St.
Bishop orphan as aforesaid all such estate or estates as now is
or may hereafter appear to be due & owing to the said orphan
when he shall attain lawful age or when the same is required by
the justices of our said County Court and also save harmless
the above named justices in the premises from trouble & damage
that shall or may arise about the said estate or Estates then this
obligation to be void or else to remain in full force & virtue.

Signed sealed & delivered
in presence of
A. Middleton

James C. Barnes *Seal*
James Bishop *Seal*
Samuel Story *Seal*

A Copy

Teste

L. R. Edwards *clerk*

Paper A.

Referred to in L. C. Spies
deposition,

M. Barrett

W. Lawrence

John H. Bishop in account with James C. Barnes his Guardian

Jan'y 1829.	To Medical acct paid Dr. John Muddanagh	\$4.75	
	Interest on do. from Jan'y 27 th 1829 to 1 st Aug ^t 1843	4.13	8.88
June 1831	To Amount paid A. Riddicks Store acct,	\$1.38	
	Interest on do. to 1 st August 1843.	1.00	2.38
Jan'y 1833.	To Board for the Year 1832	\$30.00	
	Interest on do. to 1 st August 1843.	18.00	48.00
	To Amount of James M. Hill acct for tuition 1832	\$5.00	
	Interest on do. to 1 st August 1843.	3.00	8.00
Jan'y 1 st 1835-	To Amount of St. R. Riddicks acct for tuition	\$7.50	
	Interest on do. to 1 st August 1843.	3.89	11.39
	To Board for the Year 1834	\$30.00	
	Interest on do. to 1 st Aug ^t 1843	15.60	45.60
Jan'y 1 st 1836	To Board for the Year 1835	\$30.00	
	Interest to the 1 st Aug ^t 1843	13.80	43.80
Jan'y 1 st 1837	To Board for the Year 1836	\$30.00	
	Interest on do.	12.00	42.00
Jan'y 1838.	To Board for the Year 1837	\$30.00	
	Interest to the 1 st August 1843.	10.20	40.20
Jan'y 1839.	To Daniel Gibbs acct for tuition	\$4.00	
	Interest from 1 st Jan'y 39 to 1 st Aug ^t 1843.	2.04	8.04
	To Board for the Year 1838	\$30.00	
	Interest to 1 st August 1843	8.40	38.40
Jan'y 1840	To Board for the Year 1839	\$30.00	
	Interest	6.60	36.60
Jan'y 1841	To Board for the Year 1840	\$30.00	
	Interest to 1 st August 1843	4.80	34.80
March 1 st 1837	To Amount of Abram Riddicks Store acct	\$4.49	4.49
			<u>\$372.58</u>

January 1st 1839 By this Amount due as pr. my last returns dated
 January 1st 1829 \$145.75 145.75
 Interest on the same to 1st Aug^t 1843 \$128.25 128.25
 Oct. 31st 1834 By so much Recd. of Edward Bullets deputy sh^{ff}
 for ward as pr receipt \$52.00 52.00
 Interest to 1st August 1843 \$27.34 27.34
 \$353.34

145.75
 52.00
 197.75

The above is a true copy of the Account of
 of James C. Barnes against John H. Bishop &
 Mr. Barnes acknowledges it to be all the account
 he held against said Bishop in my
 presence
 Sept 2nd 1843
 L. J. Spier