

1854-002

SOUTHAMPTON COUNTY
CHANCERY PAPERS

DUNN and Wife etc. vs. BARHAM et al

11/1854

Other surnames: Davis,
Simmons, Bittle, Turner,
Kello, Coker

Dunn & Wife
v } Papers

Barham & Co

1854 November

Dunn & wife
2. } Stat. Rules

Barthman & Co

Wk.	\$10.95
Shiff.	3.50
O.P.	5.00
Comm.	20.00
Saw.	15.75
	\$ 55.20

William L Dunn & Emeline his wife formerly Emeline Davis and Samuel Kello
Sheriff and as such admor. of Robert Davis.

against

Benjamin Barham, Zebulon L. Simmons, Nicholas J. Barham, John Bittle and Jacob
Turner and Mary his wife.

1853.

Jan. 20th Summons issued.

" Feb. 7. R. Sum. ret. Executed on Nicholas J. Barham. not ex^d on others. New Sum.
aw^d to Dfts. Benj. Barham, Zeb. L. Simmons, John Bittle & Jacob Turner &
wife.

" Mar. 1. Sum. ret. Ex^d on John Bittle & Jacob Turner wife. Benj. Barham &
Zeb. L. Turner not found. Bill filed. Decree nisi to Dfts Nicholas J.
Barham, John Bittle & Jacob Turner & wife.

" Apr. " Bill taken for confessed as to Dfts. N. J. Barham, John Bittle & Jacob
Turner & wife. Or. Sub. to Dfts. Benj. Barham & Z. L. Simmons

" (Last Monday) Cause set for hearing as to Dfts. N. J. Barham, John Bittle &
Jacob Turner wife.

" Nov. 7. Ans. of N. J. Barham filed by consent. Decree for account.

1854 May. ans. of Bittle Turner wife Rep. & decree &

" Nov. Decree.

Bunn + wife
vs. Bill.
Burham et al.

1853 March Rules

(1452 Words)

March Rules

To the Honorable Richard H. Baker, Judge of the Circuit Court of Southampton County - In chancery -

Humbly complaining your complainants Wm. L. Dunn and Emeline his wife, formerly Emeline Davis, and Samuel Wells Sheriff and as such admr. of Robert Davis dec^d, shew to the Court, that at the May term of the County Court of Southampton 1836, Benjamin Barham qualified as the guardian at law to your oratrix who was then Emeline Davis the widow of Robert Davis dec^d, and who has since intermarried with Wm. L. Dunn, and to Robert Davis orphan of the said Robert Davis dec^d, who departed this life when an infant sometime in the year 1843 or 44, and his estate committed to the hands of Samuel Wells Sheriff of Southampton County at the January Term of the Court of said County 1853 - Your complainants state that the said Benjamin Barham, at the time of his qualification as guardian aforesaid, entered into two separate bonds in the penalty of \$1000. each, with Zebulon L. Simmons and Nicholas J. Barham as his securities conditioned as the law directs, (Copies of which bonds are herewith filed and prayed to be taken as parts of this bill). Your complainants state that the said Benjamin Barham received a large sum of money as guardian aforesaid from Eli Barker the admr. of Robert Davis dec^d, to-wit, the sum of \$506.79½ paid it being the entire amount dec^d by the said guardian aforesaid to him sometime in the year 1836, but has totally failed to render any account of his transactions as guardian aforesaid, and has departed from the limits of this State without accounting to them in any manner whatever for said amount received by him. Your complainants state that he is now living in the State of Tennessee, and they are informed, is totally insolvent - that Zebulon L. Simmons is a resident at this time of the State of North Carolina - Your complainants desire a settlement

of his transactions, ^{as Guardian of said} and the payment of the balance that may be due them.

~~Your oratrix~~ ~~Emeline of said~~ further states that her late husband Robert Davis departed this life sometime in the year 1834, leaving a last will and testament which was duly admitted to record in the County Court of Southampton at May term 1834, (a copy of which is herewith filed and prayed to be taken as a part of this bill) - That some few months after his death she gave birth to a son which was afterwards ^{named} Robert Davis - That she was under legal age at the death of her husband, and before she had attained the age of twenty one, she removed to the State of Tennessee where she intermarried with one Wm. L. Dunn and that they have since resided in said State. Her son Robert Davis lived but a few years and died under age and unmarried. Your oratrix is advised that according to the will of her said husband Robert Davis, at the death of her son under age and unmarried, his whole estate belonged to her during her natural life, and at her death to John Bittle and Mary Bittle. That Mary Bittle has intermarried with one Jacob Turner -

In tender consideration of the premises and in as much as your complainants are without remedy save in a Court of Equity, it is prayed that Benjamin Barham, Zebulon S. Simmons, Nicholas J. Barham, John Bittle and Jacob Turner and Mary his wife, be made parties defendant to this bill - That an order of publication may issue against the absent defendants - And that all of said defendants shall be compelled to make answer on oath to call and singular the matters hereinbefore stated and charged as fully and particularly as if the same were herein after repeated and they thereto distinctly interrogated - That the said

Benjamin Barham render before a Commissioner of this Court an account of his transactions as Guardian to Emeline and Robert Davis, and that the said Benjamin Barham, Zebulon S. Simmons and Nicholas J. Barham, or some one of them, shall be compelled to pay to your complainants the balance that may be found due the said Emeline and Robert Davis, and that your honor will decree such further and general relief in the premises as equity may dictate, and as in duty bound they will ever pray, I

W. W. C. 4/9

Answer of
Barham to J. Barham

Filed by Comen

1853 Nov. 9th

The Answer of Nicholas J. Barham to a Bill filed
in the Circuit Court of So. Hampton, County, N.C. by Furon & wife & als.
against him & others: &c.

This Respondent having and excepting &c. for answer to as
much of said Bill as he is advised it is material for him to answer
says, that, from after the service of the Subpoena in this cause on him
he became a resident of St. Paulina and so continues, and has therefore
been unable to give the attention to this suit as it merits. That
he does not deny that he executed the Bonds as one of the Agents
of Benj. Barham as is stated in the Bill, but as to all the other
facts, and as to the construction of the Will of Robert Davis &
, or as to the death of Robert Davis, this Respondent is entirely igno-
rant, and demands of the Plaintiff full & satisfactory proof;
And this Respondent, trusts for his defence upon the ^{highest} plea of the Stat.
of Limitations in as complete a manner as if the same were here
pleaded specially; and having answered from hence to be dispensed

Nicholas J. Barham

J. R. Kunkel put to his use

Dum & wife
vs & Answer of dft:
Barham et al.

Filed by Consent
W. W. Cook

1854 May 3^d

To The Hon. Richard H. Baker judge of The
Circuit of Southampton County. May term
1854. In chancery.

The joint and separate answer of John S.
Bittle and Jacob Turner and Mary his wife,
to a bill of complaint exhibited against
them and others in this Honorable Court.

^{by Wm. L. Dunn & Co.}
These defendants having answered ^{to} them-
selves all benefit of just exception to said
bill, answer and say, that they believe
the facts stated in said bill are true.

That they are advised that they are enti-
-tled to the amount due from Benjamin
Barham guardian to Emeline and Robert
Davis, after the death of the said Emeline
Davis who has intermarried with William
L. Dunn who now resides in the State of
Tennessee. The said William L. Dunn and
Emeline his wife being, residents of the State
of Tennessee, and out of the jurisdiction of
this honorable court, your respondents pray
that the amount due from Benjamin
Barham guardian as aforesaid, when
collected shall be paid into this Court,
and invested under its order, until the
death of the said Emeline Dunn, or that
this Court will make some other order
protecting their interests. And having
thus answered pray to be taxed dismissed
with their costs &c.

Colts for depts.

Dunn & wife
vs
Barkham & others

To be Enclined
Nov Term 1853
R. H. Baker

Dunn & wife &c

vs

Barham & al.

The bill of the complainants having been taken for confessed as to the defendants John Bittle, Nicholas J. Barham and Jacob Turner and Mary his wife, and they still failing to answer, and it appearing to the Court that the plaintiffs had proceeded in the mode prescribed by law as to the absent defendants ^{who still} Benj^a Barham and Zebulon L. Simmons - ^{their cause} failing to appear and answer, the bill is taken for confessed. This day came on to be heard on the bill ^{as to them} of the complainants, ^{answer of the defendant et. al.} exhibits and examination of Barham filed at this ^{day} ^{by consent of the parties} and was argued by Counsel, on consideration whereof the Court doth adjudged order & decree that Benjamin Barham render, before a Commissioner of this Court an account of his transactions as guardian to Emeline and Robert Davis, ^{ix.} and said Commissioner is directed to take & settle said accounts, and report them to this Court with any matters specially stated, deemed pertinent by himself, in which he may be required to do by either of the parties.

- * Showing the source from which the money received by him as Guardian of Emeline & Robert Davis or either of them, was derived, whether under or by virtue of the will of Robert Davis, a copy of which is filed as an exhibit in this case, or from what other source!

Dunn wife &c

Co. Durand

Barham &c

Ret'd with Gen. Galt's reg. Mar 27 1854

Southampton Circuit Court November the 9th 1853.
William L Dunn & Emaline his wife. formerly Emaline Davis and Samuel Kello
Sheriff and as such adm. of Robt. Davis

Plffs.

against
Benjamin Barham, Zebulon S Simmons, Nicholas J. Barham, John Bittle
and Jacob Turner and Mary his wife.

Defts.

The bill of the complainants having been taken for confessed at the Rules as to the
Defendants John Bittle, Nicholas J. Barham, and Jacob Turner and Mary his wife, and
it appearing to the Court that the plaintiffs had proceeded in the mode prescribed by
law as to the absent defendants Benjamin Barham and Zebulon S Simmons who still
failing to appear and answer, the bill is taken for confessed as to them - the cause this day
came on to be heard on the bill of the complainants, answer of the defendant N. J. Barham
filed this day by consent & replication thereto, exhibits and examination of witnesses, and
was argued by counsel. On consideration whereof the Court doth adjudge, order and
decree that Benjamin Barham render before a Commissioner of this Court an account of
his transactions as guardian to Emaline and Robert Davis, showing the source from which
the money received by him as guardian of Emaline & Robert Davis, or either of them,
was derived, whether under or by virtue of the Will of Robert Davis a copy of which is
filed as an exhibit in this cause, or from what other source. and said Commissioner is
directed to take & settle said accounts and report them to this Court with any matters
specially stated, deemed pertinent by himself or which he may be required to do by
either of the parties.

At Copy.

Teste L R Edwards Clk

Dunn wife

vs & Deane
Benham & others

To be entered

R. H. Baker

May Co. '54.

1854 May Term

Dunn & wife

v

Barham & others

This day this cause came on to be again heard on the papers formerly read. On the answer of John Bittle and Jacob Turner his wife, filed this day by consent, replication thereto, and on the report of Commissioner Cobb made in pursuance of a decree rendered in this cause at Nov. Term 1853, to which report no exceptions have been filed, and the court confirming the same, doth adjudge, order and decree that Benjamin Barham pay to William L. Dunn and Emeline his wife, formerly Emeline Davis, the sum of \$165.52 with interest thereon from October the 14th 1836, and also the sum of \$360.97 with interest thereon ^{from} the 14th day of April 1838, and liberty is hereby reserved to the plaintiffs to apply for further relief to this court against the securities of the said Benjamin Barham, if it should become necessary. But this decree is to be suspended until the said William L. Dunn, or some one for him shall give bond with sufficient security in the clerk's office of this court before the clerk of said court, ^{in the penalty of \$1000.} and made payable to John Bittle and Jacob Turner and Mary his wife, conditioned that the amount ^{of \$526.50} ~~of \$526.50~~ shall be forthcoming to John Bittle and Jacob Turner and Mary his wife, at the death of his wife Emeline Dunn.

Winn & wife &c
127 } Decr
Barham & others

To be entered

R. H. B.

Nov. 20. '54

Dunn & wife &c
vs } Decree
Barham & others.

This day this cause came on to be
^{heard} again, on the papers formerly read, and it appearing
Court from the return of the Sheriff on the execution issued
to the ~~plaintiffs~~ of the ~~debt~~ that the decree rendered
under the same was in this cause ~~against~~ Benjamin Barham
is ~~the~~ ^{the} ~~principal~~ ^{principal} ~~obligor~~, that ~~the~~ said decree had proved unsatisfying
Barham ~~had~~ ^{had} ~~proved~~ ^{proved} ~~unsatisfying~~, therefore, on the
motion of the plaintiffs, the Court doth further adjudge,
order and decree that Nicholas J. Barham and
Zebulon L. Simmons pay to William L. Dunn and
Emeline his wife, formerly Emeline Davis, the sum
of \$165. $\frac{52}{100}$ with interest thereon from the 14th day of
October 1836, and also the sum of \$360. $\frac{97}{100}$ with
interest thereon from the 14th day of April 1838,
and that they also pay to the plaintiffs their
costs expended by them in this suit.

But the execution of this decree is to be suspended
until the said W. L. Dunn, or some one else for him
shall give bond with sufficient security in the Clerk's
Office of this Court before the Clerk of said Court
in the penalty of \$1000. and made payable to
John I. Bittle and Jacob Turner and Mary his
wife, conditioned that the amount of \$526.
shall be forthcoming to John I. Bittle and Jacob
Turner and Mary his wife, at the death of
his wife Emeline Dunn.

Dunn & Co
v } Affidavit

Barham & Co

1853 March 28th

Southampton County to-wit:

William W. Cobb

on behalf of the plaintiffs in a certain suit
depending in the Circuit Court of Southamp-
ton County between Dumas & Co vs
Bacham & others, This day made oath
before me the Clerk of the Circuit
Court of said County that Benjamin
Bacham and Zebulon L. Simmons,
defendants in said suit are non-residents
of this Commonwealth. Given under
my hand this the 2nd day of March
1853

L R Edwards Ckg

To John Bittle and Jacob Turner and Mary his wife
formerly Mary Bittle -

Take notice that on the 1st
day of October 1853, at the residence of Marshall
Sackbridg in the County of Hickory and State of
Tennessee, we shall proceed to take the depositions
of Benjamin Dunn and John Dunn, to be used
as evidence for us in a certain suit depending
in the Circuit Court of Southampton County and
State of Virginia, in which we are plaintiffs
and you and others are defendants. And if
from any cause the taking of the said depositions
shall not be commenced, or being commenced, ~~not~~
~~being~~ ~~completed~~, should not be completed the
taking of the same will be adjourned from
day to day until the same are completed.
Given under our hands this the 8th day of
August 1853.

Wm. L. Dunn & Emeline his wife
and Saml. Keels atty. of Robt. Davis.
attys.

Personally appears before me Leavert D Jones Deft. for Sam?
Hells & made oath that he delivered a copy of this with-
in notice to John Butte, on the 29th. and to Jacob Sur-
mon & Mary his wife on the 26th, of Aug. inst 1853.

Given under my hand this 29th day of August.
1853- Pro. Cobb J.P.

Dunn & wife v
us { Notice.
Barham Adl.

Executed - and a true copy of the within
Spa: in Chancery delivered on the 3rd day
of Feb'y: 1853, to Nicholas L. Barham.

A. R. Russell Dy. for
H. H. Kelly S^{rs}.

Linn Gth de

to } Sp. em

Barham & Co

1853 February 3rd

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of ^{Southampton} ~~Southampton~~ County, Greeting:

We command you that you summon

Nicholas J. Barkman

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 him ^{others} in the said Court by

William L. Dunn and Emeline his wife formerly Davis and Samuel Kells Sheriff & minor. Robert Davis

And unless ~~shall answer the said Bill within four months thereafter, the Court will take the same for confessed, and decree accordingly. And this~~ 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 20th day of *January* 1853, in the 74th year of the Commonwealth.

L. R. Edwards

[One Copy to be delivered each Defendant.]

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *Benjamin Barham, Reuben I
Simmons, John I. Dille and Jacob Turner & Mary his wife*

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* ^{& another} in the said Court by

*William I. Dunn and Emeline's his wife formerly Davis and
Samuel Helle Staff & admors. Robert Davis*

And unless ~~shall answer the said Bill within four months thereafter, the Court will take~~
~~the same for confessed, and decree accordingly. And this~~ ~~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 *20* day of *January* 18*53*, in the
77 year of the Commonwealth.

L.R. Edwards

[One Copy to be delivered each Defendant.]

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *Burgess Barkum, Nelson L. Simmons*
John I. Bille and Jacob Turner and Mary his wife

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~~ ^{& another} in the said Court by

William L. Dunn and Emaline his wife formerly L. Davis and
Samuel Kells Sheriff & admr. Robert Davis

And unless ~~shall answer the said Bill within four months thereafter, the Court will take~~
~~the same for confessed, and decree accordingly. And this~~ ~~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 *26* day of *January* 18*53*, in the
44 year of the Commonwealth.

L. R. Edwards Clk

[One Copy to be delivered each Defendant.]

Dunn & Wife

~ } Sp^{rs} chs

Barham & P

1853 February Rides

Not Executed

Joshua Brettan
Deputy of S^r Kello
Shff.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *Benjamin Barkham, Zebulon S
Simmons, Nicholas S Barkham, John S Biddle and Jacob
Turner & Mary his wife*

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~~ *& another* in the said Court by

*William S Darn & Emeline his wife formerly Lewis and
Samuel Wells Sheriff & owner. Robert Davis ad*

And unless ~~shall answer the said Bill within four months thereafter, the Court will take
the same for confessed, and decree accordingly. And this~~ 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 20 day of *January* 1853, in the
77 year of the Commonwealth.

JR Edwards

[One Copy to be delivered each Defendant.]

Dunn & Wife & W

& } Sp^a ch^y.

Barham & W

1853. March Rules

Executed by on John J. Bill^d &
Joshua Prellow Jacob Turner & Wife

Deputy of J. Kellogg
Shff

Benjamin Barham
& Zebulon Simmons
Not found

Joshua Prellow
Deputy of J. Kellogg
Shff

SUMMONS.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, GREETING:

YOU are hereby commanded to summon Benjamin Barham, Zebulon L. Simmons,
John I. Bittle and Jacob Turner and Mary his wife

if they be found within your Bailiwick, to appear at the Clerk's office of our Circuit
court for Southampton County, 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
and another in our said Court by William L. Dunn and Emaline his wife formerly Davis
and Samuel Kelle Shiff and answer Robert Davis

And have then there this writ
the office aforesaid, this 7th
foundation.

Witness L. R. Edwards, Clerk of our said Court, at
day of February 1853, in the 77th year of our

L. R. Edwards

Dunn Vleto

n } Com:

Barham P

The Commonwealth of Virginia To any Justice of the State of Tennessee
Greeting Know ye that we trusting to your fidelity and provident circumspection
in diligently examining Benjamin Dunn and John Dunn witnesses on behalf of
the plaintiffs in a suit in chancery depending in the Circuit Court of Southampton
County wherein William S Dunn & Emaline his wife formerly Emaline Davis
and Samuel Kello Sheriff and as such admor. of Robert Davis are plaintiffs and
Benjamin Barkham, Zebulon S Simmons, Nicholas J Barkham, John Dottle and
Jacob Turner and Mary his wife. Defendants requiring you, that at such certain
day and place as you shall appoint, the witnesses aforesaid before you, you cause
to come and then diligently examine on the holy evangelist of Almighty God,
and their examination into our said Court, without delay, you send and certify
enclosed. Returning also this writ - Witness Littleton R Edwards clerk of
our said Court this 13th day of August 1853 in the 78th year of the
Commonwealth

L R Edwards Clk

Dum & wife

to } Aff^{rs}.

Barham &

Southampton County Circuit Court Aug 13 1853.

William M Cobb made oath that Benjamin Dunn & John Dunn are trustees for the plaintiffs in a suit in Chancery depending in the Circuit Court of Southampton County in which William Dunn & wife & others are plaintiffs & Benjamin Parkman & others Defs. - are not residents of the State of Virginia but reside in the State of Tennessee. Wherefore a commission is awarded &c

JR Edwards Clk

Commissaries office, Jan 3rd 1854.

To John Bittle and Jacob Turner and Mary his wife,
and ^{Saml. Hells admr. of Robert Davis decd.}

You are hereby notified that I have fixed upon
the 21st day of February next, to take and settle at
my office, in the town of Jerusalem, the accounts required
to be taken by the decree of Southampton Circuit
Court, recorded on the 9th day of November 1853,
in a suit in Chancery depending in said Court,
between William L. Dunn & wife vs Benjamin
Bushman & others; At which time and place
you are required to attend.

Wm. W. Cobb Commr

Dunn & wife v

vs

Barkham & P

Filed with Com. Court Sept. 27. 1854 ✓

Bennett & wife

vs & Comrs. of the

Barkham others

Executed

to George Deputy of

S. Jello Shiff

Personally appeared

Dunn & Co

& } Dep:

Barham & Co

Came to hand sealed Oct 19th

1852.

LRE

I Marshall Lockridge do certify
that I am a Justice of the Peace
for the County of Shelby in the State
of Tennessee and I further certify that
pursuant to the commission whereunto
I am invested empowering me to examine Benjamin
Dunn and John Dunn witnesses on behalf
of the plaintiffs in a suit in chancery
depending in the Circuit Court of
Southampton in the State of Virginia
wherein William L. Dunn and Emaline his
wife formerly Emaline Davis and Samuel
Bell and as such admors of Robert
Davis are Plaintiffs and Benjamin Searns
and others are Defendants I appeared
on Saturday the 1st day of October 1855
at my residence in State and County
aforesaid diligently to examine the
the said witnesses on the holy evangelist
of Almighty God

The said Benjamin Dunn being first
duely sworn deposed and said as follows

question 1st by Plaintiff ^{State} when Emaline Davis
widow of Robert Davis formerly of South-
ampton County Virginia intermarried with
William L. Dunn of Tennessee
answer 1st In November 1836
question 2nd by same state what was
her age at that time.
answer 2nd She was not quite twenty
years of age as it appears from an

entry made in her Father's Family Bible that she was born on the 24th day of May 1817

question 3d by same State when Robert Davis son of the said Robert Davis died and his age at the time of his death

Answered Robert Davis died in the state of Tennessee in the spring of 1838 and was then about four or five years old & farther this deponent saith not

B. A. Dunn

And the said John Dunn having been first duly sworn Deposition and saith as follows

question 1st by plaintiff state when Emaline Davis widow of Robert Davis formerly of Southampton County Virginia intermarried with William S. Dunn of Tennessee answer 1st In the latter part of the fall 1836

question 2nd by same state what was her age at that time

Answered she was not quite twenty years of age as it appears from an entry made in her Father's Family Bible that she was born on the 24th day of May 1817

question 3d by same state when Robert Davis son of the said Robert Davis died and his age at the time of his death Answered Robert Davis died in the state of Tennessee in the month of March or April 1838 and was then about four or five years of age and farther more this deponent saith not

W. S. Dunn

To which examination being complete I now send and certify the same unto the said Circuit Court of Law and Chancery for the County of Southampton in the state of Virginia In testimony of all which I hereunto subscribe my name and affix my seal on the said first day of October 1853 at the place before specified

Marshall Lockridge
Justice for Hickory County,
State of Tennessee

Dunn George Esq
= } Br. Pub.

Barham Esq

Copy posted at G.H. door 1st day of
April 1853.
BRE

At Rules held in the Clerk's Office of the Circuit Court of Southampton County on the 4th day of April 1853.

William L. Dunn and Emaline his wife formerly Emaline Davis and Samuel Kello Sheriff and as such admin^r of Robert Davis dec^d.

Defts.

against

Benjamin Barham, Zebulon L. Simmons, Nicholas J. Barham,

John Bittle and Jacob Finner and Mary his wife

Defts.

In Chancery

The object of this suit is to recover the balance which may appear to be due upon a settlement of Benjamin Barham's transactions as guardian of Emaline and Robert Davis. And it appearing by affidavit that the defendants Benjamin Barham and Zebulon L. Simmons are not residents of this State it is ordered that they do appear within one month after due publication of this order and do what is necessary to protect their interest, and that a copy of this order be published once a week for four successive weeks in some newspaper published in the City of Norfolk and posted at the front door of the Courthouse of this County on the first day of the next County Court for said County -

Attest

Teste.

L. R. Edwards Clk

COMMISSIONER'S OFFICE,

Jerusalem, Va., Jan. 2nd, 1854.

To Benjamin Barham, Zebulon L. Simmons, Nicholas J. Barham, and William L. Dunn and Emeline, his wife, formerly Emeline Davis.

You are hereby notified that I have fixed upon the 21st day of February next, to take and settle, at my office, the accounts required to be taken by the decree of Southampton Circuit Court rendered on the 9th day of November, 1853, in a suit in Chancery, depending in said Court, between William L. Dunn and Wife vs Benjamin Barham and others; at which time and place you are required to attend.

ja 5-w4w

WM. W. COBB, Com'r.

City of Petersburg, TO WIT:

THIS DAY personally appeared before me, an Alderman for the City of Petersburg, *A H Harris*

a Clerk in the Office ^{of Demand} THE ~~REDACTED~~ AN,

a newspaper published in the City aforesaid, who made oath

that the ~~Order of Publication~~ ^{Notice} of which the annexed is a copy,

has been regularly inserted in said newspaper once a week for

four weeks successively.

Given under my hand and seal, this 31 day of Jan'y.

in the year of our Lord one thousand eight hundred and

fifty four

W E Hunter [SEAL.]

Printer's Fee, \$ 2.00

Mr W Lobb

Commer Notice

Dunn & Co

2 }

Barham &

Filed with Comm. Lobb report

Mar. 27. 1884

[SEAL]

TO BENJAMIN BARHAM, NICHOLAS I. BARHAM
and Zebulon L. Simmons, all non-residents of the
State of Virginia.

Take notice, that I shall proceed, on Saturday, the
1st day of October, 1853, at the residence of Marshall
Lackridge, in the county of Weekly and State of Ten-
nessee, to take the depositions of Benjamin Dunn and
John Dunn, to be used as evidence for us in a suit depen-
ding in the Circuit Court of Southampton county, Virgi-
nia, in which we are plaintiffs, and you and others defen-
dants: And if from any cause, the taking of the said
depositions shall not be commenced, or being commen-
ced, should not be completed, the taking of the same
will be adjourned from time to time, until the same shall
be completed. Given under our hands this, the 8th day
of August, 1853.

WM. L. DUNN AND WIFE.
SAMUEL KELLO, Adm'r of
Robert Davis, deceased.

au 11—w4w

CITY OF PETERSBURG, To Wit:

Personally appeared before me, an Alderman of
said city, *John D. Haywood* Clerk of
the Intelligencer Office, and made oath that the
annexed Order of Publication has been published
weekly for *four* weeks successively. Given under
my hand, this *13th* day of *Oct* 1853,

Printers fee \$1.88

W E Hunter Adm

Dunn Grip

at } Proof pub.

Bachman

I certify that the annexed notice has been inserted
weekly four weeks successively, in the "Southern Argus"
a newspaper published in the city of Norfolk
Virginia, commencing the 8th day of Apr. and ending
the 29th day of Apr. 1853.

James H. Hill clerk of S. T. Sanger
sworn to before me Publisher of the "Southern Argus"
Chas H. Shepard JP

I certify that the annexed notice has
been published weekly four weeks successively in
a newspaper published in the city of
Virginia, commencing the 8th day of
the 29th day of Oct. 1853.

Given under my hand and seal of office
this 29th day of Oct. 1853.
J. H. Shepherd, Jr.
Publisher of the
Fredericksburg News

AT RULES HELD IN THE CLERK'S
Office of the Circuit Court of Southamp-
ton county, on the 4th day of April, 1853,
William L. Dunn and Emeline his wife,
formerly Emeline Davis, and Samuel
Kello, Sheriff, and as such, administra-
tor of Robert Davis, dec'd, *Pl'ts*,
against

Benjamin Barham, Zebulon L. Simmons,
Nicholas J. Barham, John Bittle and
Jacob Turner and Mary his wife, *Def'ts*

The object of this suit is to recover the bal-
ance which may be due upon a settlement of
Benjamin Barham's transactions as guardian of
Emeline and Robert Davis; and it appearing
by affidavit that the Defendants, Benjamin
Barham and Zebulon L. Simmons are not resi-
dents of this State, it is ordered that they do
appear within one month after due publication
of this order and do what is necessary to pro-
tect their interest; and that a copy of this or-
der be published once a week for four succes-
sive weeks in some newspaper published in the
city of Norfolk, and posted at the front door of
the Court house of this county, on the first day
of the next county Court of said county.

A Copy—Teste:

sp 8-r4w

L. R. EDWARDS, C. C.

In Chancery.

Dunn & wife
res.

Barham & others.

Commissioner's Report.

1854. Mar. 27

Emeline Davis.

In account with Benjamin Barham Guar.^{on}

1836			Dr.	Cr.
April 14	By amount rec ^d . from Eli Coker Admr. of Robert Davis dec ^d .			174 23
	To Commissions thereon	9 71		
October 14	By Balance due Emeline Davis	165 52		
		174 23	174 23	
" "	By Balance due brought down with interest thereon from the 14 th day of October 1836 till paid.		\$ 165 52	
Respectfully Submitted. Wm. H. Cobb Comr.				

Robert Davis.

In account with Benjamin Barham Guar.^{on}

1836			Dr.	Cr.
April 14	By amount rec ^d . from Eli Coker Admr. of Robert Davis dec ^d .			348 47
1837	To Commissions thereon	17 42		
April 14	By Interest thereon six months			10 45
" "	" Balance due Robert Davis	341 50		
		358 92	358 92	
1838	By Balance brought down			341 50
April 14	" Interest thereon one year			20 49
	To Commissions thereon	1 02		
" "	By Balance due Robert Davis	360 97		
		361 99	361 99	
" "	By Balance brought down. with interest thereon from the 14 th day of April 1838 till paid.		\$ 360 97	
Respectfully Submitted Wm. H. Cobb Comr.				

Dunn & wife &c
vs
Barham et al.

Commissioner's office,
March 15th 1854.

In obedience to a decree of the Circuit Court of Southampton County rendered in the above suit in chancery on the 9th day of November 1853, the undersigned one of the Commissioners of said Court gave notice to the parties to the said suit that he would proceed to take the accounts required by said decree at his office on the 21st day of February last. Your Commissioner reports that he then proceeded to take and settle an account of the transactions of Benjamin Barham ~~guardian~~ to Emeline and Robert Davis, which accounts are herewith returned. He reports that he finds a balance due Emeline Davis of \$165.⁵²/₁₀₀ with interest from the 14th day of October 1836, and a balance due Robert Davis of \$360.⁹⁷/₁₀₀ with interest from the 14th day of April 1838. Your Commissioner further reports that the whole amount received by the said Benjamin Barham guardian to Emeline ^{and Robert} Davis was by virtue of the will of Robert Davis, a copy of which is filed as an exhibit in the above suit. The decree and notices aforesaid and the evidence relating to the amount received by the said Benjamin Barham guardian aforesaid are herewith returned.

Respectfully submitted
J. M. W. Cobb Comr

Commiss fee \$20.00
Dr. of pub. 2.50
Sheriff's fee.
Charged to the Plffs.

I know all men by their presents that the
Benj. Burham & W. J. Burham are held & firmly bound unto Eli Coker admn
of Robert Davis decd in the full sum of five hundred
& twenty two dollars & for the true performance of which pay-
ment well & truly to be made we bind our selves our heirs
Exors & admors firmly by these presents given under our hands
& seals this 14th day of Apr. 1835

The Conditions of the above Obligations is such that where
as the said Eli Coker admn as aforesaid hath this day paid
unto Benj. Burham Guardian to Emiline & Robert Davis
the sum of five hundred & twenty two dollars & 70^{cs} now
should there be any claims brought against the Estate of
said Robert Davis we do hereby oblige our selves to refund
to the said Eli Coker his heirs or assigns such amounts as
may be established against said Estate not exceeding the
above named sum of five hundred & twenty two
dollars & 70^{cs} with Ints from this day, other wise this
Obligation to be Void. In witness whereunto we have set
our hands & seals this day above.

Test-
Will. P. Burghess

Benjⁿ Burham
W. J. Burham

John E. Meade
 of the
 Robert L. Meade
 ac'pt 1-94/1

7 95
 32

8 42
 25
 18
 24
 49

Robert L. Meade
 of the

Benjamin Barham's.
 Refunding bond to
 } Eli Baker
 admr of
 Robert Davis
 estate

Done & signed

23

Barham

Filed with loan books

rec'd Mar. 27, 1854

62 1/2
 20
 42 1/2
 64
 108 1/2
 39 1/2
 55

33
 25
 6
 64
 18
 2

Ro. Davis's Will

A Copy.

Daniel's wife &c

u } Ex. with bill.

Barham &c

Fee \$40 cts

In the name of God, Amen: I, Robert Davis of the County of Southampton and State of Virginia, being weak in body, but of sound and perfect mind and memory do make and ordain this my last will and testament in manner and form following to wit:

Imprimis: It is my will and desire that all my just debts should be paid.

Item, I loan to my beloved wife Emeline Davis all my estate both real and personal that I possess, during her natural life or widowhood.

Item. In case my wife Emeline should have a lawful issue of my body, It is my will and desire that it should be raised and educated out of my estate.

Item. In case my wife Emeline should marry and my child should live, It is my will and desire that my wife should have one third part of my estate as a loan, and the other two thirds to my child for the benefit of raising and educating the same.

Item. It is my will and desire in case my child should die under age and without lawful issue, I give to John E. Coker my gun to him and his heirs forever; and at the death of my wife Emeline, I give all my estate to John Bittle and Mary Bittle, both real and personal to them and their heirs forever.

Lastly, I do hereby nominate, constitute and appoint my friend William Briggs, Sr. Executor to this my last will and testament. In witness whereof, I have hereunto set my hand and seal, this fifteenth day of January eighteen hundred and thirty four.

Signed, sealed acknowledged,
published and declared, in
presence of

Robert Davis (Seal)

Benjamin R. Glover
Matthew Harris
William Burrh.

At

At about held for the County of Southampton the 21st day of April 1834.
This last will and testament of Robert Davis dec^d was proved by the
oath of Matthew Harris one of the witnesses thereto and continued
for further proof. And at about held for the County of said the
18th day of August 1834. The said last will was fully proved
by the oath of William Burt also a witness thereto and ordered
to be recorded. And William Briggs, Sr. the executor named
in the said will having appeared in Court and refused to
take upon himself the burden of the execution thereof, On the
motion of Eli Coker who made oath and together with John
Denegre and Lewis N. Branch his securities entered into and ack-
nowledged bonds in the penalty of Fifteen hundred dollars conditioned as
the Law directs. Certificate is granted him for obtaining
letters of administration on the estate of the said Robert Davis with
his will aforesaid annexed in due form.

Teste, James Rochelle, C.C.

At Copy, Teste, Henry S. Howard, J.C.

Diana M^{rs}

Ex. with B. 10

Bachman & P

Know all men by these presents that we Benjamin Barham, Nicholas J. Barham
& E. L. Simmons are held and firmly bound unto Benjamin Griffin, Jesse Parker,
Alexander Myrick and Nicholas M. Sebrill Gentlemen Justices of the Peace for
Southampton now sitting in the sum of One thousand dollars to the payment whereof well
and truly to be made unto the said Justices and their successors, we bind ourselves, and
each of us, our and each of our heirs executors and administrators jointly and severally
firmly by these presents. Sealed with our seals and dated this 15th day of Feby. 1836.

The Condition of the above obligation is that if the above bound Benjamin
Barham his Executors and administrators shall well and truly pay and deliver unto
Emeline Davis daughter of Benjamin Barham all such estate or estates as now is
or are or hereafter shall appear to be due to the said orphan when and as soon as she
shall attain to lawful age, or when thereto required by the Justices of the said Court: and
also keep harmless the above named Justices and their and every of their heirs, executors
and administrators from all trouble and damages which shall or may arise about the
said estate: then the above obligation to be void or else to remain in full force and virtue.

Signed, sealed and delivered in
the presence of the Court

Benjamin Barham (Seal)
N. J. Barham (Seal)
E. L. Simmons (Seal)

A Copy

Teste. L. R. Edwards/clg

Daniel's wife & p

to } Ex: with Bill

Barkman & p

Know all men by these presents that we Benja. Barham, Nicholas J. Barham and
Zeb. S. Simmons are held and firmly bound unto Ben. Griffin, Alex. Myrick, Jesse
Parker and Nicholas M. Sevell Gentlemen Justices of the Peace for Southampton
now sitting in the sum of One thousand dollars. to the payment whereof well and truly
to be made unto the said Justice and their successors, we bind ourselves and each of
us, our and each of our heirs Executors and administrators jointly and severally firmly
by these presents. Sealed with our seals, and dated this 15th day of Feby. 1836.

The Condition of the above obligation is, that if the above bound Benja. Barham
his Executors ^{and} administrators shall well and truly pay and deliver unto Robert Davis
orphan of Robert Davis deceased, all such estate or estates as now is or are or hereafter shall
appear to be due to the said orphan when and as soon as he shall attain to lawful age
or when thereto required by the Justices of the said Court; and also keep harmless the
above named Justices and their and every of their heirs, executors and administrators
from all trouble and damages which shall or may arise about the said estate. then
the above obligation to be void, or else to remain in full force and virtue.

Signed, sealed and delivered in
the presence of the Court }

Benjamin Barham

(Seal)

N. J. Barham

(Seal)

Z. S. Simmons

(Seal)

A Copy

Teste. L. R. Edwards

Dunn & wife

to } Rough Record

Barham & P

At a Circuit Court held for the County of Southampton at the Courthouse thereof on the eighth day of November One thousand eight hundred and fifty four.

Be it remembered, that heretofore to wit. on the 20th day of January 1853 came William L. Dunn and Emaline his wife formerly Davis and Samuel Wells Sheriff and admor. of Robert Davis by their Counsel and sued out of the Clerks Office of the said Circuit Court. Summons in Chancery against Benjamin Barham, Zebulon L. Simmons, John I. Biddle & Jacob Turner & Mary his wife and Nicholas J. Barham which Summons together with the returns thereon are in the words and figures following to wit.

(here insert Summons & first the one to the Sheriff of Southampton & then the one to the Sheriff of Newsmund)

And at another day to wit. At Rules held in the Clerks Office of the said Court on the first Monday in February, being the seventh day of the Month - 1853, the Summons issued against the Defts Benjamin Barham, Zebulon L. Simmons John I. Biddle & Jacob Turner & Mary his wife being returned 'not executed' on the motion of the plaintiffs by their Counsel an alias Summons was awarded against those defendants returnable to the Rules to be held for the said Court on the first Monday in March then next. which Summons with the returns thereon is in these words to wit. (here insert)

And at another day to wit At Rules held in the Clerks Office of the said Court on the first Monday in March, being the seventh day of the Month - 1853. came the plaintiffs by their Counsel and filed their bill in the following words and figures to wit. -
(here insert bill & exhibits 1st Ex. bond of Emaline Davis. 2^d Ex. bond of Robert Davis. & 3^d Rob. Davis Will)

And the Summons awarded against the Defts being ret. executed as the Defendants Nicholas J. Barham, John I. Biddle, and Jacob Turner and Mary his wife and they failing to appear on the motion of the plaintiffs by Counsel it was ordered that his bill be taken for confessed as to those defendants unless they should appear and plead, answer or demur to the said bill at the next Rules.

At which day to wit At Rules held in the Clerks Office of the said Court on the first Monday in April, being the fourth day of the Month - 1853 the said Defendants still failing to appear, on the motion of the plaintiffs by their Counsel their bill is taken for confessed as to the Defendants Nicholas J. Barham, John I. Biddle and Jacob Turner & Mary his wife. And it appearing by affidavit that the Defts Benjamin Barham and Zebulon L. Simmons are not residents of this State, it is ordered that they do appear

within one month after due publication of this order and do what is necessary to protect their interest, and that a copy of this order be published once a week for four successive weeks in some newspaper published in the City of Norfolk and posted at the front door of the Courthouse of this County on the first day of the next County Court of said County.

And at another day to wit. At Rules held in the Clerk's Office of the said Court on the last Monday in April - being the 25th day of the month - 1853 on the motion of the plaintiffs by their Counsel this cause was set for hearing as to the Defendants Nicholas J. Barham John D. Biddle and Jacob Turner and Mary his wife.

And at another day to wit. At a Circuit Court held for the County aforesaid on the 3^d day of May 1853 The bill of the complainant having been taken for confessed &c. (here insert order) The answer of Nicholas J. Barham this day filed and referred to in the foregoing decree in these words. (here insert it)

The following is a copy of the Report of the Commissioners made under the foregoing decree (here copy Report)

The following is a copy of the decrees, notice & evidence returned with the foregoing reports. (here copy decrees notice &c.) (1st the decrees, 2^d Notice & affidavit taken to Benjamin Barham & J. Simmons. 3^d Notice &c. to J. D. Biddle &c. other responding bond to.)

And at another to wit. At a Circuit Court held for the County aforesaid on the 3^d day of May 1854 This day this cause came on. (here insert decree)

The following is a copy of the answer of John D. Biddle and Jacob Turner & Mary his wife this day filed & referred to in the above decree (here insert it)

The following is a copy of the bond entered into by W. W. Cobb for William L. Dunn under the said decrees. (here insert it)

And on the 15th day of August 1854 the said William L. Dunn & Emeline his wife formerly Emeline Davis sued out of the Clerk's Office of the said Court a writ of Fieri Facias against the goods & chattels of Benjamin Barham under the decrees aforesaid - which writ with the Sheriff's return thereon made is in the words and figures following to wit. (here insert it.)

And now at this day to wit. At a Circuit Court held for the County aforesaid on the day and year first aforesaid to wit. on the eighth day of November one thousand eight hundred and fifty four - This day this cause came on. (here insert decree)

The following is a copy of the bond entered into by W. W. Cobb for William L. Dunn under the above decrees to wit. (here copy it)

And on the 22^d day of December 1854 the said William L. Dunn & Emeline his wife sued out of the Clerk's Office of the said Court a writ of Fieri Facias against the goods and chattels of Nicholas J. Barham and Zebulon L. Simmons under the said decree which writ with the Sheriff's return thereon made is in the words and figures following to wit. (here copy from &c.)

And on the 28th day of May 1855 the said Dunn & wife sued out of the said Office another writ of Fieri Facias against the goods and chattels of Nicholas J. Barham & Zebulon L. Simmons - which writ with the endorsement thereon made by the plaintiff's attorney is in the words and figures following to wit. (here insert it)

The following is a copy of the Deposition filed in the cause. - (here insert them)

Dunn & wife

to } Bond

Bills &

Know all men by these presents that we Wm W Cobb & Wm St Nicholas
are held and firmly bound unto John I Bittle and
Jacob Turner and Mary his wife in the sum of One thousand dollars, to the payment whereof
we bind ourselves, our heirs, Executors and administrators, jointly and severally firmly by these
presents. Sealed with our seals and dated this 18th day of December 1854

The Condition of the above obligation is such that whereas in a suit in chancery depending in
the Circuit Court of Southampton County in which William L Dunn & Emeline his wife formerly
Emeline Davis of Samuel Kells Sheriff and as such adm^r of Robert Davis were plaintiffs &
Benjamin Barham and others Defendants it was on the 8th day of November 1854, further ad-
judged, ordered and decreed that Nicholas J Barham and Zebulon L Simmons pay to
William L Dunn and Emeline his wife formerly Emeline Davis the sum of \$165. 52/100 with
interest thereon from the 14th day of October 1856 and also the sum of \$360. 97/100 with
interest thereon from the 14th day of April 1858 and that they also pay to the plaintiffs their
costs expended by them in this suit. But the execution of the said decree was to be suspended until
the said Wm L Dunn or some one else for him should give bond with sufficient security in the clerks
Office before the clerk of the said Court in the penalty of \$1000 and made payable to John I
Bittle and Jacob Turner and Mary his wife conditioned that the amount of \$526. shall
be forthcoming to John I Bittle and Jacob Turner and Mary his wife, at the death of his wife
Emeline Dunn. NOW therefore if the said amount of five hundred and twenty six
dollars shall be forthcoming to John I Bittle and Jacob Turner & Mary his wife, at
the death of the said Emeline Dunn then the above obligation to be void or else to remain
in full force and virtue.

Signed Sealed & acknowledged before me,
in my Office, as clerk of the Circuit Court
of Southampton County, the 18 day of
December 1854

I R Edwards

Wm W Cobb (Seal)
Wm St Nicholas (Seal)
(Seal)

Dunn & Wife

~ } Bond

Barham & P

Know all men by these presents that we William W Cobb & W^m H. Nicholson
are held and firmly bound unto John Bittle & Jacob
Turner and Mary his wife in the sum of one thousand dollars to the payment whereof we bind ourselves
our heirs, executors and administrators jointly and severally firmly by these presents. Sealed with our
Seals and dated this 11th day of August. 1854

The condition of the above obligation is such that whereas in a suit in Chancery depending
in the Circuit Court of Southampton County in which William L Dunn & Emaline his wife formerly
Emaline Davis & Sam^l Kello Sheriff and as such admors of Robert Davis were plaintiffs & Benjamin
Barham & others Defendants it was on the 3rd day of May 1854 adjudged, ordered and decreed
that Benjamin Barham pay to William L Dunn & Emaline his wife formerly Emaline Davis
the sum of One hundred and sixty five dollars fifty two cents with interest thereon from October the
14th 1836 and also the sum of three hundred and sixty Dollars ninety seven cents with interest
thereon from the 14th day of April 1838. But the said decree was to be suspended until the said
William L Dunn or some one else for him shall give bond with sufficient security in the
Clerk's Office of the said Court, before the Clerk of the said Court in the penalty of \$1,000 and
made payable to John Bittle and Jacob Turner and Mary his wife conditioned that the amount
of \$526.00 shall be forthcoming to John Bittle and Jacob Turner & Mary his wife at the death
of his wife Emaline Dunn. Now therefore if the said amount of five hundred and twenty
six dollars shall be forthcoming to John Bittle and Jacob Turner & Mary his wife at the death
of the said Emaline Dunn then the above obligation to be void or else to remain in full force and
virtue.

Wm W Cobb (Seal)
Wm H Nicholson (Seal)

Signed, Sealed & delivered before me in my Office as Clerk of the Circuit Court of Southampton
County on this 11th day of August 1854.

L R Edwards Ck

Wm & wife

By

Barham & others

Statement of W. C. Cobb

Winn & wife

vs

Barham & others -

The condition of the bond which I executed
in this case has been superseded by a decree of the
County Court made at ^{August} ~~July~~ term 1855, in the case
of Bittle & others vs Winn & wife & for which decree see.

The whole amount has been paid out to Wm. L. Winn
& wife, and to Edward Beaton who purchased the
interest of John J. Bittle and Jacob Deussen & Mary
his wife ^{as well as the} ~~by receipt filed in court~~ ^{in court} ~~in court~~
~~August~~ 1855

Wm. W. Cobb