

1871-141

SOUTHAMPTON COUNTY
CHANCERY PAPERS

POPE

vs. BARHAM'S ADMR + al

3/1871

other surnames: Clack,
Little

Pope
vs
Barhamsc

Billsc

1863 May. Deere as filed

1871 March. Removed from the
Docket.

To the worshipful County Court of Southampton
County

In Chancery

Humbly complaining sheweth unto your
Honor your Orator Harrison P Pope that in the
year 1858 he was seized and possessed of a house &
lot in the Town of Jerusalem known as the Union
Hotel which he then sold to John Barham for
the sum of \$3000 and executed a deed for the same
bearing therein a lien for the purchase
money which said deed dated the day of
1858 is now & ever in the Clerk's Office of this
Court that at the time the said deed was executed
the said John Barham also executed his bond to
your Orator for the purchase money on which the
sum of \$3000 with interest from the 1st day of January
1862 is now due which said bond is herewith filed & prayed
to be taken as a part of this bill marked (A) A copy
of the said deed would also be filed with this bill as
a part thereof but for the fact that the records have
been removed to a distant place from fear of an
invasion of the public enemy that the said John
Barham lately died leaving a will which was duly
admitted to probate in the Feb. term of the County Court
of Southampton in the year 1863 and at the same time
E W Mather was qualified as the administrator with
the will annexed according to law Copies of which
said wills certifying administration are herewith
filed marked (B) - That the said John Barham was

much indebted so much so as to make the payment of
the debt due your Grator impossible without the sale of the
said house and lot which is rapidly depreciating in
value and that it would be to the interest not only of
your Grator but of all the creditors & distributees
of the said Barkham that the said property should
be sold as soon as possible. That the said John
Barkham left a widow Louisa Barkham and five
children to wit Elizabeth who is married with John
Clack, Fanny who is married with Theophilus
Little, Martha, Joseph, and William B Barkham
the two last infants of tender years.
In under consideration of all which and in as much
as your Grator is without remedy in the premises
except in a Court of Equity to the end therefore that
justice may be done he prays that E W Maffenberg
administrator with the will annexed of John Barkham
and Louisa Barkham John Clack & Elizabeth his
wife Theophilus Little & Fanny his wife Martha Joseph
and William B Barkham may be made Defendants to
this bill and answer the allegations therein, that
some fit & proper person may be appointed
guardian ad litem to defend the interests of the infant
defendants, and that your worship will direct the
sale of the said house & lot and the application of the
proceeds to the payment of the debt due your Grator
and grant such other and general relief in the
premises as equity may dictate and as in duty

bound he will ever pray so may it please the Court do

Chauncy Maffenberg

For Counsel

The answer of E W Maffenberg adm^r with the will annexed
of John Barkham, Louisa Barkham John Clack & Elizabeth
his wife Theophilus Little & Fanny his wife & Martha Barkham
to the bill of complaint filed against them by Harrison
P Pope -

These Defendants for answer to the said bill do so
much that as they are advised it is necessary or
necessary to make answer unto answering say
that the facts stated in the bill are true and that they
consent to a decree for the sale of the said house & lot
and having answered they pray hence to be dis-
missed &c

Chauncy Maffenberg

for Defts

The answer of Joseph & William B Barkham of L N Edwards
their guardian ad litem to the bill of complaint filed
against them &c by Harrison P Pope.

These Defendants saving & reserving &c for answer
to the said bill say they believe the facts therein stated
are true and being infants they submit their
rights to the protection of the Court & pray hence to
be dismissed &c

Chauncy Maffenberg

for Defts

The board & did exhibited with this book
are withdrawn from the record
Maps for staff

popu
is
Barham 20 { B. m.

1863 May 6th

Pope

vs

Barham

Barham &c

L N Edwards is assigned guardian ad litem to the infant defendants Joseph & William B Barham to defend their interest in this suit and thereupon the said L N Edwards as such guardian filed his answer to the bill of the Plaintiff to which answer the Plaintiff by counsel replied generally and the cause coming on to be heard on the bill, the answer of the Defendant E W Mendenburg ^{& exhibits} as in the will annexed of John Barham decd, Louisa Barham John Charles & Elizabeth his wife Theophilus Little & Fanny his wife Martha Barham and of the said guardian ad litem with general replications there to was argued by counsel, on consideration whereof the Court being of opinion that the interests of the infants would be promoted by a sale of the property in the bill mentioned, doth as judge order & decree that E W Mendenburg who is hereby appointed a special Commissioner for that purpose proceed after giving due notice to sell the house & lot mentioned in the proceedings at public auction to the highest bidder for cash and that after deducting so much as may be required to pay the costs of this suit & expenses of sale out of the balance he pay to Harrison Pope the amount of his said debt and the remainder if any charge being of

with as apelo in his hands as the administrator with
the will annexed of John Bachman. But this decree
shall be suspended until he shall executed bond
in the Clarks Office of this Court with security in
the penalty of \$4000 conditioned faithfully to
perform the duties herein assigned him and
it is further ordered that the said Commissioner re-
port his proceedings to Court

\$ 3000.00

On demand I promise to pay Harrison
P. Pope the just sum of Three Thous
and no more \$ 3000.00 with Interest
from the first day January 1859 -

It being for the purchase of his Tavern
and lot in Jerusalem -
Witness my hand and seal this 14th
day of February 1859

Test
L. R. E. [unclear]

Pro Barkham



1860 Januy 1st Recd the Interest on this
bond To this day say \$180.00

1861 Januy 1st Recd one hundred } H. P. Pope
and eighty dollars \$180. Put on
this note to present time H. P. Pope

1862 Januy 1st Recd the Interest
on this note say one hundred
and eighty dollars — H. P. Pope

Mrs Barham
Note

\$300.00

(57) 91

(Copy)

John Barham's
Will

In the name of God. Amen. I John Barham of the County of Southampton being deeply impressed with the shortness of life and the certainty of death do make this my last Will & Testament, to wit,
1st My will and my wish is for all my just debts to be paid first out of my estate.

2nd. My oldest child now living & by the name of Elizabeth A Barham who is now living with her grand mother Mary Jackson & when the said Mary Jackson dies if she should give to Elizabeth A Barham as much property as would make her equal proportion with the rest of my children in my estate I don't give her anything, but should Mary Jackson not give a nuff to make her equal with the rest of my children then my said child Elizabeth A Barham shall be entitled to come in with my other children & count the value of what her grand-mother gave her & then have a nuff out of my estate to make her equal with the rest of my children.

3rd I Give to my wife Louisa M Barham after my debts are all paid all my Estate both real & personal until she may get married. If she should marry I then lend her one third part of my estate during her life. But if she should not marry before either of my children get married or arrive to the age of twenty one years old except Elizabeth A Barham, then at either of the times by marrying or of age my wife Louisa M Barham I lend her one third part of my estate then divide the balance equally amongst all my children that may be living except Elizabeth A Barham who has been provided for heretofore in this will.

4th and lastly I hereby name note and appoint Benjamin E Pope Executor to this my last Will & Testament revoking all former ^{will} Wills by me heretofore made & do herunto acknowledge this my last ^{will} Testament. this 20th day of March 1844.

Signed and acknowledged
in the presence of

John Barham (Seal)

Richard Darden

Oswald Pope

John E. Pope

At a Court held for the County of Southampton on the 16th day of February 1863
This last will and testament of John Barham dec^d was proved by the oaths of

of John C. Pope one of the subscribing witnesses thereto, and Richard Darden
another subscribing witness thereto being dead, John J. Hindred being sworn
deposes and says, he is well acquainted with the hand writing of the said Richard
Darden and verily believes that the name of the said Richard Darden to the said
will subscribed as a witness, is in the proper hand writing of the said Richard
Darden. Whereupon the said Will is ordered to be recorded and Benjamin E.
Pope the Executor therein named appeared in Court and refused to take upon
himself the burden of the execution thereof. On the motion of Edward W. Mas-
sachusetts who made oath, and together with James D. Massenburg and Wm.
W. Webb his securities (who justified on oath as to their sufficiency) entered
into and acknowledged a bond in the penalty of fifteen thousand dollars condi-
tioned according to law. Certificate is granted him for obtaining letters of
administration on the estate of the said John Darden dec'd with his will
aforesaid annexed in due form.

Teste

Edw. Edwards Clk

A Copy

Teste

Edw. Edwards Clk

Pope

To Z. Deed

Barham

Filed by post Aug 30 1866

H

This Deed made this 14th day of February in the year 1859 between Harrison P. Pope of the first part and John Barham of the other part Witnesseth that in consideration of the sum of Thirty five hundred dollars the said Harrison P. Pope doth grant with general warranty a certain house and lot situated in the Town of Generalam, designated as Lot No 20 and known as Pope's Tavern or Hotel together with all houses, the garden, horse lot and others lands attached thereto being the same property purchased by Harrison P. Pope from George & W. Newson by Deed dated date 21st of March 1852 and duly recorded in the Clerks Office of Southampton County Court on the same day And Whereas a part of the purchase money remaining unpaid it is agreed by the parties that the property or real estate hereby sold shall remain bound for the payment thereof; therefore the said Harrison P. Pope hereby and them reserves a lien on said property to secure to him the payment of the sum of three thousand Dollars a part of the purchase money as aforesaid due by bond of even date with these presents and on demand under Section 1st Chapter 719 of the Code of Virginia - Witness the following signatures and Seals.

Harrison P. Pope (Seal)

John Barham (Seal)

Southampton County In the Clerks Office, February 14th 1866

This deed of bargain and sale was acknowledged by Harrison P. Pope & John Barham, parties thereto, and was admitted to record.

Teste

J. W. Edwards Clk

Attest

Teste

J. W. Edwards Clk

Pope

to } Record

Barham's or 2^d

Be it remembered, that a Court held for the County of South-
ampton on Monday the 18th day of May 1863, came Harrison P Pope
by his Counsel and filed his bill in Chancery against E W Moberly and
off John Barham dec^d &c in the following words to wit. here insert
bill 1st.

Exhibits filed with the bill. "et"
here insert Exhibits 1st.

E R Edwards is assigned guardian ad. litem to the infant Defendants
Joseph Wm B. Barham to defend their interest in this suit. and thereupon the said
Edwards as such guardian and the adult Defendants by Counsel filed their
answers to said bill which answers are in these words to wit & here insert the answer
of E W Moberly and 1st for the said Infants.)
To which last answer the plff by Counsel replied generally and the cause coming
on to be heard on bill 1st here insert decree.)

The following is a copy of a paper filed among the papers in this cause by the
plaintiff.