

1872-27

Seachampston County - Cheney Seaboard + Granite R.R. vs
C. et al

Warrell, miles et al

Judgment for
\$ 30.00 for Cattle killed
on Railroad

Charles Beale
Canstalle

Miles A. Britt

99-

Seaboard & Roanoke

R. R. Company &c

as 3. In Clin

Worrell & als

Bill re

(Injunction)

Walladay & Hart

B. 2

1872 May

Seaboard & Roanoke
Rail Road Company.

or ~~to~~ ~~the~~
~~the~~

Warrell & others.

May 1892

To be entered

Geo. B. Smith.

Seaboard & Roanoke Rail Road Company.
vs ^{2/3} Heene.
Miles Warrell &c.

This cause came on this day to be heard on the bill, answer of the defendant Miles Warrell, with replication thereto, and exhibits filed with the bill, and was argued by the counsel. On consideration whereof, the Court doth advise, order & decree that the injunction awarded the plaintiff, "to enjoin & restrain the defendant Charles Beale Constable of Southampton County & all others concerned from executing the judgment rendered by Mills & Britt, a justice of the peace for said County, on the 23rd Sept: 1871 for thirty (\$30.00) dollars in favor of Miles Warrell against the Seaboard & Roanoke Rail Road Company, ~~which judgment was reversed by the defendant Miles Warrell against the plaintiff, and to enjoin & restrain the said Charles Beale, Constable &c and all others concerned, from executing the judgment rendered by Mills & Britt, Justice of the peace on the 21st of October 1871, against C. C. Lewis in favor of Miles Warrell for thirty dollars & three ⁵⁰/₁₀₀ dollars costs, and to enjoin the said Mills & Britt, from issuing an execution upon the said judgment last mentioned" be dissolved; ~~that the bill of the plaintiff be dismissed, and that they do pay to the defendant Miles Warrell his costs by him about his suit in this behalf expended.~~~~

Seaboard & R.R. Co.

to } Stat. Rules

Worrill & Co.

In Southampton Circuit Court.

The Seaboard & Roanoke Rail Road Company and C. C. Lewis agent for
the Seaboard & Roanoke Rail Road Company in his own right.

against
Miles Worrell & Charles Beale Constable of Southampton County & Hills
at Brith

- 1871 Nov. 6 Bill & Exhibits & order awarding injunction filed. bond Security
given Subp. & Inj. issued.
Decr. Rules Subp. 1^o ret. Executed. I Nise to Sfts.
1872 Jan Bill taken for Confessed & Cause set for hearing. N.P.
May J. Inj. dissolved bill dismissed N.P.

The Seaboard & Roanoke Rail Road
Co & Subs

Small Subs

Exhibit D.

The Commonwealth of Virginia,

To ALL WHOM THESE PRESENTS SHALL COME, GREETING.

Whereas

the sum of

suggesting that there is in the hands of

to appear before me or some other Justice of the said county in

in the said county of the

day of

to answer the said petition; and have then and there this summons with you returned; the sum

J. P.

Notary Public for the County of

The said in the above case, being returned executed, and it appearing that there is in the hands

of the estate of

and

to collect the said debt, it is considered that the said

the sum of

Dollars with

(Given under my hand this

18

E. P.

(Copy)

The Commonwealth of Virginia,

Chattel Constable
To SAMUEL KELLO, Sheriff of Southampton County.

Whereas, complaint hath been made before me, *Mills A. Britt*, a Justice of the Peace of the said county, that there is due to *Miles Worrell* of said county, by *S. R. R. R. Co.*, the sum of *thirty* 100

Dollars; and the said *Miles Worrell* suggesting that there is in the hands of

C. C. Lewis Agt. for S. R. R. Co. a sufficiency due the said *Miles Worrell* to satisfy the said claims, these are, therefore, to command you to summon the said *C. C. Lewis*

to appear before me, or some other Justice of the said county, at

Proykins Depot in the said county, on the *21st* day of *Oct* 18 *71*, to answer the suggestion; and have then and there this summons, with your return of the same.

Given under my hand the *21st* day of *Oct* 18 *71*.

(Signed) *Miles A. Britt* J. P.

Southampton County, to wit:

The writ in the above case being returned executed, and it appearing that there is in the hands of *C. C. Lewis Agt.* of the estate of *S. R. R. R. Co.* sufficient

to satisfy the plaintiff's debt with cost, it is considered that the said *Miles Worrell* recover against the said *C. C. Lewis* the sum of *thirty* 100

Dollars with *three 700 dollars* costs.

Given under my hand this *21st* day of *Oct* 18 *71*.

(Signed) *Miles A. Britt* J. P.

The Seaboard &
Roanoke R. R. Co

vs
Wmell vels

Exhibit B

(Copy)

M. W. & 2nd day of Sept
1871-
vs The said C. C. Lewis
C. C. L. agt. Having prayed
and appeal from my judgment
in their cause and tendered
William M. Beaton as his
surety, who thereupon
undertook as his surety
for the payment of the said
judgment and all
cost and damages in
case the same shall
be affirmed ~~and~~ appeal
from the said judgment
is granted the said C.
C. Lewis agt. to Saturday
the 30th day of Sept 1871
at Boylins Depot - Wells
At Wm. J.P.

The above judgment
is confirmed & the defen-
dant paying the additional
cost of \$1.00
(Signed) N. B. Ridley J.P.
N. B. Ridley J.P.

The Commonwealth of Virginia,

To CHARLES BEALE, Constable of Southampton County :

You are hereby commanded to summon *C. C. Lewis Agt. S. R. R. Co.*
Leo.

to appear before me, or some other Justice of the Peace for said county, on *Saturday*
the *23rd* day of *September* at *Proykias Dpt*
to answer the complaint of *Miles Worrell*
for the non-payment of *Thirty* Dollars,
Cents, due by *S. R. R. Co* ; and make
due return how you have executed this warrant. Given under my hand and seal,
this *23rd* day of *Sept* 18*81*-

(Signed) *Wm A Britt J.P.*



Judgment is granted the plaintiff against the defendant for
Thirty Dollars, _____ Cents, with
interest from the _____ day of _____ 18*81* till paid
and *One* *Due* costs.

Given under my hand and seal, this *23rd* day of *Sept* 18*81*

(Signed) *Wm A Britt J.P.*



Seaboard R.R. Co.

v. Sub of Injor

Worrell

1871 December Rules

Executed

J. L. Barberman dep. cl.
for W. N. Briggs & Shuff

The Commonwealth of Virginia

To the Sheriff of Southampton County, Greeting:

WE COMMAND YOU to summon *Miles Worrell. Charles Beale, Constable*
of Southampton County & Mills A Britt

if they be found within your bailiwick, to appear at the Clerk's Office of our *Circuit*

Court of Southampton County, at the Rules to be holden for the said Court, on the first Monday in
December next to answer a bill in chancery exhibited against them in our said
Court by the Seaboard & Roanoke Rail Road Co. And this they shall
in no wise omit under the penalty of £

And have then there this writ. Witness, OSWIN WHITE, Clerk of our said Court, at the Court-
house, this *6* day of *November* A., D., 1871, in the *96* year of
the Commonwealth.

O. White Ck

Sun Job Print, Suffolk, Va

To enjoin and restrain the defendant Charles Beale, Constable of
Southampton County, and all others concerned, from executing the judg-
ment rendered by Mills A Britt a justice of the Peace for said County
on the 23^d of Sept. 1871 for \$30. & Costs in favor of Miles Worrell
against the Seaboard & Roanoke Rail Road Co. - To enjoin and
restrain the said Beale Constable and all others concerned from executing
the judgment rendered by Mills A Britt justice of the Peace on the
25th Oct. 1871 against B. C. Lewis in favor of Miles Worrell
for \$30 & \$3⁵⁰ Costs. and to enjoin the said Mills A Britt
from forcing any execution upon the said judgment last mentioned, untill
the further order of the said Court. Bond and Security being given to
pay and satisfy the judgments aforesaid. & all such costs as
may be awarded against the Plaintiffs and all such damages as shall
be incurred in case the Injunction be dissolved

Teste

O. White Ck

The Seaboard & Roanoke Rail Road
Company, J. C. Lewis, agent for
the Seaboard & Roanoke Rail
Road Company & in his own
right - plaintiffs

against }
Miles Howell, Charles Beale,
constable of Southampton County
and Miles A. Britt - defendants
in the Circuit Court of
Southampton County -

On the motion of the plaintiffs
by their counsel, and for good
cause shown a writ of injunc-
tion is awarded them, to enjoin
and restrain the defendants
Charles Beale, constable of South-
ampton County, and all others
concerned, from executing the judg-
ment rendered by Miles A. Britt
a justice of the peace for said Co.
on the 23^d of Sept 1871 for \$30.00 cents
in favor of Miles Howell, against
The Seaboard & Roanoke Rail
Road Company = to enjoin and
restrain the said Charles Beale
constable - and all others concerned
from executing the judgment rendered
by Miles A. Britt, justice of the peace

on the 20th of October 1871 against C. C.
Lewis in favor of Miles Wmell
for \$30 + \$3⁰⁰ costs - and to en-
join the said Miles a. Butt from
issuing an execution upon the
said judgment last mentioned

But the plaintiffs are not to
have the benefit of this order
until they or some one for
them shall enter into bond
with sufficient security, in the
clerk's office of the said Circuit
Court of Southampton County
in the penalty of one hun-
dred dollars payable to
the defendants Miles Wmell
+ conditioned to pay all such
damages + costs as ~~the~~ may
sustain in consequence of this
injunction, should the same be
dissolved.

C. W. Hill

To the Clerk of the
Circuit Court of Southampton County

Slaboard + Branch

R. R. les rals

as 3

Wmell rals

Order granting

Injunction

Memoranda

to Clerk-

To the Clerk of the Circuit Court of
Southampton County

The Seaboard & Roanoke Rail
Road Company and
C. C. Lewis, agent for the
Seaboard & Roanoke Rail
Road Company & in his
own right — plaintiffs
against

Miles Wrenn and Charles
Beale, constables of Southamp-
ton County and Miles A
Britt — defendants

Issue summons in
chancery, returnable to
number Rules 1871 &
enclose order of injunction
on summons

Walterday Howell
P. G.

Injunction Bond
— " —

Know all men by these presents, That we J. A.
Wallace, and J. H. Boyart, are here and firmly bound
unto Miles Wmms in the Sum of one hundred
dollars, to be paid unto the said Miles Wmms
his Certain attorney, his Exor. Admors, or assigns,
for the payment whereof well and truly to be
made, we bind ourselves, our heirs, Exors and
admors, jointly and severally, firmly by these presents,
Sealed with our Seals and dated this the
Sixth day of November A.D. 1871.

The foundation of this obligation is, That
whereas ~~any~~ ^{in a} Suit in Chancery pending in
the Circuit Court of Southampton County
between The Seaboard and Roanoke ^{Rail Road} Company
is Plaintiff and Miles Wmms and Charles
Beals Constable of Southampton County,
and Mills A. Britt and Defendants.
An Order of Injunction has been granted
injoining and restraining the Defendants
Charles Beals Constable of Southampton
County and all others concerned, from
executing the Judgment rendered by
Mills A. Britt a Justice of the Peace for
said County, on the 23^d of September-
1871. for Thirty Dollars and Costs in favor
of Miles Wmms against the Seaboard
and Roanoke Rail Road Company and
to enjoin and restrain the said Charles

The Seaboard &

Roanoke R. R. Co

no 3

Wmell rals

Exhibit a

S & R R Road Co
1 day 1/2 Miles home

1871

Dr

July 17 To 2 cows killed by express
train this day near 53
Mile post on way to Portsmouth \$15-00 \$30 00

Boyd's Township, Ex-Empton Co. Va

To wit: Personally appeared before me Mills
A. Britt a Justice of the Peace in the said Co., E. W.
Ferguson & R. T. Griffin and made oath to the
above account of thirty dollars

Given under my hand & seal this 28th day
of August 1871 - (Signed) Mills A. Britt J.P. (Seal)

A. Leary

The Seaboard & Roanoke R. R. Co

is $\frac{3}{3}$

W. M. C. R. R.

"Exhibit 6"

Seaboard + Ruamok

R. R. Corals

to 3

Marrell + als

Bill + Exhibits

Holladay

Gaulle

P. R.

In the Circuit Court of Southampton
County:-

The Seaboard & Roanoke
Rail Road Company
and C. C. Lewis, agent
for the Seaboard & Roa-
noke Rail Road Com-
pany vs. Miles a. Mitt

Plaintiffs

against } M. C. C.

Miles Wrenell and
Charles Beale emba-
ble of Southampton
County - & Miles a. Mitt

Defendants

To the Honorable George Blow
judge of the said Court:-

Humbly complaining, your
orators present the following
case:-

1. One Miles Wrenell, the above named
~~defendant~~ ^{alleging} ~~complainant~~ that he
was the owner of two cows of the
value of \$30:- which on or about
the 17th of June last were killed
by the engine & cars running
on the railroad tract of your
orator, the Seaboard & Roanoke
Rail Road Company, made
complaint before Miles a. Mitt
a justice of the Peace of Southampton

county, presenting an account
a copy of which is herewith filed
as a part of this Bill, marked
"Exhibit A" - and thereupon
the said justice issued on the
23^d of Sept 1871 his warrant dire-
cted to the defendant Charles
Beale, constable of Southampton
County, commanding him
to summon the plaintiff
G. L. Lewis agent of S. & R. R. Co
to appear before him to answer
the said complaint of said
Miles Howell, and upon the
hearing judgment was granted
against the defendant (inter-
dicting your orator the Seaboard
& Roanoke Rail Road Compa-
ny) for \$30.00 & costs: and ^{to} ~~from~~
which judgment an appeal
was granted, and on a subse-
quent day the said appeal was
heard by R. Ridley and N. B. Rid-
ley two justices of the peace for
said county, and the judgment
aforesaid "confirmed", with addi-
tional costs: a copy of the record
of this novel & altogether unauthor-
ized and illegal proceeding is
filed as a part of this Bill
marked exhibit "B." -
execution ^{was} issued by said

miles a, with upon the judgment aforesaid on the 20th Oct 1871, a copy of which is filed herewith marked exhibit "C" which said execution directs the amount of said judgment rents to be made out of the goods & chattels of said C. C. Lewis "agent for S. L. R. R. R." = 1 and on the same day ~~it~~ ^{was} ~~suggested~~ suggested that there was a liability on said C. C. Lewis agent for said company by reason of said execution on and then there was pronounced a judgment against said C. C. Lewis for amount of said debt, a copy of the record in this proceeding of garnishment is filed as a part of this Bill marked exhibit D.

2. The irregularity and illegality of the foregoing proceedings are too apparent to require to be specifically stated: The plaintiff the Seaboard & Roanoke Rail Road Company is in no wise responsible for the killing of cattle upon the bed of its Rail Road, and if there were any responsibility at law, then the inquiry as to the damages sustained

can not be inquired into by any
justice of the peace - such matters
being without his jurisdiction -
+ therefore all proceedings had
in such matters are null &
void -

In tender consideration and
sympathy as your ratios are
without remedy save in a
Court of Equity they pray that
the said Miles Cornell, the said
Charles Beale, constable ^{or} and
the said Miles A. Pratt may
be made parties dependant to
this suit and request to an
order this Bill - that your
honor would award a writ
of injunction prohibiting the
said Charles Beale ^{constable of} from exe-
cuting the judgment granted by
the aforesaid Miles A. Pratt
against your ratio the Redwood
& Puanoke Rail Road Company.
~~in violation of~~ said Miles Cornell -
prohibiting the said Charles
Beale from executing the judgment
^{rendered}
~~obtained~~ on the 21st of October 1871
by said Miles A. Pratt against
your ratio E. L. Lewis for \$30 -

in favor of said Miles women -
and to prohibit the said Miles
a. Mill from issuing execution
upon the said last mentioned
judgment. And your raters
pray for all such further
and general relief in the prem-
ises which the circumstances
of their case requires & equity
may give. May a summary
issue be

Wallaaday 18th and

R. G.

City of Portsmouth, N.H.

This day E. G. Ellis, Superinten-
dant of the Seaboard & Roanoke Rail
Road Company, personally ap-
peared before me and made
oath that the statements contain-
ed in the foregoing Bill of Com-
plaint are true, to the best of
his knowledge, information &
belief - Given under my
hand this 25th day of October

1871 -

Wm. Stunt
Not. Pub.

to the damages sustained

S & R. R. R. Co

in 3 Answer of
3 Warrell

Warrell & Co

Filed May 1. 1872
" "

The answer of Miles Harrell to a bill of Complaint filed in the Circuit Court of Southampton County against himself & others by the Seaboard & Roanoke Rail Road Company.

This Respondent, saving and reserving to himself for answer to the said bill or writ so much thereof as he is advised it is material to answer, answering says - That it is true he has obtained judgment against the said S. R. R. Co for the value of two Cows, killed by the Engine of said Company. That he has issued an execution against said Company, and furnished the Agent of said Company; but neither when the warrants were tried, (and there were two trials) did any one appear to defend the said Company, that no objection of any kind was made to the rendition of the judgments. That in the opinion of this Respondent, it is now too late to seek to prevent the enforcement of his judgments in the manner, in which they have selected - because, they had legal notice of the warrant, and allege that they had a legal defence, which they failed to make. This Respondent further says that he has, as he is advised, a right to waive the tort, and warrant for the value of

of the Court. And having answered,
he prays hence to be dismissed &c-

Wiles Worrell-
"

Southampton County Court.

I, James R. Tyler - a
Commissioner in Chancery for the County
Court of said County & State of Virginia, do
Certify that Wiles Worrell, has this day
personally appeared before me, and
made oath that the facts set forth
in the above answer, are true to the
best of his knowledge & belief. Given
under my hand as Commissioner aforesaid
this 6th day of May 1872.

James R. Tyler,

Commissioner
"