1883-02 Southampton County - Chancery Barham, Gardner et al vs Barham, Martha et al

"Renunciation of Will" + Deeds & Plats

Barham, William

Barham, Martha + Griggord, David Admrs Cta & T Barham, John L dec'd

Barhams

v. } Papers

Barhams assn. &c

1847 May Decree

1848 May Decree

Bahamas
to
Grenada } Bill

(772 words)

To Hon R. Richard H. Baker Judge 1st Judicial
District. First Circuit
Southampton County to wit:

Humbly Complaining sheweth unto your
Honor Your Complainants Goodson Barham
and William Barham, that some time about
the last of 1861 their brother John L Barham
departed this life, having in his lifetime duly
made and published his last will and testament
in writing, by which at his death was duly proved and
admitted to record by the County Court of Southampton;
an attested copy of which is herewith filed and is
prayed to be taken as a part of this bill. By
said will the whole of testators estate is loaned to
the widow during her natural life, at her
death, the estate was to descend to testators two
children. But the event of the death of the two
children during the lifetime of the widow, the
estate was bequeathed, at the death of the
widow to testators two brothers, Goodson Barham
and William Barham who are here Complts.
Your Complts, beg leave here to shew, that the
widow being dissatisfied with the provisions
of said will, did in due form of law renounce
the same; they further shew, that the testators
two children have both died since the death of
their father and that the widow is still living
as it will readily appear to your honor, that
the contingency upon which your Complts title
vested, having occured, that their interest is
a vested one and as such is worthy of the protection
of this Court. And it will ready appear to the
Court, that your Complts, in consequence of the
renunciation of the widow, are likely to be injured
to the amount of one third of the money & bonds
belonging to the estate, she taking the same
as absolute property. They therefore pray the Court

to indemnify them against said bff. in such
manner, as to the Court may seem sufficient.
your hond said perceive, that upon the
intermarriage of the widow, the life estate
bequeathed to her, which she renounced, passed
to her two children, according to the act of assembly
that upon the death of one child, one half of any
said life estate, passed to the surviving child
and the other one half of one half to the widow.
and upon the death of the other child the whole
of said life estate descended to the widow.
subject as your Complts conceive, to their claim
of indemnification. which they again pray the
Court to attend to them, in such manner and
form as to the Court may seem just & equitable
& your Complts further shew that the Country
named in said will having refused to qualify
with the will annexed
letters of administration, under the law in
that behalf to one David Grizzard, who, together
with the widow Martha Barham is hereby
to be made parties defendant hereto, and
required to answer on oath, your Complts
further pray that said Grizzard may be required
to settle his account as adm of Mrs L Barham
before a Commissioner of this Court - & thy further
as the Commonwealth suit of the may be made
commanding &c and praying such other
general and especial relief in the premises
as may be consonant to justice and the rules
of the Court. & thy &c will ever pray &c

Ridley & Goodwyn.

John L Barhams Will.

Barhams

vs. } Extract with Bill

Barhams adr.

In the name of God, Amen. I John D Barham of the County of Southampton & of Va. do hereby make & ordain this my last Will & Testament in manner and form following -

1st Item. I loan to my wife during her life all of my estate, reserving a sufficiency to pay all of my just debts -

2nd Item - My wish and desire is that at the death of my wife that my children Susannah & George annah heir my estate -

3rd Item - Should my children aforesaid die before my wife, then at her death I give and bequeath the said property to my brothers Goodson Barham & William Barham (equally divided) to them and their heirs forever -

4th Item. In consideration of the above bequest to my wife it is my will and desire for her to maintain my children -

5th Item. I hereby appoint my wife Executrix to this my last Will and Testament - In Witness whereof I hereunto set my hand & Seal this 22nd day of November year one thousand eight hundred & fourty.

Witness
Peter D Beckman
Jno. J. P. Pennington
W. Clements
Jesse Holt

John D. his mark Barham (Seal)

At a Court held for the County of Southampton on the 21st day of December 1840 - This last Will and testament of John D Barham deceased was proved by the oath of Peter D Beckman, Washington Clements & John J. P. Pennington three of the subscribing witnesses thereto and ordered to be recorded. And the executrix therein named refusing to take upon herself the burthen of the execution thereof. On motion of David Brizzard who made oath and together with John W Siller and John Williams his securities entered into and acknowledged a bond in the penalty of Ten thousand dollars conditioned as the Law directs certificate is granted him for obtaining letters of administration on the estate of John D Barhams estate with this will annexed in due form.

Teste T. R. Edwards Clk

Test T R Edwards Clk

John L. Barham's Est.
with 3 Sect. Current
David Brizzolara's.

1842 Nov. Ret. Hunt
" Dec. Conf. 40R

Recorded
Page 27

The Estate of John L. Parham dec.d
In account with David Gwyard Administrator.

1840							
Dec.r 16	To paid A. G. Williams		11	38			
25	By John Williams' note due this day				500	00	
	To 5 per Cent Commissions		25	00			
	" paid Rev.d W. W. Ward for preaching funeral sermon		2	00			
	" " Wyatt, for barbacuing at Sale		"	37			
	" " Polly Land for		"	50			
31	" balance of Prin.l due the Estate		460	75			
			500	00	500	00	
1841	By balance of Prin.l due the Estate				460	75	
Jany 1	To paid Elizabeth M. Newsom		6	10			
	" " George W. Newsom		7	00			
	" " Jos.l Prince		6	50			
21	" " James E. Peters		8	50			
	" " Col. D. Sayer		7	50			
March 4	" " Sheriff Southampton (taxes 1840)		8	88			
June 26	" " Peebles, Hall & Co		26	26			
	By cash rec.d same, for 3 bales Cotton				93	00	
July 1	To paid J. P. Sandy, postage		"	30			
Sept 2	" " W. H. Hunt		43	69			
	" " same		23	06			
Octo 1	" " Sheriff Southampton		3	00			
7	By cash rec.d for 1 bale Cotton				34	27	
Nov.r 1	To paid W. H. Hunt		13	40			
4	" " Rich.d Rendale		2	10			
Dec.r 25	By John Williams' note due this day				500	00	
31	To 5 per Cent Commissions on $634.27 amt. of receipts this year		31	36			
	By interest on $460.75 Prin.l from 1 Jany. 1841						24 02
	To balance of Prin.l due the Estate		400	37			
		$	1088	02	1088	02	24 02

Carried forward

		$	¢	$	¢	$	¢
1842	By balance of Princ.l due the Estate			900	37	24	02
Jany. 1	" amount Sales due this day			15	15 40		
	" paid James E. Peters	7	98				
	" " Same	1	71				
	" " Same	216	71				
	" " Same	189	88				
	" " Same	21	27				
	" " Same	14	33				
	By Cash rec.d Same			4	50		
	To paid John Williams	35	00				
	" " Same	30	00				
March 21	" " R. C. Everitt Const.	25	79				
	" " Same	20	78				
	By Cash rec.d of Charles W. Barham			21	47		
	To paid Same	9	48				
	" " Same	6	53				
	" " Henry Lethbury	2	38				
	" " Myles H. Morris	1	13				
	" " Sam.l T. James Const.	2	71				
April 2	" " Lucy Ivey	1	71				
	" " Joseph H. Rogers R.	6	12				
May 11	By Cash rec.d for 1 bale Cotton & sep. Interest			33	53		
16	To paid Wm. Prince	1	00				
	" " John H. Pettyjohn	7	00				
	" " Same	15	00				
	" " W. S. Goodwyn	4	79				
June 2	" " Benj.a C. Everitt for E. Beaton	10	93				
6	" " W. H. & J. W. Walker	25	48				
20	" " Sam.l Gregory	14	71				
	" " S. H. & J. Gregory	18	07				
	" " Same	26	23				
	" " Same	20	40				
	" " Same	29	12				
	" " J. L. Peckman	3	00				
	" " Same	11	00				
	Carried forward	$816	24	26	75 27	24	02

		$	¢	$	¢	$	¢	$	¢
1842	Amts. brought forward	816	24	24	75 27	24	02		
June 20	To paid J. L. Parkman	47	88						
	" " Same	13	62						
July 7	" " Simmons Newsom's admr.	12	36						
Augt. 1	By Interest on $900.37 balance of 1841 from 1st Jany.							31	51
	To 5 per Cent Commissions on $1574.90								
	amt. receipts this year	78	74						
	" balance of Princ.l due the Estate	1506	43						
		2475	27	24	75 27	24	55	53	
1842									
Augt. 1	By balance of Principal due the Estate					1506	43		
	" Interest due the Estate brought down					55	53		
						$1561	96		

Commissioner's Office.

Jasper County. 12th November 1842.

In obedience to an order of the County Court of Southampton, made at August Court 1842. appointing me a special Commissioner to state, settle and adjust an account of David Gripard's administration on John L. Barham's Estate. I have done so, which account is hereto annexed: and find a balance of $1561.96/100 due the Estate on the 1st day of August 1842 Principal and interest, with interest from that day until paid and $1506.43/100 the principal thereof.

Respectfully submitted

Wm. C. Prince Comr.

At a Court held for the County of Southampton the 21st day of Nov.r 1842
This account Current of David Gripard administration on the Estate of John L. Barham dec.d was returned & ordered to lie one Term for Exceptions
And at a Court held for said County the 19th day of December 1842
The account having lain one term & no exceptions being filed was confirmed & ordered to be Recorded.

Teste L. R. Edwards C.

Barham

v 3 Exhibit with amended Bill

Barham

(B)

O.S.B

I Owen G. Barham of the County of Southampton do hereby covenant and agree to & with Joseph H Barham of said county, witnesseth that for and in consideration of the sum of Two Hundred Dollars to me in hand paid by the sd Jos H. Barham at and before the delivery of these presents, the receipt whereof is hereby acknowledge, have given granted bargained sold & conveyed unto the said Jos. H Barham all my right title & interest in the Estate of Jno L. Barham accruing to me by Virtue of the last will & testament of the sd Jno L. Barham, To have and to Hold the aforesaid interest free from me, my Heirs Exrs or administrators to him & his heirs forever and against the claim or claims of all and every person or persons claiming by & through or under me. In testimony whereof I have hereunto set my hand and affixed my seal this 11th day of December 1846

Witness

Jno M. Gurley

Owen G. his X mark Barham (Seal)

Southampton County in the Clerks office the 16th day of March 1847 This Deed of Bargain and sale from Owen G. Barham to Jos. H. Barham was acknowledge by said O. G. Barham and admitted to Record.

Test L. R. Edwards, Clk.

A Copy

Test L. R. Edwards Clk

To the Honorable Jurge Bloxton judge of the circuit Court of Southampton County, in Chancery sitting

Humbly complaining your orators William Barham and Martha E Barham, Robt S Barham and John Barham the three last children of Goodson Barham show unto your Honor by way of amendment and supplement in this annudice and supplemental bill to the original bill in the case of Barham & Barham That in the year 1846 Goodson Barham and William Barham filed their original bill in chancery in the circuit court of Southampton against Davis Gizzard administrator with the will annexed of John L Barham dec'd and Martha Barham setting forth the facts that their brother John L Barham dies in 1840 leaving a will by which he gave his whole estate to his wife Martha J Barham for her life and at her death to his two children Susan and Georgeanah Barham with the proviso that should they die during the lifetime of his widow then the remainder to Goodson and William Barham, that soon after John L Barham's death his widow Martha J Barham renounced the will, that soon after the two daughters died and that the remainder in the said estate came to them by the

said will in fee simple, and asking for the taking of all proper accounts for a construction of the said will the ascertainment of Thos rights under the same and such relief as to them may right and proper. Your orator shew further that in the progress of the said suit an the accompanying accounts were taken and that at the May term 1847 a decree was entered directing certain sums to be debited to Martha I Barham which have long since been paid by the results of the late war and further directing Davis Griggs administrator of John L Barham to pay over to Martha I Barham the sum of $1210.20cts provided she entered into bond in the penalty of $3636.40cts to pay at her death to Goodson and William Barham the sum of $1210.20cts with interest from the 1st of May 1847 provided that her estate was not found at her death to pay to them more than the sum of $1833.23cts with interest from her death that at the May term 1848 another decree was entered stating that it appearing to the court that Martha I Barham could not execute the bond to loan the money forthcoming at her death to pay the plaintiffs Goodson and William Barham the court decreed that David Griggs should pay the said money to Joseph H Barham who was to execute a bond in the penalty of $2500 with security conditioned to pay to Martha I Barham the interest on $1833.23cts during her life, Since the case ~~was~~ vested unto an order was entered at the November term 1880 re-instating the case on the docket with permission to file an amended and supplemental bill and make new parties. Your orator states that Goodson Barham intestate died in 1875 leaving them children to wit Martha A Barham, Robert T Barham and John Barham his sons at law and utterly insolvent and his estate has been committed to W. W. Briggs sheriff of Southampton for administration that David Griggs has long since departed this life and the estate of John L Barham has been ~~committed to the hands~~ committed to the hands of W. W. Briggs sheriff of Southampton as administrator de bonis non with the will annexed That Martha I Barham the wife of John L Barham died sometime in May or June 1880 and John Williams has qualified as her executor at July county court of Southampton 1880 Your orator states further that Martha L Barham has no estate at her death in her hands belonging to her husband John L Barham but that all the estate belonging to the said estate and coming to them at her death is the sum of $1833.33cts now in the hands of Joseph H Barham

Your orator states further that there is

nothing in the papers to show that Joseph H Barham ever executed the bond which he was agreed to execute upon receiving the said money and it is as Daniel Gregg and who has been dead many years never claimed it or any receipt for the money But your Orators has distinctly stated charge and avers that the said sum of $1210..20cts was paid by the said Daniel Gregg and or his order by John Williams to Joseph H Barham and that as stated by the decree he kept the same until it amounted to $1833..23cts and then paid the interest thereon annually to wit the sum $109..99cts to Martha J Barham during her lifetime having made the last payment of interest in 1880 a short time previous to her death and that by her death the said sum of $1833..23cts comes to them one half to William Barham and the other half to the three children of Goodson Barham

Your Orators expect that Joseph H Barham relying upon certain deeds made by William Barham and Goodson Barham in his lifetime will claim this money as his own but they are satisfied the court will not sustain his claim for the following reasons On the 5th of November 1844 William Barham conveyed not sold his interest in John L Barham

Barhams
vs 3 amended bill
3 entitled
Barhams admr

1880 December 21st filed
& process issued

to Jeps S Barham to pay first an account due
Jeps S Barham then to pay all the debts he
owes Joseph H Barham or on which
Joseph H Barham was security and was
bound to pay and then to pay the balance
to him This deed was signed by Burgess W Barham
Your orators allege at the time of this act
his intents in John L Barhams estate was
unascertained that any estate which might
come to him was then in the hands of
the life tenant and that nothing, was comm
to Jeps S Barhams hands that he was
pais out anything either to himself or for
or to Joseph H Barham and that one half
of this sum of $1833.23 cts must come to
him unless they can show some valid substantial
legal claim now due from William Barham
to Joseph H Barham and Jeps S Barham
The said deed is herewith filed marked exhibit
A and prayed to be taken as a part of this
bill, Then was a deed made by one Owen
G Barham conveying his interest in the said
John L Barhams estate for $200 Your
Orators do not know that there was
any consideration paid, but they ask the
court to allow Joseph H Barham in the
settlement with them his $200 and interest
up to date, This would be an ample allowance

and full justice to oin who bought a reversion from a needy and poor remainderman and brother for a small sum. A copy of the said deed from O. J. Barham to Jos H Barham is herewith filed marked B and prays to be taken as a part of this bill. Your Orator states, charges and avers and shows from the said papers in this case that though Joseph H Barham professes to claim this money by deed that he never came in and set any claim to the same though the deeds were made before and after the institution of this suit in 1846

To Tender consideration of all which and inasmuch as your orator is without remedy at law and only entitled relief in equity where such matters are cognizable they therefore pray that Joseph H Barham Jesse S Barham, W. W. Briggs sheriff of Southampton as and such administrator de bonis non with the will annexed of John L Barham and also as administrator of Goodson Barham and John Williams executor of Martha I Barham dec'd may be made parties defendant to this bill and that the court would compel them as full and perfect answer make the allegations therein contained as if they had been thereto more fully and specially interrogated, that the court may order all such accounts to be taken as are necessary and that the court may decree that Joseph H Barham pay to them the sum of $1833.23 or so much thereof as may be due them and that the court would grant such other and general relief the premises considered as equity may dictate and the nature of this case may require and as in duty bound your orators will ever pray &c

Shands p. q.

Barbarin

v. } Exhibit Bill with Amended

Barbarin

(A)

73 to 73

I, Benj. W. Barham of the County of Southampton do hereby assign to Jesse E. Barham, all my right title and interest in and to the estate of John L. Barham dec, which interest I acquired by the last will and Testament of the said Jno L. Barham, for the following purposes, that is to say, first pay and satisfy all debts which I owe Joseph N. Barham together with all debts in which the said J N. Barham is bound as my security. Secondly the said Jesse E. Barham is to retain in his hands the amount of my store act which I may owe him, and lastly if any surplus should remain after satisfying the above specified debts that surplus to be paid by the said Jesse E. Barham to the said Benj W Barham or any person whome he may authorise to receive the same. Given under my hand and seal this 6th day of November 1844

Witness
John M. Gurley

Benj. W. Barham (Seal)

Southampton County in the Clerks office the 17th day of December 1844 This Deed of Gift from Benj W. Barham to Jesse E. Barham was acknowledged by said B. W. Barham and admitted to Record.

Test L. R. Edwards Cle,

A Copy

Test L R Edwards Cle

Barham
vs
Gryzard

Note for Deft

Decree first a settlement of the account with a direction hereafter that a decree may be entered directing the 2/3 to be loaned out or invested so as to indemnify the Plff according to the principle settled in Mitchell v Johnson.

The 2d plan proposed by Mr Robinson is too complex & ought to be proposed by the Court under the existing consent.

R. H. B.

Barham
vs
Grizzard

Note

The Counsel for Martha Barham submits to the Court that the Bill in this case should be dismissed with costs &c—

The sole object of the suit is to indemnify the Plaintiffs out of the two thirds of the estate which the widow takes for her life as distributee of her children for the life which they sustain in their legacies by the widow having renounced the provisions of her husbands will—

It is not denied that the property renounced by a widow must be so appropriated as to indemnify the legatees whose legacies are diminished by such renunciation, but that principle cannot apply here, The whole property has been thus appropriated, the children took all that was renounced, and the Plaintiffs will take all at the time they are entitled to take, to wit at Mrs Barhams death, And this is an effort to make the estate of the children pay for the injury done to the Plaintiffs by the renunciation, For the two thirds of the property renounced certainly belongs to the children during Mrs Barhams life, They are entitled to it as distributees of their Father who died intestate as to this interest, and it passes to their representatives & distributees — it is a part of their estate, You cannot dispose this interest by their having died in the lifetime of their mother

— The children were entitled to all at their mothers death had they survived her and there was no way to make them get some thing out of the hands of the estate, and the testimonies were opened is not to appropriate the property renounced to indemnify the Plaintiffs, but to appropriate the estate of the children to that purpose

Suppose the children of Barham the testator had died under they were 18 years old, could they not have bequeathed their interest for their mothers life? Suppose they had reached 21 could they not have sold that interest? — was that interest their estate? If so, it must pass as their estate and not as the Testators, and the Plaintiffs must fail unless it does pass as the Testators estate —

All the property renounced has been appropriated to indemnify the legatees whose legacies are diminished, and the event now is, as before stated, not to appropriate the property renounced, but to appropriate the interest which the children of Barham took as his distributive (he having died intestate as to such interest) — to pay, or make up what the Plaintiffs who were legatees in remainder (upon a contingency) have lost by the renunciation of the widow

To what are the Plaintiffs entitled, The answer is, they are entitled at the widows death (the children having died before her) to what the children would have been entitled had they not died — To what would they have been entitled? viz. to an absolute estate to the two things to which before their mothers death they had a vested interest for her life only

But by the death of the children in the life time of the widow, the Plaintiffs seek to enlarge for themselves an estate which it was impossible the children could have enlarged —

Barbams
vs 3 Decree
Barbams

May Term 1883
To be entered
Geo T Blow

Barhams

vs 3 Decree

Barhams

On motion of the plaintiff by his counsel This cause is dismissed each party paying his costs

Account Current of

John L Barhams Est

1845 Janry Rct. Cent.
Feby. Contra Cr.

Recorded Page
334

John L Barhams Est.
with Ast. Current
David Bryan admr.

The Estate of John L. Parkyn dec.d
In account with David Griggs administrator.

1842							
Augt. 1	By balance due the Estate, this day						
	" as per rect. audited & returned			1506	43	55	53
	" Cash found in the Desk, omitted before			5	00		
	To 5 Per Cent Commissions		25				
	By Interest on $4.75 from 1st Jany 1841						45
	" balance due the Estate, as Corrected	1511	18				
		1511	43	1511	43	55	98
	By balance due the Estate this day			1511	18	55	98
Octr. 1	To paid Clerk Southampton	3	00				
	" " Sheriff ditto		94				
Decr. 24	" " Gov. C. S. P. Stanington	14	56				
	" " Henry Settoway	22	40				
	" " Same	66	08				
	25 By John Williams's note due this day			500	00		
	28 " Cash rec.d of John W. Fuller			7	12		
	To 5 Per Cent Commissions	25	05				
	31 By Interest on $511.18 from 1st Jany 1842					37	44
	To balance of Prin.l due the Estate	1881	37				
		2012	30	2012	30		
1843	By balance of Prin.l due the Estate			1881	37		
Jany. 1	" Interest thereon till 31st Dec.r 1843					112	98
	10 To paid C. R. Chamberlain	16	25				
	" " Sheriff & Atkins Guard.s	17	08				
June 5	" Keeping Jordan when sick	1	00				
July 24	" Paid J. G. Mason, Judge	118	84				
Augt. 18	" " M. Skues	25	30				
Octr. 1	" " Clerk of Southampton	6	93				
	" " M. Skues	1	69				
	" Sheriff ditto	1	88				
	" " Southampton	2	10				
Decr. 15	" " Martha J. Parkyn	6	66				
		198	36	1881	37	206	63

Carried forward

			£	℔	£	℔	£	℔
1843	Amts. brought forward		198	36	1881	37	216	63
Decr. 26	By Paid John Patterson		63	60				
"	" " Same		64	00				
31	By balance of Principal due the Estate		1554	81				
			1881	37	1881	37		
1844	By balance of Principal due the Estate				1554	81		
Janry 1	" Interest thereon to 1st August 1844						54	61
Feby. 5	By Paid J. R. Chambers		16	57				
7	" " S. H. Gravely		154	01				
March 18	" " E. P. Turner Empt.		11	26				
April 20	By Cashree of Sheriff Southampton Co. Executions vs. J. H. Parham				68	16		
	To 5 Per Cent Commissions		3	66				
	" Paid Clerk of Southampton		5	84				
	" " Do of Sussex		1	66				
	" " Sheriff of Do			42				
	" Expenses to Southampton Court 3 days							
	12 days, on business of the Estate 3		9	00				
	" Paid Court for stating former acct.		5	00				
Augt. 1	" balance of Principal due the Estate		1465	49				
			1623	34	1623	34	261	04
1844								
Augt. 1	By balance of Principal due the Estate				1465	49		
	" Interest due the Estate brought down				261	04		
					£ 1718	83		

day of October 1844 of Principal and interest with Interest from thence until Paid, and of 1845 Jany 1 the Principal thereof.

Respectfully submitted

Jno. L. Prince Comr.

3

At a Court held for the County of Southampton on the 20 day of January 1845 This account of Davies Grizzards administration on the estate of John L. Parham dec'd was returned and ordered to lie one term for Exceptions and at a Court held for the County aforesaid on the 17 day of February 1845 The said account having lain one Term and no Exceptions being filed was confirmed and ordered to be Recorded

Test. J. R. Edwards Clk

Commissioner's Office

Sussex County 15 November 1844.

In obedience to and order of the Circuit Court of Southampton, made at July Court 1844, I have stated, settled and adjusted an additional account of Davis Grizzard administrator on John L. Parham's Estate, which is herewith annexed, and find a balance of £ 1718 83/100 due the Estate on the first

Barham
vs
Barham } In Chancery

The estate of John L Barham dec'd
In account with David Grizzard admnistrator

			Dr		Cr		Ref
1840							
Decr	16	To paid A J Williams acct	11	38			
	25	By John Williams note due this day	"	"	550	00	
		To paid for funeral service	2	00			
		" " Sundries a/c Sale		67			
		To Comm on Receipts	25	00			
	31	By balance due the estate	460	75			
			500	00	500	00	
	"	By balance brought down	"	"	460	75	
1841							
Janry	1	To paid E. M. Newsom acct	1	10			
		" " G. W. Newsom "	7	00			
	21	" " J. E. Peters "	8	53			
		" " A. Prince "	6	50			
		" " L. D. Parker "	7	50			
Mar.	1	" " Taxes in Sampson for 1840	8	88			
June	26	" " Peebles Hall & Co acct	26	26			
		By Cash for 3 bales Cotton			93	00	
July	1	To paid postage acct		30			
Aug	2	" " W. H. Blount "	43	69			
		" " ditto "	23	06			
Oct	1	" " Sheff Sampson	3	00			
	7	By Cash for 1 bale Cotton	13	40	34	27	
Nov	1	To paid W. H. Blount	13	40			
		" " R. Bendall	2	10			
Decr	25	By J. Williams note due this day	"	"	550	00	
		To Comm on $627.25	31	36			
	31	By balance due the estate	900	37			
			1088	02	1088	12	
1842							
		By balance brought down	"	"	900	37	
		" Stuart on the balance of 1840	"	"	"	"	27.44
		amounts Carried forward					

			Dr		Cr											
1841										1842						
Dec	31	By balance brought forwd	"	"	900	37	27.64	June	21	By amounts brought forward	816	24	2475	27	27.64
1842										To paid P. L. Beckman	47	88			
Jany	1	By amount Sales dec this day	"	"	1575	40				" " ditto	13	62			
		To paid James E. Peters ast	7	95				July	7	" " S. Newsoms admr.	12	36			
		" " ditto "	1	71						To Comn. on $1574.90	78	74			
		" " ditto "	216	71				Dec	31	Balance due the estate	1506	43			
		" " ditto "	189	88							2475	27	2475	27	27.64
		" " ditto "	21	27						By balance brought down	"	"	1506	43	27.64
		" " ditto "	14	33						By interest on the balance of 1841	"	"	"	"	54.02
		By Cash rec'd of ditto	"	"	4	50		1843							
		To paid John Williams	35	00				Dec	21	By hire of Boy Jordan this year	"	"	43	66	
		" " ditto	20	00						To Comn on ditto	21				
March	21	" " B. C. Everitt Com^{n}.	25	79						Balance due the estate	1549	93			
		" " ditto do	20	78							1549	93	1549	93	81.66
		By cash rec'd of Mr. W. Barham	"	"	21	47				By Balance brought down	"	"	1549	86	81.66
		To paid ditto	9	46						By interest on the balance of 1842	"	"	"	"	90.38
		" " ditto	6	53						By hire of Jordan for 1842 omitted	7	50			
		" " H. Petteway	2	38						To Comn. off	2	57	67	93	
		" " W. H. Morris	1	18				1843		By interest $67.93 one year	"	"	"	"	4.07
		" " J. T. James Com^{n}.	2	71									1617	74	176.11
Apl.	2	" " L. Joy	1	71				Dec	25	By balance due interested of the above					
		" " Jo. A. Rogers & Co	6	12				1845		To paid C. D. Barham	3	00			
May	11	By Cash for 1 bale Cotton	"	"	33	53				" " J. R. Chambliss	5	50			
	16	To paid W. Prince	4	00						" " Wm Mallory	18	70			
		" " J. A. Fitzhugh	7	00						" " ditto	2	22			
		" " ditto	15	00						" " ditto	8	44			
		" " W. L. Goodwyn	4	79						" " S. Miles admr. Com	34	36			
June	2	" " B. C. Everitt for E. Beaton	10	93						" " J. Many	34	71			
	6	" " W. H. & C. Walker	25	48						" " R. A. Mason	1	50			
	20	" " Sam. Crews	14	71						By com. on H. Petteway rec'd Ret	"	"	59	54	
	"	" " L. & J. Drew	18	17						To Comn. on ditto	2	95			
		ditto	26	23						" paid Costs suit vs Petteway	4	37			
		" " ditto	20	40						" " Clerk Southampton	1	85			
		" " ditto	29	12						" " Comn. Jce	3	50			
		" " D. P. Beckman	39	50						" " I. H. Newsom	10	80			
		" " ditto		10						" " A. J. Barham Ast.	33	86			
										" " Clerk ticket		45			
		Amounts Carried forward			2475	27	27.64			Amounts Carried forward	167		1674	78	176.11

1845		Amount brought forward			167 17	1674 78	176.11
		To paid Com.s for report			3 50		
		" " J R Chamblis atty			5 00	175 67	
Decr	31	By balance due the estate				1499 11	176.0
		" Interest on the balance of 1843 to this day		"	"	"	193.[illegible]
		By interest acct brot down		"	"	369 99	
	"	By balance due the estate				1869 10	
		with interest on $1499.11 part thereof from this					
		date till paid, which is divided					
		as follows Viz:					
		To Martha J Barham the widow		$	623 03⅓		
		" Georgiana Barham the orphan		1/3	623 03⅓		
		" Susanna Barham do			623 03⅓		
				$	1869 10		
1844	"	By the Widows proport.n brot down		"	"	$ 623 03	
Janry	1						
		To paid Jno Williams board this			35 00		
1844							
Decr	31	By 1/3 hire of Jordan this year		"	"	13 60	
		To Cons.t on ditto			68		
		" paid 1/3 for keeping Jury do			3 33		
						636 63	
						39 01	
"	"	By balance due the Widow		$		597 62	
		To interest on $1499.11		$	1 32		
1845		To paid Dr J Dravery acct			13 54		
		" " Jno Williams			25 00		
		" " 1/3 for keeping Jury			1 18		
		By 1/3 hire of Jordan		"	"	15 10	
		To Cons.t on ditto			75		
		" paid Cullen			1 85		
				"		602 62	
						43 74	
						558 88	
1846		To paid your Receipt		"	"	549 32	
Janry	1	By balance due the Widow				$ 9 56	
		with interest from this date till paid					

Barham
vs
Barham
} Comrs
Report

1847 April 19

The estate of Georgiana Barham dec'd in of the orphans

In account with the Executor

1844		To paid the Clerk of Southampton		1	00	
		" " tax on land			50	
		" " J R Cabaniss Esq atto		5	00	
Dec	31	By ⅓ hire of Jordan this year		"	"	13 60
		To Comm. on ditto			68	
		" paid ⅓ for support of Lucy		3	33	10 51
		By balance due the estate		"	"	3 09
1845		To paid ⅓ for the support of Lucy this yr		1	08	
		By ⅓ for Jordan hire		"	"	15 00
		To Comm. on ditto			75	
Dec	31	By proportion of the estate due this day		"	"	623 03
		paid Clerks ticket &c		1	85	641 12
						3 68
	"	By balance due the estate		"	"	637 44
		with interest thereon from this date till paid				

Susanna Barham dec'd who was one of the orphans

In account with the administrators

1844		To paid Clerks ticket		1	00	
		" " tax on land			50	
		" " J R Cabaniss Esq atto		5	00	
Dec	31	" " J. Williams bail		12	50	
		By ⅓ hire of Jordan this year		"	"	13 60
		To Comm. on ditto			68	
		" paid ⅓ of support for Lucy		3	33	
				23	01	
				13	60	
		To balance due the admr		9	41	
1845		" paid P. L. Beckman dec'd		8	50	
		" " R. H. Mason		11	25	
		Carried forward		29	16	

1845		Dr		Cr	
	amount brought forward	29	16		
	To paid A. H. Drewry acct	19	71		
	" " Jno G. Mason "	12	72		
	" " 1/3 for support of Lucy this yr	1	88		
	By 1/3 for hire of Jordan	"	"	15	50
	" Clerks ticket to Court on Jordan		75		
	" Clerks ticket to		1	88	
Dec 31	By your proportion of the est. due this day	"		623	03
				638	03
				65	27
"	By balance due the estate with interest from this date till paid		$	572	76

In consequence of some advancements made to the children, and the orphans in their infancy it became necessary for the Court to make an Account between them and the administrator, which are stated above; and he finds a balance due Martha J. Barham Individually of Nine dollars 27/100 as on the 31st day of Dec. 1845 with interest thereon from that date till paid, and to the estate of Georgiana Barham dec'd the sum of $637.44 with interest thereon from the same time till paid, and to Susanna Barham dec'd the sum of five hundred and seventy two dollars 76/100 ($572.76) with interest on the same from the same time day the 31st day December 1845 till paid

The Court is next directed to make an account of the slaves of Testators estate which is done Viz:
1 Negro man Jordan about 30 yrs old, likely
1 Negro Woman Lucy, who is an invalid and has been, and is now an expence to the estate

Cont'd forward

Court for March 10th 2 hours
" 20 4 do
" 21 3 do
" 2 4 do
13 do

at 1.00 $13.00
Court Notices 1.50
to the Sheriff 3

Respectfully submitted
Jno Cobb

686

Barbiaus

vs 3 Sp.a in Chy

Barbiaus Ex.r

1846. January Rules

Executed

By Shoolbred Deputy

of Jas Bruce Sh.ff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon Martha Barham & David Grizzard administrator with the will annexed of John L Barham 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 January next, to answer a Bill in Chancery exhibited against them in the said Court by Gordon Barham & John L Barham

And unless they shall answer the said Bill within ~~four~~ Law 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 15 day of December 1845, in the 70th year of the Commonwealth.

L R Edwards CC

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

Barhams

v: } Copy order.

Barhams adm.

Executed. Mar. 6th

Can. P. Turner Deputy

& Depth. Sheriff

At John Williams

Southampton Circuit Superior Court November 10. 1847.

Goodson Barham & William Barham Pltfs } In Chancery

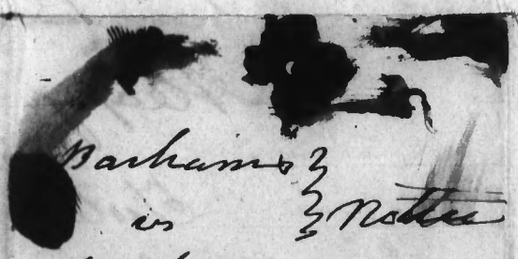
against

David Brizzard administrator with the will annexed of John & Barham dec'd & Martha Barham Defts

On motion of the plaintiffs it is ordered that unless the defendant Martha Barham comply with the decree pronounced in this cause at May Term 1847 before the next term of this Court, then the Court will proceed to pronounce such other decree as may seem just and the case require.

A Copy

Test. L. R. Edwards C.C.



Barhams ⅓
in ⅓ Nottm
Barhams adon de
Excepted on all the
parts
John Barham Depts
For Jacob Barnet Dept

Southampton Circuit Superior Court of Law. November 12th 1849

Gordon Barham and William Barham. Pltfs

Against

David Gizzard admr with the will annexed of John L Barham dec'd and Martha Barham Dfts

In Chancery

This cause came on this day to be heard on the bill and exhibits and on the answers of the defendants David Gizzard administrator with the will annexed of John L Barham, dec'd and of Martha J Barham and genral replications thereto and was argued by counsel On consideration whereof the Court doth declare, that by the will of John Barham in the proceedings mentioned the plaintiffs are not entitled to any portion of the estate of the said testator until after the death of his widow and that by the renunciation of the said will, by the said widow she became entitled in absolute property to one third of the monies of the said John L Barham dec'd, in the hands of the defendant David Gizzard administrator with the will annexed of the said Barham remaining after the payment of the debts of the said testator, and to one third of the slaves of the said testator for life, and that the remaining two thirds of the said monies slaves passed and descended to the said testators, two children Susannah and Georgeannah, to be held by them for the life of the said widow the defendant Martha J Barham, with a contingent remainder in fee in case they survived the said widow, and in case of their deaths before the said widow, that the said remainder in fee vested under the will of the said testator, in the complainants, that to the the said infants having died, their respective interests in the said estate to wit; an interest for the life of the said widow passed to the administrator of the said Susannah and Georgeannah and that upon the death of the

surviving infant the said Martha J Barham as sole distributee of the said infant is entitled to the said two thirds for her life it being hereby admitted and agreed by the the respective parties by their counsel that David Grizzard the administrator of the said John L Barham deceased is also the administrator of the Susannah and Georgannah Barham deceased, and that there are no debts to be paid for the said infants, and that the said Martha J Barham shall in this suit be regarded and treated as the distributee of the said infants and entitled to the said two thirds for her life as if their administrator was a party in this suit with due proper allegations. The Court also declares that as by the renunciation of the said will Will by the said Martha J Barham the complainants are disappointed in their legacy intended for them by the will of the said testator to an amount equal to the sum which the said Martha J Barham will be entitled to as absolute property as aforesaid and that they are entitled to be compensated for such loss out of the remaining two thirds as far as practicable by investing the said fund and adding the profits thereof to the principal until a fund equal to the original distributable fund in the hands of the administrator shall have accumulated and from and after that time in case the said widow shall be then living that the interest of the whole fund thus accumulated shall be paid to the said Martha J Barham during her life, and at her death or sooner that may happen, the said principal shall be paid to the complainants, or that compensation shall be made in some other mode upon the principles settled in analagous cases. The Court doth further declare that the said complainants are entitled to require security from the said widow for the payment of the said fund upon her death in case she will require the said fund to be paid over to her. But the amount of the fund for distribution not now being ascertained, the Court doth now adjudge order and decree that the defendant David Grizzard administrator of John L Barham, deceased do proceed before a Commissioner of this Court and account of his administration of the estate of the said John L Barham deceased and also of the slaves left by his testator, and an account of the payments made by the said administrator to the defendant Martha J Barham, on account of her third in the said estate, which said accounts, the said Commissioner will state settle and adjust and to the Court report together with any matters specially stated, deemed pertinent by himself or which may be required by any of the parties to be settled

A Copy

Teste L. R. Edwards Clk

Court office Jerusalem Febry 10th 1847

The parties intrusted in the settlement of the accounts directed by the above order of the Court are required to attend at the Court house in the Town of Jerusalem on Wednesday the 10th day of march next having appointed that day for their examination and settlement.

Jer Cobb Comr

C. C. C.

Barhams

v. } Sfa in Chy.

Barhams Exrs

1846 Apl 16 Rules

Executors

William A Bell Deputy of

Samuel B. Nines Sheriff.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of ~~Southampton~~ Southampton County, Greeting:

We command you that you summon David Gregg and administrator with the Will annexed of John C. Barham 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 April — next, to answer a Bill in Chancery exhibited against him and another in the said Court by Goodson Barham & William Barham

And unless he shall answer the said Bill within ~~four~~ two months thereafter, the Court will take the same for confessed, and decree accordingly. And this he 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 2nd day of March 1846, in the 70th year of the Commonwealth.

L R Edwards Clk

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

2 656

Barham

vs } Sps. in Chy

Barham &c

1846 February Rules

Executed on Martha
Barham [redacted]
and not found
Bl Gordon Deputy
Simd & Hines Shff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon Martha Barham & David Briggs and administrator with the will annexed of John B Barham 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 February next, to answer a Bill in Chancery exhibited against them in the said Court by Gordon Barham & William Barham

And unless they shall answer the said Bill within ~~four~~ Law 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 4 day of January 1846, in the 70 year of the Commonwealth.

J R Edwards CC

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

6.36

Barhams

& Hsp: in Chy.

Barhams Hsp

1846 March Rules

Not found
Bl Brooklyn Depty
of G B Hms Chy

Mr Hsp

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon David Grizzard administrator with the will annexed of John L Barham 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 him and another in the said Court by Goodson Barham & William Barham

And unless he shall answer the said Bill within ~~four~~ two months thereafter, the Court will take the same for confessed, and decree accordingly. And this he 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 2^d^ day of February 1846, in the 70^th^ year of the Commonwealth.

L R Edwards clk

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

Goodson Barham and William Barham

vs.

David Grizzard adm: with the will annexed John L Barham dec'd & Martha Barham.

1846 Jany. Rules. Bill filed Subpoena & decree nisi issued.
" Febry. " Subpoena ret: executed on Martha Barham. David Grizzard not found found. New Sp^a. & ^p. awarded vs. Dft. Grizzard adm:
" March " Subpoena ret: not found - New Subp^a. & ^p. awarded
" Apl. " Subpoena ret: Executed - Answers of Defendants filed - Gen: Rep: thereto -
" June. " Set for hearing
" Nov T. Decree for account.
1847 Apl. 29 Report.
May T. Decree
" Nov. Decree.

1880 Nov. Cause reinstated on docket with leave to file amended or supplemental bill &c.

Barhams

v. Stat: Rules

Barhams cr

Widows renunciation

Barhams

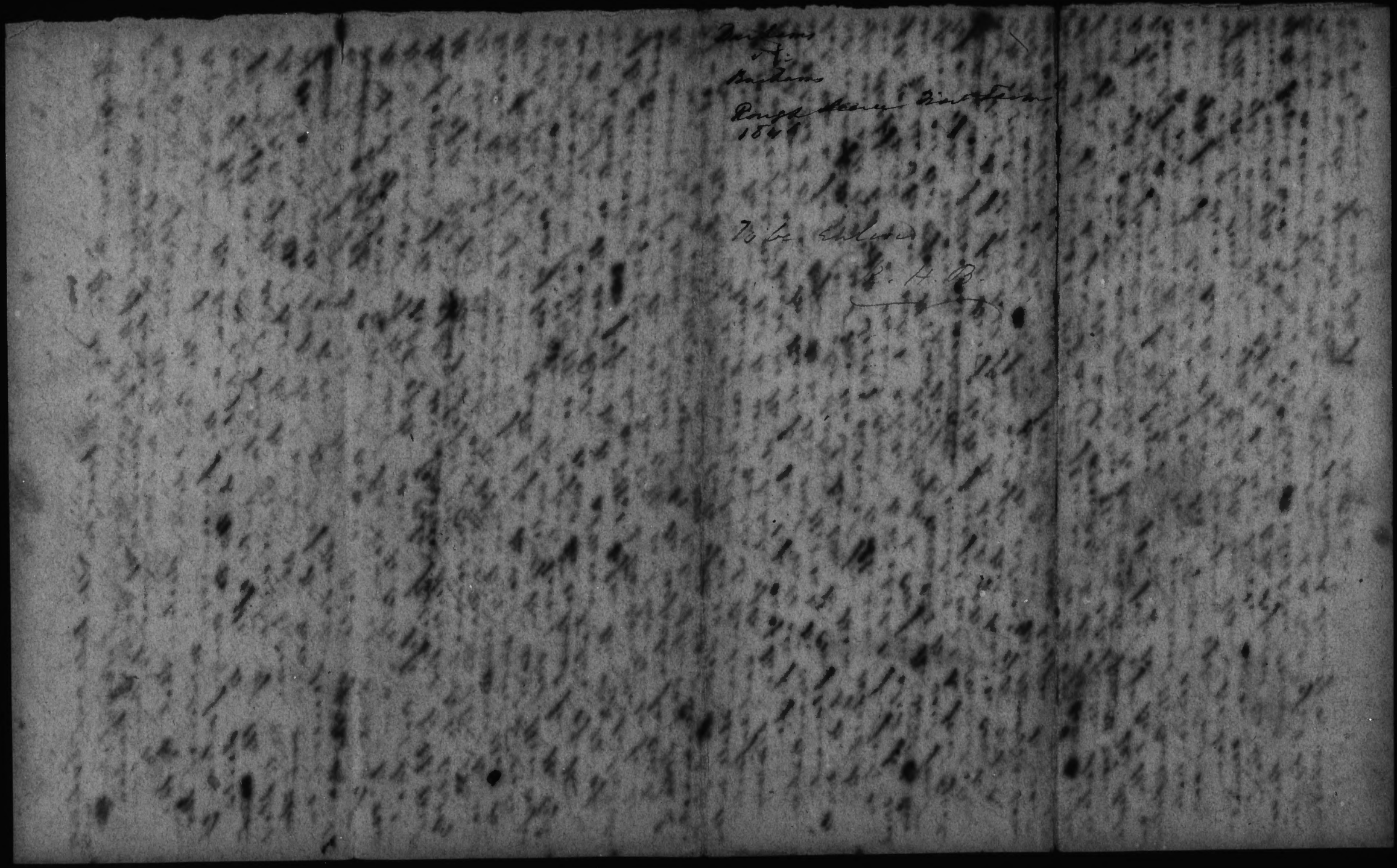
v. } Filed with Bill

Barhams ans

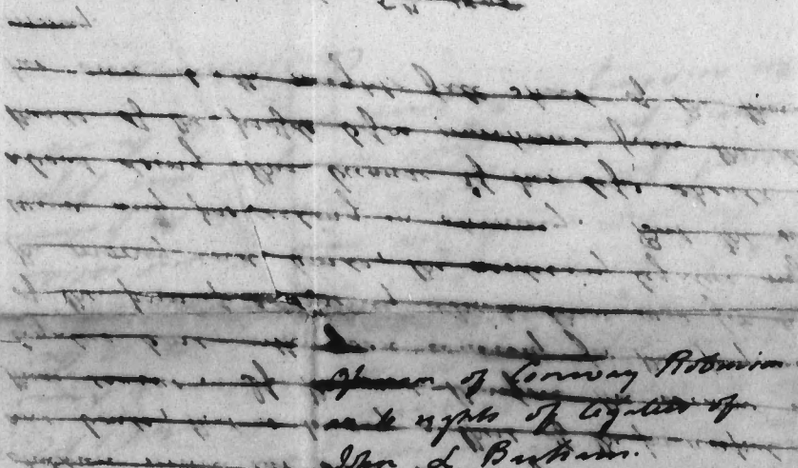
Southampton County Court. July 19th. 1841.

Martha J Barham the widow of John L. Barham deceased appeared in Court and declared that she will not take or accept the provisions ~~the provisions~~ made for her by the will of her said husband or any part thereof and renounced all ~~Provision~~ benefit which she might claim by the said Will.

Test. J. R. Edwards Clk



This cause came on this day to be heard on the Bill and Exhibits
and on the answers of the defendants David Grissom & Wife & Barbara
to the answer of Wm L. Barbam deceased & Martha J. Barbam
and general replications thereto and was argued by Counsel on
consideration whereof the Court doth declare that by the
will of John Barbam in the pleadings mentioned the
Plaintiffs are not entitled to any portion of
the Estate of the said Testator until after the death
of the widow but by the renunciation of the said
widow she became entitled
to a distributive part of the monies and
in addition to the said John L Barbam deceased
the lands of the said Testator and as to the
the said answers of the said Barbam now answers the
suit as to the debts of the said testator and not
sufficient of the personal estate of the said testator for the life and not
there of the said widow the said Testator directed
the remainder thereof to be paid and descended to the said
Testators two children Sidney and Geo: and it be lawful by
then for the life of the said widow the defendant Martha J Barbam
with a contingent remainder in fee in case they survive the
widow and in case of their death before the said widow the said Testator
said remainder in fee to the children of the said Testator
in the Complainants Bill the said infants & interest for the life
tive interests in the said Estate to and administrators of the
of the said widow respect to the administration of the death of
said deceased & Gen: executor and that Martha J Barbam as distributee
the surviving infant the said Martha J Barbam as guardian for
of the said infants entitled to the said two thirds for her
life & has duly attended and agreed by the respective parties by
then should not have Grissom the administrator of the said Wm L.
Barbam deceased to pay the administrator of the said Wm L. Barbam
Barbam deceased and that there are no debts of the said
Martha J Barbam and that the said infants
for the said infants and that the said Martha J Barbam as the distributee of the said
said to account and stated as the distributee of the said infants
entitled to the said two thirds for the life and of the said
as entitled to the said two thirds for the life and of the said
hath an in part of the said Wm L Barbam deceased
allegations of the Bill that the said Martha J Barbam the
of the said Wm L Barbam deceased
are the effects of the said Testator
of the said Testator & an account
said Martha J Barbam who is entitled to
account and that
the said infants
Life out of the personal estate of the said Testator
the residue of the personal estate of the said Testator
shall have accounted to them for the interest of the said Martha J Barbam
and for that purpose that the said Martha J Barbam
that the life estate of the said Testator
the said Testator
the said Testator



The will of John L Barham which was admitted to record in the court of Southampton county on the 21st of December 1840 is to the following effect: The testator loans to his wife during her life all of his estate, reserving however a sufficiency to pay all of his just debts. In consideration of this bequest to her, he declares it to be his will that she shall maintain his children. At the death of his wife his two children are to have his estate and should two children die before his wife, then at her death he gives the property to his brothers Goodwin Barham & William Barham.

It is stated to me that the widow not being satisfied with the provision made for her by the will, did within a year from the death of the testator, in the manner prescribed by the act in 1 R. C. p. 381 § 26 declare that she would not take or accept the provision made for her by the will in any part thereof and renounce all benefit which she might claim by the same will. It is further stated to me that the two children have died and that the widow is yet alive.

In this state of the matter I am asked on behalf of Goodwin & William Barham, whether the property given to them at the death of the widow may not be taken possession of by them now. I perceive no ground on the face of the will, to justify a construction in their favour upon this question. It is very plain from the terms of the will that the testator did not contemplate their taking possession of what was given them until the widow's death. It is equally plain, I think, that the part of the widow's renunciation cannot operate to give them more than they would have taken under the will if she had not renounced. But the renunciation of the widow is not to diminish the rights of those who are devisees and legatees under the will further than is absolutely necessary to give her what is the widow she was entitled to. In this point of view, it is material to know the nature of the estate which the widow got upon the renunciation. If it consisted merely of the third part of the land and third part of the slaves, as her estate in the same would be merely during her life, Goodwin Barham and William Barham might still take possession at her death of the third part so allotted her in the land and slaves as well as of the other two thirds. But if there was other personal estate, to a third of which, the widow by renouncing became entitled as her absolute property instead of having the same as the will gave it, merely during her life. Goodwin Barham and William Barham cannot at the death of the widow get the third of such other personal estate so assigned by the widow as her absolute property that will have gone to the executors, administrators or assigns of the widow. In this case they will have a right to the benefit of the rule laid down by the court of appeals in Mitchell v Johnson 6 Leigh 474 that the property renounced by the widow is subject in the first place as far as necessary to the satisfaction of the legacies or devises, whose devises or legacies

legacies may have been increased or lessened by the effect of the
emancipation of the widow. That is to say there is to be applied in this
case to the indemnification of such devisees and legatees, the life estate
given by the will to the widow in two thirds of the testator's estate.

It will be perceived, at once, that on the view here presented, it is necessary
that I should be informed whether the widow waived from the testator's
estate any personal estate other than slaves. If she waived no
personalty other than slaves, my opinion is that Goodson Barham and
William Barham are not entitled to as devisees or legatees to participate of
what is given them by the will until the death of the widow. If on the other
hand she waived personalty other than slaves, I must be informed
what it was, before I can take any thing more definitely on myself to
the indemnification question or the proper terms and manner of
observing it.

Subject to such claim of indemnification, the two thirds unwaived by
the widow in the estate given her for life was vested in the two children.
upon the death of the one who first died, leaving no descendants, her interest
in the two thirds of the slaves and other personalty went to her surviving child
and upon the death of the one who died last, leaving no descendants, her
interest in the two thirds of the slaves and other personalty went to her
mother. In regard to the two thirds of the real estate given the widow
for life, the provision in the 11th section of the statute of descents (1 RC.
p 356 S. 11) is somewhat different supposing the two children to have
died infants without issue. Under that statute upon the death of the
one who first died his title to the real estate passed to the other child,
and upon the death of that other child, such title and the real estate
as he derived by devise or descent from his father passed to the paternal
kindred; but what had been devised from the child who first died passed
like the personalty to the mother according to the fourth section of the act
of descents.

Con. Robinson

Richmond July 10. 1845

It is now stated to me that the estate of John L Barham consists of
two slaves, (one a valuable young man, the other an infirm woman who is an
expense to the estate) and about a thousand dollars either in money or good
bonds. I infer these are the surplus after paying all of the testator's
just debts and funeral expenses. The effect of the construction was as intimated
above to entitle the widow to a third of the slaves for life and to a third of the
money and bonds in absolute property. But the estate as I understand has
hitherto remained in the hands of the testator's personal representatives; the widow's
part not being yet got delivered to her. The matter to be adjusted, can be
easily settled upon a friendly bill in chancery. If the widow be plaintiff, she
will make the personal representatives and the residuary legatees defendants. If they
the residuary legatees be plaintiffs, they will make the personal representatives
and the widow defendants. I dont perceive that it is of any importance
which are plaintiffs and which are defendants, so that the parties interested

are all before the court and the questions fairly presented on the bill
and answers. The case I should think had better be presented to the
circuit court. An account of the administration of the estate will of course
be decreed. The widow as such will of course be entitled to a decree for
a third of what is on the administrator's hands for whether arising from
the money and bonds or from the hire of slaves, subject of course to a
deduction of what the administrator may have paid her. Two thirds of the
interest and profits of the money and bonds and of the hire of the slaves
will be chargeable with the maintenance and education of the children
so long as they lived. From the deaths of the children, the two thirds
thereafter accruing of the interest and profits of the money and bonds and
of the hire of the slaves should be ordered to be put out in a safe way
at interest, for such portion of the widow's life as will be sufficient
to provide a fund at her death for the residuary legatees equal to the
principal money which she may have waived for her third of the money
and bonds. When such fund shall have been so provided, the two thirds
will thereafter be the absolute property of the widow to be distributed
of her children and when the interest on such fund also from the time to fully make up
until his death.

It should be ordered as such and so distributed distributable of her children
as entitled to the estate as against the residuary legatees, subject
only to the [illegible] of the widow to the profits from the death of her
children until her own death for a term equal to one third of the money
and bonds, that is to say a third of the principal money for distribution from
time to time. If the widow waives the provision to be made for the residuary
legatees here with good security for the payment at her death of one third
of the principal money which has been for distribution among them
the money and bonds, the residuary legatees might not will be obliged and
ensure any proceeding in chancery. But the widow may well hesitate
about doing this because if her life should be a short one, the two
thirds of the profits before mentioned from the deaths of her children until
her own death might fall short of the third of the same principal
money.

Con Robinson

Richmond November 5th 1845

A fund is provided in lieu of the widow's third of the principal of the money
and bonds the fund so provided and the other two thirds of the principal
will both be continued at interest, but the widow will thereafter
receive during her life the interest as well upon the fund so provided as upon
the other two thirds and also the hires of the slaves; and at her death the
residuary legatees will have the slaves themselves and also the amount which
there originally was of principal money for distribution

With the consent of the widow a yet more simple course might be
adopted. This would be to put out the whole of the principal money at
interest (the third which the widow is entitled to absolutely as well as the other
two thirds) and let her receive during her life the interest on the whole
money, as well as receive the hires which have heretofore arisen from the
slaves and have the use hereafter during her life of both the slaves. In this
way the residuary legatees would be secured the whole principal at her death
and they would have the slaves at that time while she in the mean time
would have as much benefit from the money and slaves as would be
compatible with their security.

Con Robinson

Richmond november 5. 1845

To The Hon.ble Richard H. Baker, Judge of the circuit Superior Court of Law and Chancery for the County of Southampton.

The answer of Davis Ingram adm.r with the will annexed of John L Barham dec.d to a Bill exhibited in this Court against him and another, by Gordon Barham and William Barham.

This respondent having and reserving &c. for answer to so much of the said Bill as he is advised it is material he should answer says that he admits John L Barham made and published the will referred to and exhibited by the Plff. and that he qualified as administrator with the will annexed of said Barham. and in that character possessed himself of the Testators estate. That he has regularly settled before a Comm.r appointed by the County Court of Southampton. his accounts as adm.r of J. L. Barham copies of which are here with filed as part of this answer. That he has paid over to Martha J Barham the widow of J. L. Barham. one third of the balance due on the final settlement of his accounts.

That the two infant infant children of J. L Barham that is Georgiana and Susan have since attained their majority and this respondent qualified as their adm.r and now holds the money due them in that character. That he is willing to pay the same according to the decree of this Court. but was unwilling to pay the same either to Martha Barham or to the Plffs because of the fact that such payment and your respondent pays your honor to settle this respective rights in the will of J. L Barham dec.d. in order that he may be enabled to administer the estate properly and

legally. Your Respondent would object to the Plffs. that it would incur an unnecessary expense to settle his account. and has therefore filed the copies alluded to with this answer.

Your Respondent submits to your Honor. whether the Plffs are intitled to any relief in this Court according to the facts set forth in this Bill. and he has been advised that they are not intitled under the will of John L Botham to any portion of his estate till the death of Martha C Botham ~~C Botham~~ the widow. And having answered the charges to the times as required with his oath.

as in duty bound he will ever pray.

To the Hon. Richard H. Baker Judge of the Circuit Superior Court of Law and Chancery for the County of Southampton.

Answer of Martha S. Botham, to a Bill of complaint exhibited in this Court, against her and David Gaylord Gordon and William Botham.

This respondent reserving &c. for answer to the said Bill. says. that her husband John L Botham after making the will exhibited, departed this life. the will was admitted to record in the County Court Court of Southampton. That the executor qualifying as Executrix and David Gaylord qualified as adm. with the will annexed. That she renounced the provisions of her husbands will proffering that portion of his estate to which she was intitled by law. which was one third of his slaves for life and one third of his money & personal estate in fee simple. That the other two thirds stood at once to her infant children. instead of remaining with her, till her death, thus, giving them all the indemnity which the law requires. This respondent Children Georgeanna and Susan, both and, under age married & intestate & without issue your Respondent their mother, them surviving, and she is absolutely entitled to all their personal estate. That she has applied to David Gaylord their adm. for payment, but he denies, upon the ground that it is claimed by the Plffs. and your respondent is advised the plaintiffs are not intitled to any thing till her death, the praied for its enjoyment by them fixed by the will of her husband.

The Plffs. admit in their Bill that this respondent is intitled to the use of the money during her life but contend they are entitled to indemnity for the loss of one third of the money which the respondent gets in presumptu. by the renunciation of her husband

~~Southampton~~ County to wit.

This day David Gaylord adm with the will annexed of J. L. Botham personally appeared before me a justice of the peace in the county aforesaid and made oath that the facts containing in the foregoing answer are true to the best of his knowledge and belief.

Given under my hand this 6 day of March 1846

Jam's Dremy J.P.

mit - and your Respondent is advised they are in no way, under the circumstances, detained in this Bill untill to any relief - at the hands of this Court.

This applt. has chosen and prefered and untill to marry, obtained by her renunciation of her husbands will. - The Plffs intitled is nothing like the oath of your Respondent - she being the sole executrix of her children is of course intitled to this estate. -

Your Respondent prays the Court to decree that David Hayford as adm of Georgianna and Susan Barham, her infant children may be decreed to pay over the money alluded to in the Bill, to her to be injoyed by her during life -

That she is not aware of any injury which the has inflicted on the Plff - and having now fully answered prays to be hence dismissed with her cost -

As in duty bound &c -

Southampton County to wit,

This day Martha J. Barham personally appeared before me a justice of the Peace for the county aforesaid, and made oath that the foregoing answer, contains the Truth, to the best of her knowledge and belief -

Given under my hand this 16th day of March 1846 -

David Dewey J.P.

16th March 20

Barbour vs Gregg's Adm.

The Pltff file as Notes in this Case the Opinion of Conway Robinson Esqr. — In addition they say in reply to note on other side, that had the Children lived they would have taken the estate renounced by widow immediately as their absolute property. Not so with Pltff. they do not take till death of widow, the time appointed by will, and in consequence of widows renunciation at that time they receive only 2/3ds instead of the whole estate bequeathed to them. And we ask that they may be indemnified out of the life estate, in one or the other modes pointed out in Mr Robinsons Opinion. We have no objection to adopting the account filed —

(Ent. Gregg's Adm. Ack)

R.

Joseph D Prince Exr: of Joseph F Bland
In account with Elizabeth Bland, widow

1846					
Nov:	7	Bal: due Estate as p. Comr: report		1835	37
		Amt due Mrs Holt	485.8.11		
		Int thereon from March 7th to Nov: 7th 1846	194.32	50	43
"	"	Amt distributable		13302	94
		Elizabeth Bland's portion, one third		4434	11/3
1845 Jany	28	By amt paid Mrs. Bland	2102.50		
		Int thereon to Nov: 7th 1846 (1.9.10)	223.93		
" June	17	By amt paid Mrs Bland	1742.60		
		Int. thereon to Nov: 7th 1846 (1.4.20)	145.20		
			4214.13	4214	13
		Bal. due Mrs Bland. Nov: 7th 1846		220	18

Barham

v

Barham . abm.

1847 November Term

Barbara.

vs

Barbara. adw.

On motion of the Plaintiff. it is ordered, that unless the Defendant Martha Barbara comply with the decree pronounced in this cause at may Term 1824- before the first Term of this Court. then the Court will proceed to pronounce such other decree as may seem just and the case requires

Barhams

v. } Rough Record

Barhams cor &c

In the Circuit Superior Court of Law and Chancery for Southampton County

Be it remembered that, on the 15th day of December in the year 1845 Gordon Barham and John L Barham by their Counsel sued out of the Clerks office of the said Court a Subpoena in Chancery & decree nisi against Martin Barham and David Grizzard administrator with the will annexed of John L Barham dec'd which Sp.a & decree nisi together with the return made thereon is in the following words and figures 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 January in the year 1846 came the plaintiffs by their Counsel and filed their bill against the defendants in the following words to wit. (here insert it.)

Whereupon on the motion of the plaintiffs by Counsel a Sp.a & decree nisi was awarded against the defts. which Sp.a & together with the return thereon is in the words following words & figures to wit (here insert)

At another day to wit. At Rules held in the Clerks Office of the said Court on the first Monday in February 1846 on the motion of the pltffs by Counsel another Sp.a & was awarded against the Deft. David Grizzard adm. with the will annexed of John L Barham dec'd which Sp.a & with the return thereon is in the following words and figures to wit: (here insert)

At another day to wit. At Rules held in the Clerks Office of the said Court on the first Monday in March 1846 on the motion of the plaintiffs by their Counsel another Sp.a & was awarded against the deft. David Grizzard adm. with the will annexed of John L Barham dec'd which Sp.a & together with the return made thereon is in the words and figures following to wit. (here insert).

At another day to wit. At Rules held in the Clerks Office of the said Court on the first Monday in April 1846 came the Defts. by their Counsel and filed their answer to the pltffs. bill in these words to wit (here insert them).

Exhibits filed with the foregoing answer (here insert them)

To the foregoing answers the plaintiffs by their Counsel instanter replied generally -

At another day to wit. At Rules held in the Clerks Office of the said Court on the first Monday in June 1846 on the motion of the pltffs by Counsel this cause was set for hearing -

At another day to wit. at a Circuit Superior Court of Law & Chancery held for the County of Southampton on the 12th of November 1846 -

This cause came on &c. (here insert decree)

Commissioners Report - (here insert it)

At another day to wit. At a Circuit Superior Court of Law & Chy held for the County of Southampton the 4th day of May 1847.

This day this cause came on &c. (here insert decree)

And at another day to wit. At a Circuit Superior Court of Law & Chy held for the County of Southampton on the 10th day of November 1847 the following order was made - (here insert it) -

Pltffs. Costs $ 46.36
Dfts. do - 18.32

Clerks Fee for transcript record $ 6.22.

95 ~~1867~~ 101 ~~97~~

Barham ff

ṽ } Stat: Rules

Barham ff

In Southampton Circuit Court

William Barham, Martha A Barham, Robert T Barham & John Barham, the three last children of Goodson Barham

against

Joseph N. Barham, Jesse S Barham W W Briggs Sheriff of Southampton and as such administrator de bonis non with the will annexed of John L Barham and also as administrator of Goodson Barham and John Williams Executor of Martha S Barham dec'd

1880 December 21st Amended & Supplimental Bill filed Summons issued

1881 January R- Summons rt'd Executed on Defts Briggs - came to hand too late to execute on the other Defts - Alias Summons awarded agst Defts Joseph N. & Jesse S. Barham & John Williams Exr of Martha S Barham dec'd - Decree Nisi v Deft Briggs as admr. &c. of John L Barham & as admr. of Goodson Barham dec'd

" Feby " - Alias Summons rt'd Executed - Bill taken for confessed as to Deft Briggs admr &c. - Decree Nisi v Jos. N. & Jesse S Barham & Williams Exr &c.

" March " Bill Taken for Confessed as To Defts Jos N & Jesse S Barham & Williams Ex &c cause set for hearing as to of the Defts -

" May 25. Sci.fa. issued to revive suit v W Frank Barham & N. Thomas Barham Comrs. of Jos N Barham, returnable to July Rules

" July Rules. Sci.fa. returned executed & suit revived accordingly -

" Nov. 7. Death of Jesse S Barham suggested

1882 Feby 7 Sci.fa. issued to revive suit v W. W. Brigg Shff & admr of Jesse S Barham dec'd

1882 March R. Scisa returned Executed - Suit revived &c

" May T. Decree for account

" Sept. Sci fa issued to revive suit v Exors of I H Barbour

" Oct Scisa returned Executed - Suit revived accordingly

1883 May discontinued &c

B. F. & B. Barker

WINTON.
MAR [illegible]
N. C.

Mr. Wm. B. Stevens
Jerusalem Southampton Co
Va.

Letter
from
B. W. Barham
to
Wm B Shands
authorizing a
compromise

No 166

Mexico 21st 1883

Mr. W. B. Stones

Dear Sir

Your letter I have the 20th inst. I will now begin at the first and tell facts I was peddling selling goods my Bro. Jos. N. Barham persuaded me to quit peddling and go to farming he became my security for about one hundred and fifty dollars I farmed two years paid him two Bales cotton weights I do not know it went for about fifteen cents pr lb. I gave him a deed of land on which Thos. Bailey was tenant to the death he pretty near paid off against me and ordered paid Bailey to all which he did not one time ever mentioned to me I always I do not believe the number paper ever any thing I had except the horse hide and I never had any receipt for any thing nor I never know what the note amounted to after that time the next year he rented a few hands for my self myself and to buy clothes I bought from time to time one hundred and ten dollars for which I never have received a cent nor a receipt and I did trade to you for this deed of land against my Bro. Nole I quit off going to the Mexican War and I needed some money he told me he would let me have fifty or seventy five dollars if I would give him a deed of trust on my Brazoria which I did with the promise I was to have the money when I got ready to return and I got out of the

return of gang to the mexicans war under
rules stipulated any more of these matters.
You notified me about it - you wrote me
in one of your letters which I have written
for all about I will ready to before any
Judge of the fact in court of the case if
necessary

Very respectfully

B. H. Bachman

PS

If you think it necessary you can
make any comparison you please and I shall
be all right or satisfactory with me when
ever you do

Yours &c

B. H. Bachman

Barhams

vs } Sci Fa

Barhams

1882 October Rule

Executed by delivering
Jas E Schell & Jos D Price
each a Copy of this
Notice on the 20th day
of September 1882

Wm W Riggs Shff

The Commonwealth of Virginia,

TO THE SHERIFF OF SOUTHAMPTON COUNTY--GREETING:

WHEREAS William Barham, Martha A Barham, Robert T Barham & John Barham the last three children of Goodson Barham dec^d

heretofore exhibited to our Circuit Court of Southampton County, sitting in chancery, their bill of complaint against amended bill and Supplemental bill of Complaint against Joseph H Barham, Jesse D Barham, W H Briggs Sheriff of Southampton and as such administrator de bonis non with the Will annexed of John T Barham and also as administrator of Goodson Barham dec^d and John Williams executor of Martha J Barham dec^d

whereupon sundry proceedings have been had, as appears from the records and files of the said court, but before a final decree could be pronounced in the cause, the said Joseph H Barham has departed this life having first made his last will and Testament in writing and thereof appointed Joseph B Prince and James E Sibrell Executors who have proven the same and taken upon themselves the Execution thereof.

And the said Plaintiffs having supplicated us for a proper remedy in this behalf, and we being willing that what is right and just should be done; Therefore, we command you that you make known according to law to the said Joseph H Prince & James E Sibrell Executors as aforesaid

that they be at the Clerk's office of our said Circuit Court, at the rules to be holden for the said court on the first Monday in October next, to shew cause, if anything, for themselves they have or know to say why the said suit should not be proceeded into a final decree

and be in all things in the same plight and condition as it was at the time of the of decease the said Joseph H. Barham

and further to do and receive what our said Court shall in that part consider. And have then there this writ.

Witness, ~~OSWIN WHITE~~ Hilton R Edwards, Clerk of our said Court, at the Courthouse, this 16 day of September 1882, in the 107 year of the Commonwealth.

H R Edwards cc

COMMISSIONER'S OFFICE,

Jerusalem, Va., August 10th **188**2

TO Wm Borhom. Moriha A Borhom. Robert J. Borhom & John Borhom the last three children of Goodson Borhom

Plaintiffs

against

Joseph H. Borhom. Jesse S. Borhom. W.W. Briggs. Shiff of Southampton County & as such admr de bonis non with the will annexed of John L. Borhom & who as admr of Goodson Borhom & John Williams Exor of Moriha J. Barhom

Defendants

You are hereby notified that I have fixed upon the 15th **day of** September **next, if fair, if not, the next fair day thereafter (Sunday excepted) to take and settle, at my office, the following accounts, to wit:**

On consideration whereof the court doth adjudge order and decree that one of the commissioners of this court do take the last account under a deed made on the 5th of November 1844 by Benja W. Borhom to secure certain debts due from the said Benja W Borhom to Jesse S. Borhom & Joseph H. Borhom. the said W W Briggs as admr of Jesse S. Borhom dec'd to lay all the vouchers of the said Jesse S. Borhom before the commr who will state and settle the same together with any matter specially stated deemed pertinent by himself or which may be required to be stated by any of the parties interested

required to be taken by a decree of Southampton Circuit Court, rendered at the May **term, 18**82**, in a suit in Chancery, depending in said Court, in which you are parties, plaintiffs and defendants; at which time and place you are required to attend.**

Given under my hand as Commissioner in Chancery of the said Court, the day and year first aforesaid.

JAMES R. TYLER, Commissioner.

To the Sheriff of Southampton County to execute.

Barbeaux

2 Livres

Barbeaux

15

15 = Septe

Southampton Circuit Court, May Term 1882.

Wm Barham, Martha J. Barham, Robt T. Barham, & John Barham, the last three children of Goodwin Barham, Plaintiffs } In Chancery

Against

Joseph K. Barham, exr of G. Barham, W.W. Briggs Shff of Southampton County, & as such admr de bonis non with the will annexed of John L. Barham, & also as admr of Goodwin Barham, & John Williams Exr. of Martha J. Barham, Defendants

This day this Cause coming again to be heard on the Plaintiffs amended & Supplemental Bill, taken as confessed as to the defendants and depositions filed, & it appearing that since the filing of the said amended & supplemental bill, Joseph K. Barham, has been adjudged a Lunatic, & that a Scire Facias was awarded & returned executed against R. Francis Barham, & K. Thomas Barham, his committee, to shew cause why the said Suit should not be proceeded with as fully decreed against them, as Committee of the said Joseph K. Barham, whereupon the said Plaintiffs revived against the said R.F. Barham & K.T. Barham as Committee of Joseph K. Barham,

& it appearing further that since the filing of said amended & supplemental Bill, that Jesse I. Barham has departed this life, & that a Scire facias has been returned executed against W.W. Briggs his administrator to Show Cause why the said Suit should not Stand revived against him, thereupon it stands revived against W.W. Briggs Admr of Jesse I. Barham dec'd. & was argued by Counsel;

On consideration whereof the Court doth adjudge, order & decree, that one of the Commissioners of this Court settle the Trustee account, under a Decree made on the 5th of November 1844, by Benja W. Barham & certain debts due from the said Benja W. Barham to Jesse I. Barham & Joseph H. Barham, the said W.W. Briggs as admr of Jesse I. Barham dec'd to lay over the Vouchers of the said Jesse I. Barham before the Comr. who is to state, and settle the same, together with any Matter Specially stated deemed pertinent by himself, or which may be required to be stated by any of the parties

interested, & leave is hereby granted to any of the defendants, who may so desire it, to file their answer in twenty days.

Jno. Tyler

J. K. Tyler, D.C.

Barbam's

vs. 3 Report of

Barbam &c

Commissioner Tyler

1882. October 23rd

Commissioner's Office,
September 23rd 1882.

To the Circuit Court of Southampton County.

Your Commissioner begs leave to Report, that in obedience to a decree of the said Court entered at the May Term 1882, directing one of its Commissioners to Settle the Trustee account, Under a Deed Made on the 5th of November 1877, by Benjamin W. Barham to Jesse S. Barham and Joseph H. Barham, the said W.W. Briggs as Administrator of Jesse S. Barham dec'd. to lay the Vouchers of the said Jesse S. Barham before the Commissioner. The said Commissioner fixed on the 15th day of September last to State & Settle the said account & Notified all the parties interested & that on the said 15th day of September 1882, the said W.W. Briggs appeared before your Commissioner and Stated that he had no Vouchers of Payments to lay before him; that he had Notified Joseph H. Barham's Committee R.T. Barham & Henry Thomas Barham, and they gave him no papers Connected with the said trust, funds and your Commissioner Knows of None.

All of which is, Respectfully Submitted,

James K. Gyles,
Commissioner

Court's fee for this Report, Notices &c $5.00
Charge to Plaintiff.

The Answer of Joseph H. Barham
(by N. Thomas Barham & R. Frank Barham, his Committee)
to a Bill filed against him in the Circuit Court of
Southampton County, by Benjamin W. Barham & others.

The Respondents for answer to so much of the
Bill of Complainants as they are advised it is material
for them to answer, say -

That at the term of the County Court of said
County 1881, the said N. T. Barham & R. F. Barham
were appointed a Committee to the said Joseph H.
Barham, who was then declared to be a person of
unsound mind -

The William Barham and Goodson Barham spoken
of in the Amended Bill of Complainants are the same
persons as Benjamin W. Barham & Owen G. Barham -

These respondents are advised that the Administrator
and heirs of Goodson Barham are precluded from set-
ting up claim to any portion of the estate devised & bequeathed
to said Goodson Barham by the will of Mrs L. Barham,
because of the Deed of Bargain & Sale executed by said
Goodson Barham to said Joseph H. Barham, a copy
of which said Deed is filed with Complainants bill
and is marked "B". Respondents therefore deny any
liability whatever on Joseph H. Barham's estate for
or by reason of said claim made by Goodson Barham's
heirs &c, and pray that the Bill may be dismissed
as to them and at their costs - &c.

As to the claim made by Benjamin W. Barham Respondents say that they have always heard from their father the said Joseph H. Barham & from their uncle, now of unsound mind the said Isaac S. Barham now deceased, that the said Benjamin W. Barham had been fully & fairly paid by them the whole amount decreed to him by said Isaac S. Barham They therefore ask of the Court that proper accounts may be taken &c.

Respondents deny all responsibility on the part of said Joseph H. Barham or his estate in this behalf.

And having answered pray to be dismissed &c.

H. T. Barham
R. F. Barham.
Committee of Jos. H. Barham.
Thos. J. Kindred, Atty for Defdts

Answer filed by Committee of Jos. H. Barham & Atty for Defdts Sept 13 1882

Virginia - Southampton County - Town

This day personally appeared before me, a justice of the peace for said County, in my said County, the above-named H. Thomas Barham ---- and made oath that he believed the statements made in the foregoing answer to be true. Given under my hand this 4th day of August 1882

Lucien R. Edwards J.P.

Virginia - Southampton County - Town

This day personally appeared before me a justice of the peace for said County, in my said County, the above-named R. F. Barham and made oath that he believed the statements made in the foregoing answer to be true. Given under my hand this 12th day of August 1882.

C. H. Nicholson J.P.

Benj W. Barham Adm
vs
Isaac S. H. Barham
Defendants Answer
Filed Sept 13th 1882

Barham vs.
Scire Facias
vs.

Barham vs

1881 July Rules.

Executed by delivering
R Frank Barham & H
Thomas Barham each a
Copy of this Summons on the
2 & 11 day of June 1881.

W W Briggs Shff

The Commonwealth of Virginia,

TO THE SHERIFF OF SOUTHAMPTON COUNTY--GREETING:

WHEREAS William J Barham, Martha A Barham, Robert T Barham & John Barham the three last children of Goodson Barham dec^d

heretofore exhibited to our Circuit Court of Southampton County, sitting in chancery, ~~their bill of complaint against~~ their amended and supplemental bill of complaint against Joseph M. Barham, Jesse S Barham, W. W. Briggs Sheriff of Southampton as such administrator de bonis non with the will annexed of John L Barham dec^d also as administrator of Goodson Barham dec^d & John Williams Executor of Martha J Barham dec^d

whereupon sundry proceedings have been had, as appears from the records and files of the said court, but before a final decree could be pronounced in the cause, the said Joseph M Barham became of unsound ~~departed this life~~ mind and R. Frank Barham, & M. Thomas Barham were appointed a Committee of the person and estate of the said Joseph M Barham as we are informed

And the said Plaintiffs having supplicated us for a proper remedy in this behalf, and we being willing that what is right and just should be done: Therefore, we command you that you make known according to law to the said R. Frank Barham & M Thomas Barham Committee of the said Joseph M Barham

that they be at the Clerk's office of our said Circuit Court, at the rules to be holden for the said court on the first Monday in July next, to shew cause, if anything, for themselves they have or know to say why the said suit should not be proceeded into a final decree against them

and be in all things in the same plight and condition as it was at the time of the ~~of decease the said~~ appointment of the said R. Frank Barham & M. Thomas Barham as Committee as aforesaid

and further to do and receive what our said Court shall in that part consider. And have then there this writ.

Witness, ~~OSWIN WHITE~~ Lillian R Edwards, Clerk of our said Court, at the Courthouse, this 25th day of May 1881, in the 105th year of the Commonwealth.

L R Edwards cc

I went to the residence of Jesse S Barham on the 4th day of February 1881, and he being absent from home, I delivered a copy of this Summons to Mariah Barham his wife, she being a white Member of his family, and above the age of Sixteen years, I also gave information to her of its purport

Sworn to before me this 4th day of. Mills A Eby
February 1881

J. N. Sebrell
Comr in Chancery

Barham &c
vs
Barham &c

Exhibit by defendants
Sworn to Barham
and John Williams
ex officio Copy of this
Summons on the 31st day
of January 1881.
W C Briggs. Shff

The Commonwealth of Virginia,

To the Sheriff of Southampton County--GREETING:

WE COMMAND YOU TO SUMMON as heretofore we have Joseph H. Barham, Jesse P Barham & John Williams Executor of Martha J Barham dec'd

to appear at the Clerks Office of our Circuit Court of Southampton County at the Rules to be holden for the said Court on the first Monday in February next to answer an amended & supplemental bill in chancery exhibited against them and others in our said Court by William Barham, Martha A Barham, Robert T. Barham & John Barham

and have then there this writ.

Witness, LITTLETON R. EDWARDS, Clerk of our said Court at the Court House, this 5th day of January 1881, in the 105 year of the Commonwealth.

L R Edwards C C

Clerk will copy following exhibits and file with amended bill

Deed from William Barham to Jesse S Barham
Nov 5th 1844 A

Deed from Wm G Barham to Jos H Barham
of December 1846 B

Wm B Shands J.Q.

Memorandum
for
Clerk

I acknowledge service of this Summons.

W. W. Briggs

Came to hand too late to be Executed on the other parties.

W. W. Briggs Sheff

Sheriff's Office
Parker Co
1881
January 10th
Sheriff's Fees

The Commonwealth of Virginia,

To the Sheriff of Southampton County--GREETING:

WE COMMAND YOU TO SUMMON Joseph H Barham, Jesse D Barham, John Williams Executor of Martha J Barham dec'd Wm W. Briggs Sheriff of Southampton Co as such administrator de bonis non of John L. Barham dec'd and also as administrator of Goodson Barham dec'd

to appear at the Clerks Office of our Circuit Court of Southampton County at the Rules to be holden for the said Court on the first Monday in January *next* *to answer an amended Supplemental bill in chancery exhibited against them in our said Court by* William Barham, Martha A Barham Robert T Barham & John Barham

and have then there this writ.

Witness, LITTLETON R. EDWARDS, Clerk of our said Court at the Court House, this 21st *day of* December *1880, in the* 105 *year of the Commonwealth.*

L R Edwards c

Barhams

vs } Decree

Barhams admrs

To be entered

Nov Term 1880

Geo. Blow.

Barhams

vs 33 Decree

Barhams adm'r &c

On motion of William Barham one of the plaintiffs in this cause this cause is reinstated on the docket with leave to the plaintiffs to file an amended and supplemental bill and to make such new parties as may be necessary parties defendant to this bill

Barham &c

v. } Sci. fa.

Barham &c

1882 March Rules

I acknowledge
Service of this
Summons.

W W Briggs

The Commonwealth of Virginia,

TO THE SHERIFF OF SOUTHAMPTON COUNTY--GREETING:

WHEREAS William Barham Martha A Barham Robert T Barham & John Barham the last three children of Goodson Barham dec'

heretofore exhibited to our Circuit Court of Southampton County, sitting in chancery, their ~~bill of complaint against~~ amended bill and Supplemental bill of complaint against Joseph A Barham, Jesse S Barham, W W Briggs Sheriff of Southampton ~~County~~ and as such administrator de bonis non with the will annexed of John S Barham dec'd. also as administrator of Goodson Barham dec', & John Williams Executor of Martha S Barham dec'd

whereupon sundry proceedings have been had, as appears from the records and files of the said court, but before a final decree could be pronounced in the cause, the said Jesse S Barham has departed this life and administration on his estate has been committed to the hands of W W Briggs Sheriff of Southampton County

And the said plaintiffs having supplicated us for a proper remedy in this behalf, and we being willing that what is right and just should be done: Therefore, we command you that you make known according to law to the said W W Briggs Sheriff & admor of the said Jesse S Barham dec'

that he be at the Clerk's office of our said Circuit Court, at the rules to be holden for the said court on the first Monday in March next, to shew cause, if anything, for himself he has ~~have~~ or knowsto say why the said suit should not be proceeded into a final decree against him

and be in all things in the same plight and condition as it was at the time of the of decease the said Jesse S Barham

and further to do and receive what our said Court shall in that part consider. And have then there this writ.

Witness, ~~OSWIN WHITE~~ L W Melton & L R Edwards, Clerk of our said Court, at the Courthouse, this 7th day of February 1882, in the 106th year of the Commonwealth.

L R Edwards Clk

Barham et als

vs 2/3 Notice

Barham Admr et als

Executed by delivering

Joseph A Barham

a Copy of this Notice

on the 1st day of

March 1881.

W W Briggs Shff

To Joseph H Barham Esq

Take notice That we shall on Tuesday the 15th of March 1881 at the house of John Williams between the hours of ten O'clock A.M. and sunset proceed to take the deposition of John Williams to be read as evidence in our behalf in a certain suit now pending in chancery in the circuit Court of Southampton wherein we and others are plaintiffs and you and others are defendants

John Barham & Wm Barham
for themselves and others

Barham and others

~~In~~ Depositions
~~Re~~ &c.,

Barham and others

Returned by
Comr Parker - on 15th
March 1881.
ERE

Deposition of John Williams taken at his house on the 15th of March 1881, between the hours of 10 O'Clock A. M. and Sunset, pursuant to notice duly given to be read as evidence in behalf of John Barham, William Barham and others in a certain suit in Chancery now pending in the Circuit Court of Southampton County, wherein John Barham and others are plaintiffs and Joseph H. Barham and others are defendants.

Present Wm B. Shands atty for the plaintiffs.
Present Jno. J. Kindred " " " defendants.

John Williams being duly sworn deposes as follows:

Question 1st When Did John L. Barham die?
Answer In the year 1840.
Question 2 When did Mrs Martha J. Barham, widow of the said John L. Barham, die.
Answer In July 1880.
Question 3 Did you not as agent of Martha J. Barham in her Life time?
Answer I did.
Question 4 Acting under the order of the Court, did you as agent, pay any money to Jos. H. Barham and how much?
Ans. David Grizzard admr of John L. Barham died, held my bonds for $1500.00 principal, due to John L. Barham's estate - these bonds Mr. Grizzard assigned to Jos. H. Barham and I

paid them to him, amounting principal and interest $1833 cts and some cents. I paid to the widow as her thirds, before suit brought, the sum of about $300.00 cts.

Question 5- Did Mr. Jos. H. Barham pay to Mrs Martha J Barham the interest on this money in her life time?

Ans- He paid $110.00 cts from the time he was directed by the decree of court so to do, annually, making the last payment in June 1880, a short time preceding her death.

Question 6- Did you qualify as Extr of Martha J. Barham?

Ans- I did.

Question 7. What other estate did she have as dower from the estate of her deceased husband, John L. Barham, except this interest.

Ans. None except two negros who were liberated by the war. All the other property she had, she accumulated after the death of her husband.

And further this deponent saith not.

John Williams

The above deposition was taken at the time, place and manner mentioned in the caption, before me, a Commissioner in Chancery for the Circuit Court for the Southampton County. Given under my hand as Comm'r in Chancery this 15th day of March 1881.

Wm H. Parker,
Comm'r in Chy.

Commissioner's Fee $5.00 cts.

Barhams

v. Copy Decree

Barhams admr &c

Notice to Mar. 10 next

Southampton Circuit Superior Court – November 12th 1846.

Goodson Barham and William Barham Pffs } In Chancery

against

David Brizzard admr. with the will annexed of John L Barham dec'd and Martha Barham Defts }

This cause came on this day to be heard on the bill and exhibits and on the answers of the defendants David Brizzard administrator with the will annexed of John L Barham deceased and of Martha J Barham and general replications thereto and was argued by Counsel. On consideration whereof the Court doth declare that by the will of John Barham in the proceedings mentioned the plaintiffs are not entitled to any portion of the estate of the said testator until after the death of his widow and that by the renunciation of the said will by the said widow she became entitled in absolute property to one third of the monies of the said John L Barham deceased in the hands of the defendant David Brizzard administrator with the Will annexed of the said Barham remaining after the payment of the debts of the said testator and to one third of the slaves of the said testator for life, and that the remaining two thirds of the said monies & slaves passed and descended to the said testators two children Susannah and Georgiannah to be held by them for the life of the said Widow the defendant Martha J Barham with a contingent remainder in fee in case they survived the said widow; and in case of their deaths before the said widow that the said remainder in fee vested under the Will of the said Testator in the Complainants – That both the said infants having died their respective interests in the said estate to wit, an interest for the life of the said widow passed to the administrator of the said Susannah and Georgiannah and that upon the death of the surviving infant the said Martha J Barham as sole distributee of the said infant is entitled to the said two thirds for her life – it being hereby admitted and agreed by the respective parties by their Counsel that David Brizzard the administrator of the said John L Barham deceased is also the administrator of the said Susannah and Georgiannah Barham deceased, and that there are no debts to be paid for the said infants, and that the said Martha J Barham shall in this suit be regarded and treated as the distributee of the said infants and entitled to the said two thirds for her life as if their administrator was a party in this suit with all proper allegations – The Court also declares that as by the renunciation of the said Will by the said Martha J Barham the complainants are disappointed in the legacy intended for them by the will of the said Testator to an amount equal to the sum which the said Martha J Barham will

be entitled to as absolute property as aforesaid, and that they are entitled to be compensated for such loss out of the remaining two thirds as far as practicable by investing the said fund and adding the profits thereof to the principal until a fund equal to the original distributable fund in the hands of the administrator shall have accumulated, and from and after that time in case the said widow shall be then living that the interest of the whole fund thus accumulated shall be paid to the said Martha J Barham during her life and at her death whenever that may happen the said principal shall be paid to the Complainants, or that compensation shall be made in some other mode upon the principles settled in analogous cases. The Court doth further declare that the said Complainants are entitled to require security from the said widow for the payment of the said fund upon her death in case she shall require the said fund to be paid over to her, But the amount of the fund for distribution not now being ascertained, the Court doth now adjudge, order and decree that the defendant David Grizzard administrator of John L Barham deceased, ~~and also of~~ render before a Commissioner of this Court an account of his administration of the estate of the said John L Barham deceased and also of the slaves left by his testator, and an account of the payments made by the said administrator to the defendant Martha J Barham on account of her thirds in the said estate, which said accounts the said Commissioner will state settle and adjust and to the Court report together with any matters specially stated deemed pertinent by himself or which may be required by any of the parties to be stated

Barham vs Barhams. adms.

This day this cause came on to be further heard on the papers formerly read, and on the report of Saml. Cobb. made in pursuance of an order of this Court pronounced at Nov. Term 1842. to which report there is no exception. and was argued by Counsel.

On consideration whereof the Court confirming said report. doth adjudge order and decree that David Gaylord adms. of John L. Barham dec? deliver to Martha S. Barham the slaves in the proceedings mentioned[x] to be held by her during her natural life, with remainder in fee simple to Gordon Barham and William Barham.

And this Court doth further order and decree that the said David Gaylord adms. as aforesaid pay to Martha S Barham the sum of $9-56/100 with interest from 1st day of Janry. 1846, till paid.

And this Court doth further adjudge order and decree that David Gaylord adms. of Susanna Barham, and Georgianna Barham pay to Martha S. Barham the sum of $1210.20. with interest from 1st day of May 1844, being the balance due from him as adms. of said Susanna Barham and Georgianna Barham dec? But the said Martha S Barham is not to have the benefit of this decree against David Gaylord, adms. of Susanna Barham and Georgianna Barham, until she shall enter into Bond with one or more sufficient sureties in the Clerks Office of this Court in the penalty of $3666.46/100 conditioned to pay to Gordon Barham and William Barham the sum of $1210.20/100 with interest from 1st May 1847. provided however, that the estate of the dec. Martha S. Barham after her death shall not be bound to pay to the said Gordon Barham and William Barham, more than $1833.23/100 with interest from the time of her death. And this Court doth further order that this decree be suspended, until Martha S Barham shall execute to David Gaylord a refunding bond with sufficient security in the penalty of $2420.40 conditioned to refund her due proportion of any

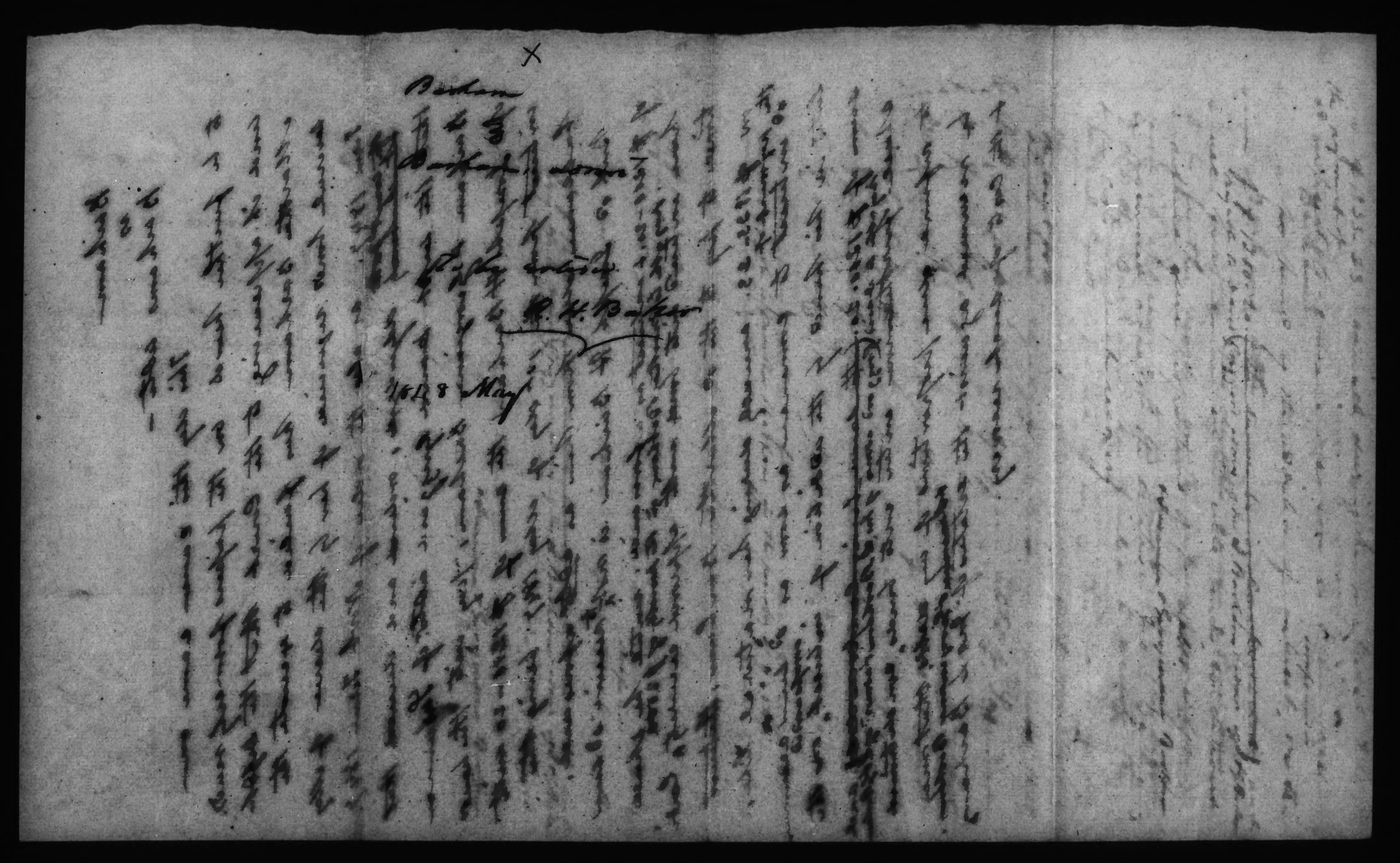
x namely

debts which may be recovered against the estate of Elston L Barbour, and the costs of such recovery.

And the Court doth further adjudge order and decree that David Graydon, out of the interest in his hands which has accrued on the sum of $1210.20 since 1st day of January 1846 pay the expenses and costs of this suit.

Barbour
vs.
Barbour et al
Decree June 1847.

Filed 1st Sept 1847



Barham
vs
Barhams adm-

This day this cause came on to be further heard on the papers formerly read. and it appearing to the Court that the defdt Martha Barham has failed to execute the several bonds required of her by the decree of May Term 1847. as also the order of Nov. Term 1847. It is therefore adjudged, ordered and decreed that that the surviving Exrs and adms of Jas Barham & Georgiana Barham, pay into the hands of Joseph H Barham the sum of $1210-20 with interest from the 1st day of May 1847 being the balance found due from them as adms aforesaid. But as Joseph H Barham is not to receive said sum of $1210-20. & interest as aforesaid, until he shall have entered into bond with approved security & conditioned to pay to the said Martha Barham, the interest on $1833-33. annually during her natural life, the payment of said interest to commence as soon as said Joseph H Barham collects in his hands by the addition of interest compounded on the sum of $1210-20. ~~(the same being contemplated)~~ and pay off to said Exrs and adms of the said Barham's adms of Jas Barham ~~shall~~ shall further more enter into bonds, conditioned to refund their proportion of any credit that may be recovered against the estates of Jas & Barham & the costs of such recovery.

Barhams

v 3 Order

Barhams adm rx

Nov Term 1881

To be entered

Geo Blow

Barhams
vs
Decree
Barhams

The death of Jesse L
Barham one of the defendants in this
cause being suggested leave is given to
revive the cause in the name of his
personal representative

Cfd 92

Barkamo
vs 3 Deece
Barkamo

To be entered
Nov term 1882

Geo Blow

Barhams

vs Decree

Barhams &c

This day this cause came on again to be heard on the papers formerly read, the answer of H.T. Barham and R.T. Barham committee of Joseph H Barham filed by consent the 13th of September 1882 general replication thereto the report of Commissioner Pope of Wm W Biggs settlement as administrator of Jos S Barham dec'd of Jos S Barhams transactions as trustee to a certain deed of trust made on the 5th of November 1844 by Benjamin W Barham to the said Jos S Barham as trustee to secure certain debts therein named and it appearing that since the last order entered in this cause Joseph H Barham has departed this life testate and that Joseph B Pinner and James E Sibnell have qualified as executors on his estate and that the scire facias awarded to revive the suit in their names as executors of Joseph H Barham has been returned executed thereupon the suit stands revived against the said Joseph B Pinner and James E Sibnell as executors of Joseph H Barham dec'd. And was argued by counsel On consideration whereof the Court doth adjudge order and decree without deciding

any of the principles of this cause but neither confirming or overruling the same doth adjudge ordr and decree that the report of James R Tyler stating the master account of Jesse L Barham as master in a certain deed executed by Benjn W Barham to him in 1844 be recommitted to the said commissioner to state an account showing what Benjamin W Barham owed to Joseph H Barham under the deed of November 1844 and also his indebtedness to Jesse L Barham at that time and secured by the said deed and the said commissioner will report the said account to the court together with any matter specially stated deemed pertinent by himself or which may be required to be so stated by any of the parties interested

Barham &c

vs Decree

Barham &c

This day this cause came on again to be heard on the plaintiffs amended and supplemental bill taken for confessed as to all the defendants and depositions filed and it appearing that since the filing of the said amended and supplemental bill Joseph H Barham has been adjudged a lunatic and that a scire facias was awarded and returned executed against R. Frank Barham and H Thomas Barham his committee to show cause why the said suit should not be proceeded into a final decree against them as committee of the said Joseph H Barham thereupon the suit stands revived against the said R. F. Barham and H. T. Barham as committee of Joseph H Barham and it appearing further that since the filing of the said amended and supplemental bill that Joseph S Barham has departed this life and that a scire facias has been returned executed against W. W. Briggs his administrator to show cause why the said suit should not stand revived against him thereupon it stands revived against W. W. Briggs sheriff of Southampton and as such administrator of Joseph S Barham dec'd and was argued

by counsel &c. consideration whereof the
court doth adjudge order and decree that
one of the commissioners of this court
~~settle the twelve months account of Wm L~~
~~H H Briggs [illegible] account of Jesse~~
~~L Barham and order the said same~~
~~by Benja W Barham to Jesse L Barham~~
~~on the 5th day of November 1844 to secure~~
~~the said Jesse L Barham and Joseph~~
~~G Barham~~

Settle the twelve account made & said
made on the 5th of November 1844 by Benja
W Barham to secure certain debts due
from the said Benja W Barham to
Jesse L Barham and Joseph G
Barham the said W. W. Briggs as
administrator of Jesse L Barham dec'd
to lay all the vouchers of the said
Jesse L Barham before the commissioner
who will state and settle the same
& gather with any matter specially stated
deemed pertinent by himself or which
may be required to be stated by any of
the parties interested and leave is hereby
granted to any of the defendants who
may so desire it to file their answers
in thirty days

Barham &c

vs 3 Deeds

Barham &c

We consent that
this decree may
be entered

Ken B Shands
atty for plaintiffs

Jno J. Kindred
Atty for defendants

May Term 1882

To be entered

Geo. Bloss.

Barham ux
vs Z Deem
Barham ux

This day this cause
came on again to be heard on the papers
formerly read and the plaintiffs amended
bill taken for confessed as to all the defendants
and it appearing that since the filing of
the said amended and supplemental bill
Joseph H Barham has been adjudged an
Lunatic and that a scire facias was
awarded and returned executed to the July
rules 1881 against R. Frank Barham and
H. Thomas Barham his committee to show
cause why the said suit should not be
proceeded in to a final decree against
them as committee of the said Joseph
H Barham. Thereupon the suit claims
record against the said R. Frank Barham
and H Thomas Barham as committee of
the said Joseph H Barham and Jesse
S Barham having recently departed
this life his death is suggested And was
argued by counsel on consideration
whereof the court without deciding any
of the principles decided this cause doth
adjudge, order, and decree that the
personal representation of Jesse S Barham
settle before one of the commissioners of
this court the said Jesse S Barham's
trustee account under the deed executed

by Benjamin William Barham to Josa
S Barham for the benefit of Joseph
B.C Barham and others dated 5th November
1844 who with regret Pltf came to court
& getting with any matter specially stated
deemd pertinent by himself or which may
be opinion to be so stated by any of Pltf
Counsel intimated

Barham &c
vs
B Deere
Barham &c