

come in to be heard with consent of parties in the title and answer of the defendants and exhibits (if any), and was argued by Counsel. On consideration thereof, the Court by consent of parties, with adjournment, order and decree that William W. Cobb who is hereby appointed Commissioner of this Court for the purpose take the following accounts, to wit: An account showing what portion of the property received by the defendant Virginia and his wife as Tenants from the estate of Robert Kelley dec. is now in his possession. 2^d An account showing what portion of said property was consumed by the use of it. 3^d An account showing what portion of said property has been lost or destroyed by the parties or possession, and if any, whether lost or destroyed by the gross negligence of the said parties. 4th An account showing what portion of said property has been sold by the said parties or possession, which has several accounts said Commissioner is directed to audit, state and report to Court together with any matters seemed pertinent by himself to be specially stated, or which may be required to be so stated by either of the parties.

All cases and matters depending in this Court and not otherwise disposed of are hereby continued till the next Term of this Court.

Ordered that the Court be adjourned till the first day of the next Term.

Rich^d H. Barker

In the Office of the Circuit Court for the County of Southampton on the 20th day of April 1863.
Harrison P. Pope and Benjamin C. Pope

against
J. Barker, Jeremiah Lamed and Lewis W. Spaulding partners under the firm
of J. Barker & Company

A copy of the decision of the Court of Appeals in this cause, certified by the Clerk of that Court, was this day received by the Clerk of the said Circuit Court in the execution of that Court, and the same being now entered of record according to the Statute in the order book of the said Circuit Court, is in the words and figures following, to wit:

Virginia. At a Supreme Court of Appeals, held at the State Court house in the City of Richmond on Tuesday November 25th 1862.
J. Barker, Jeremiah Lamed and Lewis W. Spaulding partners under the
style and firm of J. Barker & Company

appeals
Harrison P. Pope and Benjamin C. Pope
against
J. Barker, Jeremiah Lamed and Lewis W. Spaulding partners under the
style and firm of J. Barker & Company

Upon an appeal from a decree pronounced by the Circuit Court of Southampton County, on the twelfth day of November 1858, in a suit in which the appellees were plaintiffs and the appellants were defendants. This day came the parties by their Counsel on the Court having maturely considered the transcript of the records of the lower, aforesaid and the arguments of Counsel, is of opinion that the contract set up in the original bill is positively denied by the answer thereto, and unsustained by the evidence. The Court is further of opinion upon the pleadings and proofs in the cause, that the instrument of writing bearing date the second day of February 1856 signed by the appellees Harrison P. Pope in the partnership names of both of the appellees "P. & B. C. Pope" marked at and exhibited with the said answer, was the true contract between the parties, embracing not a part only but all the terms, agreed upon by them, that the appellants have never since consented to any revision, variation, modification or change of the said contract, that the parties evidence introduced by the appellees to vary the said contract is inadmissible for that purpose, and that the same yet remains in full force. That Court is therefore of opinion, that the decree of the said Circuit Court is erroneous; therefore it is decreed and ordered that the same be reversed and annulled, and that the appellees do pay unto the appellants their costs by them expended in the prosecution of this appeal aforesaid here. And the Court would now proceed to dispose the injunction awarded in this cause and dissolve the