

1873-030

SOUTHAMPTON COUNTY
CHANCERY PAPERS

HOLMES

VS. BRISTOW

8/1873

Holmes
v } Bill

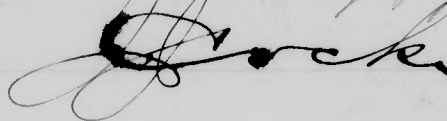
Corbett Treasurer

1873 July 16 Injon granted
" " 22 bond given W^d
" " Injon perpetuated

State of Virginia
City of Petersburg } to wit

This day J. B. Holmes personally
appeared ~~against~~ before me a Notary Public in and for
the City aforesaid in the State of Virginia and made oath
that the facts stated in the foregoing Bill of Exjunction
so far as they are stated on his own knowledge are true
and so far as they stated from the knowledge or ^{information} belief
of others are believed to be true

Given under my hand this 16th day of July 1873



Notary Public

To Jno: L. A. Barkham & Peter Holmes.

Take notice that I shall in the name of the Commonwealth of Virginia for the benefit of the Township of Berlin & Ivor, in the County of Southampton, move the County Court for the County of Southampton on the first day of the July Term 1873 for a judgment and award of execution against you for the sum of Seven hundred & Eleven ^{two}/₁₀₀ dollars with damages thereon after the rate of two per centum per month from May 2nd 1873, the said sum of \$711. 88 being amount due by Jno: L. A. Barkham, Collector of Berlin & Ivor Township an account of township levy for said Township for 1872.

Respectfully

R. A. Bristow, Clerk

To SHH of
Southampton to
execute

{ Berlin & Ivor Township & ex
Officio Treasurer of said Township
by J. B. Krice, Atty. for County
for Southampton County.
}

Copy for
Peter & Holmes

Delivered

7	66'887
-6.5	51'886
-6.5	21'272
-0.7	21'266
1.9	
2.7	

To the Honorable J^W Elguhart Judge of the County Court of
Gouthampton County In Chancery sitting

Humly complaining sheweth unto your Honor your
complainant Peter Holmes that on the day of 1871
John Q. Barkham qualified according to law as Collector of Berlin
& Deer Township in Gouthampton County Va, and on the 1st day of
July thereafter entered upon the discharge of his duties as collector as aforesaid: that on the 18th of September 1871 he gave a new bond as
Collector of said Township before the County Court of Gouthampton
County with your complainant as his only surety, as will
more fully appear from a certified copy of said bond, and an ex-
tract from the records of the said County Court here annexed marked
"No 1" and prayed to be Taken as part of this Bill

At the time your complainant executed said bond as surety of the
said Barkham, the Act of the General Assembly entitled "An Act for
prescribing the duties and compensation of certain Township Officers"
approved July 11th 1870 requires Township Collectors to pay over
to the County Treasurer all Township dues collected by them and
to make their final settlements of the said Township dues on or
before the 31st day of December of each year. Under the provisions
of this law the said Barkham qualified as Collector as aforesaid.
and under the provisions of the same Act your complainant ex-
ecuted said bond as his surety

The General Assembly of Virginia by a joint resolution entitled
"Joint Resolution extending the time for the collection of taxes
& County & Township dues in the commonwealth for the year
1871" approved December 15th 1871 extended the time
for making a final settlement of Township dues for the

year 1871, by the said Collector Barkham with the County Treasurer until the 1st day of March 1872 without the knowledge or assent of your complainant. And again by an Act entitled "An Act to extend the time for the collection of taxes and County and Township levies throughout the Commonwealth" approved March 18th 1872 the General Assembly of Virginia extended the time of making a final settlement of Township levies for the year 1871, by the said Collector Barkham with the County Treasurer until the 1st day of May 1872 without the knowledge or assent of your complainant. And by an Act entitled "An Act to amend and re-enact an Act prescribing the duties and compensation of certain Township officers approved July 11th 1870 and Acts amendatory thereof" approved March 19th 1872 the General Assembly of Virginia extended the time of the annual settlement of Township levies for years subsequent to the year 1871 by the collectors with the County Treasurers until the 28th day of March which said last mentioned Act of the General Assembly was also passed without the knowledge or assent of your complainant.

And again by a joint resolution entitled "Joint Resolution extending the time for the collection of taxes and County and Township levies in the Commonwealth for the year 1872" approved January 13th 1873 the General Assembly of Virginia extended the time of the final settlement of Township levies, by the said Collector Barkham with the County Treasurer until the first day of May 1873, which said last mentioned Act of the General Assembly was also passed without the knowledge or assent of your complainant.

Your complainant is advised and claims that he is discharged from all liability on said bond by reason of the extension of time given to his principal by the said several acts of the Gen^l Assembly

But now it so happens & may it please your Honor, one R. A. Bristow signing himself Clerk Berlin & Ever Township & ex officio Treasurer of said Township, has had served on your complainant a notice, directed to John Q. A. Barham & your complainant whereby he is advised, that, the said R. A. Bristow in the name of the Commonwealth of Virginia for the benefit of Berlin & Ever Township in the County of Gouthampton. will on the 1st day of the July term of the County Court of Gouthampton County, move the said Court for judgment and an award of execution against the said John Q. A. Barham & your complainant for the sum of Seven hundred and eleven and ⁸⁸/₁₀₀ dollars with damages thereon after the rate of ten per centum per month from the 1st day of May 1873 till paid, the said sum of \$711 ⁸⁸/₁₀₀ being amount due by John Q. A. Barham Collector of Berlin & Ever Township on account of Township dues for said Township for the year 1872. as will more fully appear from a copy of said notice herewith filed, marked "N^o 2" and prayed to be taken as part of this Bill; that said balance if any such exists is due on account of Township dues received by the said Collector Barham from the Township Treasurer on the 31st day of December 1872, after your complainant had been discharged from all liability on his ^{own} bond by the several acts of the General Assembly of Virginia hereinbefore referred to extending the time for the said Collector Barham to make his final settlement with the Treasurer of Gouthampton County, except the last mentioned Act approved Jan'y 13th 1873, which extended the time for

the said Collector Barham's final account & settlement of
township taxes with the Treasurer of Southampton County
after the said township taxes had been actually received by
him for collection, from the 1st day of March, the time
prescribed by law when said township taxes were
received for collection to the 1st day of May thereafter
In tender consideration whereof and forasmuch &c
your complainant prays that the said R A Bristow shall be
made a party defendant to this Bill and required to
answer the same, and that by an order of your Honorable
Court the said R A Bristow his agents & attorneys and
all others may be restrained and enjoined by the injunction
of this Court, from proceeding against your complainant
on said bond to enforce the payment of the said sum of
seven hundred and eleven & $\frac{88}{100}$ dollars and every part thereof;
that your complainant may be decreed to be forever
discharged from all liability on said bond, and that all
proper instructions may be given for effectuating the purposes
aforesaid; that a writ of Injunction may issue, and
that such other further and general relief in the premises
may be granted your complainant as the nature of
his case may require or to equity may seem meet
May all proper process issue, and as in duty bound
your complainant will ever pray &c

Frederic Davis f.c.

To be entered

J. W. Wyndham

Judge

July Term 1873

P. J. Holmes

In Chancery

R A Briston Clerk &c

This cause ~~came on this day~~ was this day docketed by consent of parties and by like consent came on to be heard on the Plaintiff's bill of complaint and exhibits filed and on the motion of the defendant to dissolve the injunction awarded in this cause on 16 July 1873, the Plaintiff waiving the answer of the defendant and formal notice of said motion and was argued by counsel ^{whereupon} ~~whereupon~~ the Plaintiff being required as to do confessed judgment in open Court on the defendant's demand under the motion proceedings whereon were enjoined, whereupon the Court over rules the defendant's motion and doth adjudge order and decree that ~~that~~ the injunction awarded the plaintiff on 16th day of July 1873 to enjoin the defendant against the said Peter J. Holmes on a motion to be made for a judgment and award of execution for a balance alleged to be due by him of a Barham Collector of Dor and Berks County in Southampton County for the year 1872 be made perpetual; and that the defendant do pay ^{to} the Plaintiff his costs about his suit in this behalf expended.

The Commonwealth of Virginia

To the Sheriff of Southampton County--Greeting:

WE COMMAND YOU to summon

*R. A. Bristow Clerk of Berlin & Poor
Township & Ex officio Treasurer of said Township*

if *he* be found within your bailiwick, to appear at the Clerk's Office of our *County*
Court of Southampton county, at the Rules to be holden for the said Court on the first Monday in
August next to answer a bill of Infarction exhibited against him in our
said Court by Peter J. Holmes And that 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, this *21* day of *July* A. D. 187³, in the *98*
year of the Commonwealth.

L. R. Edwards

To injoin & restrain the Defendant his deputies, agents, attorneys & all other persons from further proceeding against the plaintiff on a motion for a judgment and award of execution for a balance alleged to be due by Seth D. Barham collector of Berlin & Iron Townships in Southampton County on account of Township levy for said Townships for the year 1872. until the further order of the Court. The plaintiff having given bond Security in the penalty of fourteen hundred dollars conditioned according to law —

Teste: J. R. Edwards

Holmes
to
S. D. Barham & Son

Boston
1873. Aug. 24th

Enclosed

W. W. Briggs

Know all men by these presents that we Peter J. Holmes and
Charles F. Prellow are held and firmly bound unto the Commonwealth
of Virginia in the just and full sum of Fourteen hundred
Dollars

To which payment well and truly to be

made to the said Commonwealth we bind ourselves our heirs, Executors
and administrators jointly and severally firmly by these presents sealed with
* our seals and dated this 21st day of July 1873.

The Condition of the above obligation is such that whereas the above bound
Peter J. Holmes on the 16th day of July 1873 obtained an injunction
injoining ^{and preventing} R. A. Barham Clerk of Berlin & Ivor Township & Ex officio ^{Said Township} Treasurer of his
deputies, agents, attorneys and all other persons from further proceedings against
him the said Holmes on a motion pending in the County Court of Southampton County,
for a judgment & award of execution against him for a balance alleged to be due by
John Q. A. Barham Collector of Berlin & Ivor Township in said County on
account of Township levy for said Township for year 1872, until the further
of said Court. Now if the said Peter J. Holmes shall pay all costs as
may be awarded against him and all such damages as shall be incurred
in case the said Injunction be dissolved then the above obligation to be
void otherwise to remain in full force and virtue

P. J. Holmes *(Seal)*

C. F. Prellow *(Seal)*

County *County of Southampton*
To the Clerk of the ~~Hustings~~ Court of the ~~City of Petersburg~~

Peter J. Holmes

Plt .

IN CHANCERY.

against

R. A. Bristow, Clerk of Berlin

Dft .

& Mr Tinslip & Ex Officio Treasurer of
said Township

AN INJUNCTION is awarded the plaintiff to injoin and restrain the defendant *his deputies*
agents, attorneys and all other persons, from
further proceeding against the said Peter J.
Holmes, on a motion to be made for
a judgment and award of execution
for a balance alleged to be due by
John. S. A. Bonham Collector of Berlin
& Mr Tinslip in said County on
account of Township levy for said
Township for the year 1872. as set
forth in the plaintiffs bill.

until the *further* *order* of the Court. But the plaintiff shall not have the benefit of this order, until
he or some one for *him*, shall enter into a bond with good security, in the
Clerk's office of the said Court, payable to the COMMONWEALTH OF VIRGINIA, in the penalty
of *Forteen hundred* dollars, and conditioned to pay all such costs
as may be awarded against the said plaintiff, and all such damages as shall be incurred, in case this
INJUNCTION be dissolved.

PETERSBURG, *July 16* 1873.

In Vacatim

Edwin M. Mann
Judge. Hustings Court
City of Petersburg