

1767-002

SOUTHAMPTON COUNTY  
CHANCERY PAPERS

PATE vs. THARPE'S EXECUTOR,

7/1767

See also 1772-4, APPLEWHAITE vs. Pate & al

other SURNAMES: Jones, Lewis  
Applewhaite, Simmons, Wiggans,  
Johnson, Grizard, Thorpe,  
PERSON

Pate

Paper

Thorpsey

July 17<sup>th</sup>

Depos published / etc

for hear

Aug 6<sup>th</sup> Cont.

Sept cont & to be tried

next court

Aug 17<sup>th</sup> 68

Cont

Oct cont

April

cont

May cont

June

cont

July 17<sup>th</sup>

cont & L

Pate. J. Bide  
~  
Thompson 21st

To the worshipful court of the county of Southampton sitting in chancery  
Humbly complaining sheweth unto your worships your orator Samuel Pale  
that one Edward Pale your orator father being seized of a certain  
tract or parcel of land in this county on the north side of the three  
creeks containing one hundred and fifty acres having occasion for  
the sum of ten pounds fifteen shillings applied himself to one Timothy  
Sharp late of this county dead in his lifetime to borrow the same  
which the said Timothy refusing unless the said Edward would  
convey the absolute estate of the aforesaid tract of land to him  
the said Timothy as a security for the repayment ~~of the same~~ <sup>thereof</sup>  
that the said Edward was reduced by the necessity of his affairs to  
comply therewith but with this special proviso or condition  
which was agreed to by the said Timothy that in case the  
said Edward should pay or cause to be paid to the said  
Timothy the aforesaid sum of ten pounds fifteen shillings  
with lawful interest thereon that then he the said Timothy  
would reconvey the aforesaid tract or parcel of land to the  
said Edward Pale or to his assign Your orator further  
sheweth that on the 3<sup>d</sup> day of February one thousand seven  
hundred and fifty five the said Edward did receive the  
said sum of £10. 15. 0 of the said Timothy and did then  
execute a certain deed conveying the absolute estate of the  
aforesaid tract or parcel of land to the said Timothy Sharp  
his heirs and assigns Your orator further sheweth that for  
time after the execution of the said deed and in the same year the  
said Edward departed this life having first made his last  
will and testament wherein he devised the aforesaid tract  
or parcel of land to your orator who in consequence of the  
agreement aforesaid made between the said Timothy and  
your orator father hath paid unto the said Timothy the  
following sums of money that is to say seven pounds on the  
14<sup>th</sup> day of Sept<sup>r</sup> 1758 and one pound four shillings on the 31<sup>st</sup> day  
of May 1762 and towards the discharge of the aforesaid sum of  
£10. 15. 0 the consideration expressed in the conveyance aforesaid



Pate J. L.  
Hoyes & Co.

The Answer of W<sup>m</sup> Puffer Esq<sup>r</sup> of Timothy Thorpe  
Dico<sup>r</sup> to the Bill of Complaint of Samuel Pate  
Cap<sup>t</sup>.

This Defendant now and at all Times hereafter  
saving & reserving to himself all Advantages of  
Exception that may be hereafter taken to the Manifest  
Untruths & Incertainties of the Compl<sup>t</sup> Said Bill  
for Answer thereto or to so much thereof as is  
Material for him to answer unto he Answereth  
& saith that by a Deed from one Edward Pate  
to this Def<sup>t</sup> Testator dated 3<sup>d</sup> February 1756  
for the Consideration of the sum of £ 10. 15. the  
Land in the Bill was conveyed to the s<sup>d</sup> Testator  
in Fee as this Def<sup>t</sup> is advised who died so  
seised & under his Last Will & Testament in  
writing to which this Def<sup>t</sup> Refers & prays may  
be taken as part hereof

This Def<sup>t</sup> knows of nothing of any Particular  
Agreement between the s<sup>d</sup> Edward Pate & Timothy  
Thorpe at the Time of Executing the s<sup>d</sup> Deed but  
thinks to have heard the s<sup>d</sup> Timothy say he was  
to pay the s<sup>d</sup> Pate at the Price of £ 25. in the

Residue of which sum besides the sum of £10.15. in  
the Consideration Express'd in the f<sup>d</sup> Deed was  
Advanced for the f<sup>d</sup> Edward by the f<sup>d</sup> Timothy that  
the f<sup>d</sup> Timothy did Advance as will appear  
by an Acct. hereunto Annex'd & to which this Def.<sup>t</sup>  
Refers forays may be taken as part thereof more  
than the f<sup>d</sup> £25. in to wit £33. in Odd money  
and that for the Payment of that sum Advanced  
the sum of £8.5. in the Complainants Bill  
Mentioned to be Rec<sup>d</sup>. by the f<sup>d</sup> Timothy in his  
Life time was p<sup>d</sup>. by the f<sup>d</sup> Edward Pato & this  
Def.<sup>t</sup> Verily believes the same to be true & the sum  
agrees very nearly Especially if the Job<sup>s</sup>. Costs on  
the Judgment paid M<sup>r</sup>. Baker were known  
This Def.<sup>t</sup> further saith that the Compt<sup>r</sup>. offered  
to pay this Def.<sup>t</sup> the sum of two Pounds Ten  
Shillings the Difference between the Consideration  
Money in the Deed & the £8.5. paid the f<sup>d</sup>  
Timothy Thorpe & also the sum of Three Pounds  
Seven Shillings & Two Pence Charg<sup>d</sup> in the  
Acct. herebefore Mentioned

which he Agreed was Advanced by the f<sup>d</sup>  
Timothy as Above but this Def.<sup>t</sup> then & still thinks  
the Complainant no waies Entitled to the Land  
which was fairly & Bonav. sold & bought & paid  
for by the f<sup>d</sup> Timothy of the f<sup>d</sup> Edward Pato  
Dees.

Will. Penson

February. 14. 1765 the above Anc<sup>r</sup>. is  
before me John Wilkinson

Plate  
~  
Thorpe

Through Quince

July 1767

Southampton July court 1767.

Samuel Pate

Plt

In Chancery.

William Wilson v. Pate

Tror & Thorne

Def

This cause was this day heard on the bill answer the report taken and returned and the arguments of the council on both sides on consideration whereof the court is ordered and decreed that the defendant do pay unto the plaintiff the sum of ten pounds seven shillings and 11<sup>d</sup>. but then the said defendant within six months from the date hereof the sum of ten pounds seven shillings and 11<sup>d</sup>. but then the said defendant by good and sufficient deeds in the law recover the lands and premises in the bill mentioned to the said plaintiff his heirs and assigns and it is further decreed that unless the said sum of money is paid and secured within the time herein limited that then the estate of the said testator be forthwith absolute and that the said plaintiff be then saved and foreclosed of and from all equity of redemption in the lands aforesaid lands and premises and that the said plaintiff shall pay the costs of this suit.

State } That is  
Person } Chan

Ex 2 W. H. H. H. H.

May 1764.

June 10 and

Aug. 64.

June 16 con. bill

Jan 17

cont for and

February  
and 1st June

Mar 1st June

George the third by the grace of god of Great Britain  
France and Ireland King Defender of the faith To the  
Sheriff of Southampton County greeting we command you  
that you summon William Person alias Timothy Thorpe  
that he appear before our justices of our said county court  
in chancery at the court house of the said county on the  
second Thursday in May next to answer and in chancery  
exhibited agt him by Samuel Pate And this he shall  
in no wise omit under the penalty of his writings  
Richard Thell clerk of our said court at the court house  
the 13 day of april in the thirty year of our reign

R. Thell  
Clerk

The Deposition of James Jones in a suit of Chancery  
depending between William Purson Esq of Timothy Thorpe  
dec. Defendant. and Samuel Cate Plaintiff.

The s.<sup>d</sup> Deponent being first sworn on the holy Evangelist  
of Almighty God. deposeth & saith that <sup>when</sup> Cap<sup>t</sup>. Timothy  
Thorpe dec. was making his Will. He told the s.<sup>d</sup> Thorpe  
that he had not given all his Lands to his Sons, to which  
the s.<sup>d</sup> Thorpe answered ~~that~~ he had not. but that the Tract  
which he had of Pate and several others. he desired to be sold  
for the benefit of his Daughters. Further this Deponent saith  
not.

James Jones

June 10<sup>th</sup> 1765

Sworn to before

Henry Saylor

Henry Applewhite deposeth & saith that he was in  
company with Timothy Thorpe & Wm Bottom, & that he heard  
Wm Bottom ask the s.<sup>d</sup> Thorpe if he would sell a Tract of Land  
which he purchased of Edward Pate, to which the s.<sup>d</sup> Thorpe  
answered that if the Widow would give up her title he would  
sell the thirty five Pounds for it, five Pounds ~~more~~ of which  
he would give her <sup>for</sup> doing, the residue being due to him  
This Deponent further saith that he heard the said  
Thorpe say that he should have the selling of the Land  
& that they would never pay the Money for ~~the~~  
if they did he would eat every tree thereon And  
thus there ~~with~~ not

June 17<sup>th</sup> 1765 Sworn before

Henry Saylor

Henry Applewhite

Benj. Simmons Deposeth & saith that in the time  
of his being Sheriff. Robt. Webb obtained a Judgmt.  
against Edward Bates for the Sum of Seventeen  
Pounds Eight Shillings & ten Pence three farthings which  
was discharged by Richard Wiggins paying seven  
pounds, five Shillings & six Pence & the Bald. discharged by  
Timothy Thorpe & <sup>him</sup> with ~~and~~, which was ten Pounds  
three Shillings & four Pence three farthings and further  
This Depoant saith not

th  
11. June 1765

sworn before

Benj. Simmons

Testes.  
Henry Taylor

in the third by the grace of God of Great Britain France & Ireland King  
under the great Seal to James Ridley Henry Taylor & James  
Jones — gentlemen greeting know ye that we trusting to your  
fidelity and provident circumspection in diligently examining what is  
ever witnessed as well on behalf of William Pardon exor. of Timothy  
Thorpe decd. Deft. as Samuel Peter Plt. command you or any two or more  
of you that at such certain days & places as you shall appoint  
you assemble yourselves and the witnesses aforesaid before you  
or any two or more of you you call and cause to come and diligently  
examine on the holy evangelist of Almighty God and their examinati-  
on into our court of our country of Southampton without delay  
you shall send & certify inclosed returning also to us this writ  
witness R. Kello clerk of our said court at the courthouse the  
fifteenth day of March — in the fifth year of our reign

R. Kello

Thompson  
ad  
Pete  
Qid  
Pete

Southampton Co. N. H.

Pursuant to a Decree  
of the Court to us directed We have  
examined James Jones, Benj. <sup>a</sup>Simmons  
and Henry Applewhite, Richard  
Wiggans & John Tate whose Depositions  
We read hereunto annexed

Certified under our hands & seals  
this Eleventh Day June 1765

J. Pateley.

The Deposition of Rich<sup>d</sup>. Wiggins in suit in Chancery  
between William Person Esq<sup>r</sup> of Timothy  
Thorp dec<sup>d</sup> & Samuel Gate Pl<sup>ff</sup>. This Depo<sup>nt</sup>  
being first sworn upon the Holy Evangelist of Almighty  
God, Depo<sup>nt</sup> saith that Edward Gate was in Goal  
at the Suit of Robert Webb Whereupon the S<sup>r</sup>. Gate  
applied to his Depo<sup>nt</sup> to become his Security for  
the payment of the S<sup>r</sup>. Debt, that the S<sup>r</sup>. Gate promised  
this Depo<sup>nt</sup> that if he would, he might depend he  
should not be suffered thereby, that he the S<sup>r</sup>. Gate  
would make over his Land & every thing else to him,  
whereupon this Depo<sup>nt</sup> entered into Bond for the payment  
of the said debt, after which the said Edward Gate sold  
part of his Estate for the sum of seven Pounds  
five Shillings & six pence which the S<sup>r</sup>. Gate delivered to the  
Depo<sup>nt</sup> who paid the same to Mr. Henry Simonson  
then Sheriff, the Bond then being ten Pounds three

by the said Depo<sup>nt</sup> for the S<sup>r</sup>. Gate was  
was discharged from his Security & the  
This Depo<sup>nt</sup> further saith that he asked the S<sup>r</sup>. Thorpe if  
he would sell the Land he purchased of Edward Gate to  
which the S<sup>r</sup>. Thorpe made answer he could not sell it, that  
if they paid him the Money he had advanced for them  
they should have the Land again  
This Depo<sup>nt</sup> further saith that some time after  
he had mentioned purchasing the S<sup>r</sup>. Land of the S<sup>r</sup>. Thorpe  
this Depo<sup>nt</sup> was at the house of the S<sup>r</sup>. Thorpe and that  
the said Thorpe informed him that Ann Gate (Widow of  
the S<sup>r</sup>. Edward) had paid him about seven Pounds Cash  
in part for the Land, and that the said Thorpe further  
informed him that he had advanced for them the said Gates  
about twenty three Pounds which the S<sup>r</sup>. Thorpe  
informed this Depo<sup>nt</sup> he intended should be

sworn before they should have the said land  
and further this Dependant saith not  
the 11. June 1765

Sworn before Richard X Wiggan  
his

Richard Wiggan  
Henry Taylor

John Pate Dependant saith that he was called upon  
by Edward Pate of Timothy Thorpe to write a Deed for  
abstain tract of land from the s<sup>d</sup> Edward Pate  
to the s<sup>d</sup> Timothy Thorpe which he did; and after the  
Pate in his presence did sign seal & deliver unto  
s<sup>d</sup> Thorpe the afores<sup>d</sup> Deed, and that he neither then  
nor since saw the s<sup>d</sup> Edward Pate his heirs nor gave the  
Land back from the s<sup>d</sup> Thorpe by any agreement  
whatsoever

This Dependant further saith that if there was  
any agreement between the s<sup>d</sup> Parties it was not  
in his presence and further this Dependant  
saith not

the 11. June 1765  
Sworn before

John Pate

Richard Wiggan  
Henry Taylor

*[Faint, mostly illegible handwritten text at the top of the page, possibly including a date or address.]*

*Pate* *L. Depon*  
*Thompson*

*[Faint handwritten text, possibly a signature or name, located in the lower middle section.]*

*See June 10*

*Filed June 17/65*

George the third by the grace of god of Great Britain France and Ireland  
King defender of the faith &c. To James Bradley Henry Taylor  
& James Jones — gent. greeting. Whereby we trusting to  
your fidelity and provident circumspection in diligently examining  
whatsoever witnesses as well on behalf of Samuel Pate sett as William  
Person ever &c of Timothy Thorpe didd sett command you or any two  
or more of you that at such certain days and places as you shall appoint  
you appear yourselves and the witnesses aforesaid before you or any two or  
more of you. you call and cause to come and diligently examine on  
the holy evangelist of almighty god and their examination into our  
court of our county of Southampton without delay you shall send and  
certifie inclosed returning also to us this writ witness Richard Thells  
clerk of our said court at the count house the fifteenth day of march  
in the fifth year of our reign.

R. Thells

Southampton County to wit,

Pursuant to a Dedimus  
Potestatem to us directed We have  
Examined William Johnson, Thomas  
Pate, John Johnson, John Thorpe,  
Benjamin Lewis, Ann Pate and  
Ambrose Gray and whose Depositions  
= ours We hereunto send Annexed  
Certified under our hands  
and seals this Eleventh Day June 1765  
Friday.

Henry Taylor  
James Jones

The Deposition of William Johnson in a  
 Suit of Chancery depending in Southampton County  
 Court Between Samuel Pake Plaintiff & William  
 Perrow Exors of Timothy Thorpe Decd. Defendant, after  
 being sworn upon Holy Evangelist of Almighty  
 God, deposes & saith, that Edward Pake Father of the  
 Plaintiff Samuel Pake, being in want of a certain Sum  
 of Money to discharge a Debt due to Robert Webb made  
 known his Necessity to this Dependant, who being not able  
 to supply him, apply'd to Timothy Thorpe decd. in behalf  
 of the s<sup>d</sup> Edward, for Money to discharge the said Debt  
 who advanced the Money for the s<sup>d</sup> Pake, who made the  
 said Thorpe, at that Time, a Deed for his Tract Land as  
 Security for the Money borrowed, this Proceeding being made,  
 That if ever the Money was p<sup>d</sup> with lawful Interest  
 arising thereon to the s<sup>d</sup> Thorpe would restore the said  
 Land to s<sup>d</sup> Pake or his Heirs. This Dependant further saith  
 he was a Witness to the Deed from s<sup>d</sup> Pake to the s<sup>d</sup> Thorpe  
 He and for that with oath  
 10 June 1765 sworn before  
 William V Johnson  
 Clerk

Thomas Pake deposes & saith that at the Time of s<sup>d</sup> Decd.  
 Pake's designing a Deed for his Land to Timothy Thorpe he  
 heard the s<sup>d</sup> Edward say to said Thorpe that he hoped he  
 would not keep the said Land from his Son for that trifling  
 Sum of Money to which the s<sup>d</sup> Thorpe answered he would not  
 but that if ever the Principle and Interest was paid, he would  
 let them have the Land again, which Pake informs him  
 he was to do to his Son Samuel  
 10 June 1765 sworn before  
 William V Johnson  
 Clerk

deposeth &  
 I am Johnson sayeth he saw Samuel Pate the Plaintiff make  
 a tender of some Money to Wm Perford the Defendant, which the  
 said Samuel Pate said was the Balance of the Principle  
 and Interest due to Timothy Thorpe dec'd from his Father Edw.  
 Pate for a certain Tract of Land which s<sup>d</sup> Edw. Pate in his  
 Life Time gave the s<sup>d</sup> Thorpe a deed for and further sayeth

th not  
 10 June 1765 Sworn before

Talesley  
 Henry Taylor  
 James Jones

John <sup>his</sup> Johnson  
 Mark

John Thorpe deposeth and saith. That he was at the House of  
 Timothy Thorpe dec'd some Time after the Death of Edward  
 Pate, and speaking to s<sup>d</sup> Timothy Thorpe about the Land  
 mortgaged to the said Timothy Thorpe by the said Pate  
 for a certain sum of Money advanced to s<sup>d</sup> Edward Pate  
 To which s<sup>d</sup> Timothy Thorpe answered. That the Old Woman  
~~Wife of the s<sup>d</sup> Edward Pate~~ has paid great  
~~part of the Money but that the s<sup>d</sup> Timothy Thorpe~~  
 two Lanes fees and some other Money for her two sons  
 which this Defendant believes to be about three Pounds  
 six Shillings, and that the same was then due, and

th further sayeth not.

10 June 1765 Sworn before

Talesley  
 Henry Taylor  
 James Jones

John <sup>his</sup> Thorpe  
 Mark

Benjamin Lewis deposeth and saith. That Timothy Thorpe  
 then talking at Window of the Prison, in which Samuel Pate  
~~he~~ was confined, in order to be sent to the Wars, calls him  
 the s<sup>d</sup> Lewis, and desired him to take Notice, that if ever  
 Samuel's Mother paid him the s<sup>d</sup> Thorpe the Money and

Interest arising thereon, she should then have the Land  
 which Land this Defendant believes to be that conveyed from s<sup>d</sup> Pate  
 a gain, and further sayeth not.

th The s<sup>d</sup> Timothy Thorpe, and further saith not.

10 June 1765 Sworn before

Talesley  
 James Jones Henry Taylor

Ben Lewis

Ann Pate deposeth and saith that aft<sup>r</sup> the Death of her  
 Husband. Edward Pate, sheaid Timothy Thorpe seven Poun  
 back part of a certain sum of Money advanced for the  
 Edward Pate in his Life Time by said Thorpe, and  
 further sayeth not.

1765 June 10<sup>th</sup>

Ann <sup>her</sup> Pate  
 Mark

Sworn before  
Talesley  
 Henry Taylor  
 James Jones

Ambrose Goigard deposeth and saith that he was at  
 the House of Timothy Thorpe & spoke to him the s<sup>d</sup>  
 Thorpe about Purchasing the Tract of Land he the s<sup>d</sup>  
 Thorpe had sold, to Edward Pate for that the s<sup>d</sup>  
 Thorpe Answered he should not sell it until he see whether  
 the Boys would ever come back from the Wars if they did  
 and would pay him the s<sup>d</sup> Thorpe his Money they  
 should have the Land again, and further sayeth

th not  
 11 June 1765

Sworn before Ambrose <sup>his</sup> Goigard  
 Mark

Talesley  
 Henry Taylor  
 James Jones

|                                                        |                                                                                   |                                           |                      |                                |                |
|--------------------------------------------------------|-----------------------------------------------------------------------------------|-------------------------------------------|----------------------|--------------------------------|----------------|
| Dr Edward Pate (on Acc. Land bought by Timothy Thorpe) |                                                                                   |                                           |                      |                                | 6 <sup>3</sup> |
| 1756                                                   | To Cash paid on Acknowledging the Land                                            | £10. 45 <sup>00</sup>                     | 1758                 | By your Land acc. by Agreement | £25. 00        |
| May 21 <sup>st</sup>                                   | To d <sup>o</sup> paid for your Son at the Draft                                  | 3. 7. 2                                   | 1758                 | By Cash rec <sup>d</sup>       | 7. 00          |
|                                                        | To d <sup>o</sup> p <sup>d</sup> M <sup>r</sup> Simmons Sher <sup>r</sup> & Webb. | 17. 8. 10 <sup>3</sup> / <sub>4</sub>     | 62 <sup>nd</sup>     |                                | 1. 5. 00       |
| 1759                                                   | To d <sup>o</sup> paid at Rich <sup>d</sup> Baker a Jud <sup>g</sup> in your      | 1. 10. 00                                 | May 31 <sup>st</sup> | By d <sup>o</sup>              | £33. 5. 00     |
|                                                        | your Estate                                                                       |                                           |                      |                                |                |
|                                                        | To the Tob <sup>o</sup> C <sup>h</sup>                                            |                                           |                      |                                |                |
|                                                        |                                                                                   | <u>£33. 1. 0<sup>3</sup>/<sub>4</sub></u> |                      |                                |                |