

1810-001

SOUTHAMPTON COUNTY
CHANCERY PAPERS

BLACKHEAD [F.N.] vs. DRAKE and Wife et al 9/1810

Other SURNAMES: Brantly,
Denson, Wade

Black head
v. *injunclata*
Drake wip. h.

September 1810

To the Worshipful Justices of Southampton County in chancery sitting.

Humbly complaining sheweth unto the Court your Orator Ben-
jamin Blackhead a Free Negro,

That on or about the day of in the year of
Your orator purchased of a certain Mary Wade Brantley a Sorrel
mare, for which said mare he was to give Twelve pounds and in order
to secure the payment of the said sum unto the said Mary W Brantley
your Orator gave her a ~~and~~ deed commonly called a mortgage
deed on a certain tract of land belonging to your Orator. That some
time after the execution of said deed to Mary W Brantley by your
Orator she came to him and requested a renewal thereof stating that
the one which she then had was out of date, Your Orators intention
being to do every thing to satisfaction of his creditor as far as
consisted with right and good conscience, consents to renew his deed
and accordingly they met at the House of Joseph Senson (for whose
benefit your Orator is informed the deed was executed and who
wrote the same) and entered into another deed which he was
then informed was a mortgage deed, and it was also verbally
stated that as soon as the said forty dollars was paid your Orator
should have a general release of his said land ~~and~~

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3. 4
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That your Orator actually ^{and about four or five years ago} paid seven Barrels and an half
of Tar at nine shillings per barrel and four barrels of hoptentime
at sixteen shillings per barrel which he delivered to a certain Willie
Gaffin on behalf of said Mary W Brantley and at her
special instance and request as partly discharging his lands
from said incumbrance

That notwithstanding all this he was soon after in-
formed that he must quit the possession of said land, for that the
Mary W Brantley had an absolute deed for his land. This
much surprised your orator, he being entirely illiterate and
ignorant as to the form of a deed whether a mortgage or deed
conveying an immediate and absolute title.

Your Orator will be able to prove to the satisfaction
of the Court that it has been stated by Joseph Senson

who acted as an agent or a person interested for said
Mary W Brantly, that, the reason for taking a ^{fee}
in fee instead of a mortgage was that this might not
be put to costs in the business or in procuring the land
in case of failure of the payment of money

In tender consideration whereof and
forasmuch as your orator is without remedy
except in a court of equity he sincerely prays that
John Drake who hath been intermarried with the
said Mary Wade Brantly, and Mary his wife
late Mary Wade Brantly, and Joseph Benson
be made parties and respondents to the complainant's
bill and on oath, ^{or affirmation} answer to all and singular the
allegations therein and say if they are not true
and that they say more particularly if they did not
tell your orator that the said John Drake assigned or gave
a mortgage, if on the payment of said Truelove
principal and interest he was not to have his lands
again clear of all incumbrances if he has not paid
said Tax and Surcharge as aforesaid in full
Discharge and at the special instance and request of
the said Mary W Brantly. He prays that the
said deed recorded in the Office of this Court be taken
and considered as a part of this bill. He prays, that
the said John Drake & Mary his wife late Mary
W Brantly and Joseph Benson who threaten to discontinue
your complainant ^{in this matter he} ^{enjoins from all other and further proceedings against him} file their answer this bill and then
if the Court shall be satisfied that the said deed
was intended as a mortgage they be compelled to foreclose
the equity of redemption of your orator in or to
the said lands and appurtenances that the said deed in fee
be set aside

^{that they}
I do ~~by~~ accept of and from the hands of your orator the balance
of said forty dollars and interest which he is willing to pay
and is anxious to comply with whatever order or decree your ^{wise} ^{may} make in the premises
May it please the Court to grant injunction and that
Commons with writ of subpoena accompanied with your
general order of ~~the Court~~ that his injunction be made
perpetually ~~to~~ ~~the~~

Wm. B. B. B.

Richmond 17th March 1807

This Day Benjamin Blackhead Free Agent
& complainant named in the above Bill made
oath before me that all the allegations contained therein
are true as far as they depend on his own knowledge,
and belief and that he believes the whole to be true
Given under my hand and seal this day
and year aforesaid.

Am. L. B. B.

Snake & Wiper

advs

Blackhead

Shimmer

Trout & Pa

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The Answer of John Drake and Mary W Drake ^{his wife} late of Albany
At Wado to the bill of Injunction exhibited against them
in the worshipful Court of Southamptons by Ringe
Blackhead - These Respondents saving and reserving to
themselves all and every benefit of exception to all and
misstatements imperfections and untruths in the Complain-
-ants bill contained for answers thereto or to so much
thereof as they are advised is material or necessary for
them to make answer unto answering say That at the
time the said Complainant executed the deed of
which he speaks he was justly indebted to your petition-
er Mary W Drake in the sum of forty dollars
now hath he (as he has untruly stated) paid to

~~your Complainant~~ ^{Respondent} a cent of that amount. your
~~Complainant~~ ^{Respondent} Mary W Drake here represents to your

worship that for the purpose of securing the payment
of the debt due to her from the said Complainant
she had before the execution of the deed ~~upon~~ which
is spoken of by the Complainant taken two or three
deeds of Mortgage and suffered nearly eight months
to elapse between the execution of the different
deeds of Mortgage which were given before she
applied for a Renewal of the deed - finding

that no money was paid the ~~three~~ ^{long} indulgent
- ~~case~~ had been given ^{and} your respondent Mary ~~was~~ ^{being}
advised to take an absolute deed from the said
Complainant conveying to her a fee simple
right in the said land. informed the Complainant
of her determination to have her money and
he thought proper to convey the said land to her
in consideration of the sum which he owed her. and
your Respondents conceive that the land is not worth
more than the amount which was given by her. In
consequence of this application by your Respondent
Mary the Complainant executed the deed fully aware
that it was an absolute deed and not a mortgage
As to the Tax and expenses which is stated by the
Complainant to have been delivered, it is a transaction
between the Complainant and the said Willie Giffins
by which your Respondents have not been benefited
and with which they have nothing do. our names
were concerned in. your Respondents denying
all fraud combination &c. pray that your
wishes would dispel the injunction and suffer
them to proceed in their settlement undisturbed

on the common law side of this Court against the
Complainant and they further pray that they may
be hence dis mised with their costs in this behalf
most unjustly sustained -

Southampton Set

This ^{day} John Drake and Mary W Drake personally appeared
before me a Justice of the peace and made ^{oath} to the
truth of the above answer as far as it depends upon their
own knowledge and as far as it depends upon the
knowledge of others they believe it to be true -

Given under my hand this 29th day of Sept. 1808.

Joseph S. P.

The deposition or affirmation of Joseph Leroux solemnly
taken (he being one of the religious people called Quakers)
at Jones's shop in the County of Southampton on
this 14th day of September in the year of our Lord 1840
in conformity to the written notice and commission
herewith filed before us Lemuel Cobb and
James Jones Justices of the peace for said County
to be read in a suit depending between one Blackhead and
another of said County of Southampton in due form of law
This Affirmant of lawful age in due form of law

That Benjamin Blackhead stood jointly indebted
to Mary Wadsworth Brantly to her sole in a certain sum of
money the price of a man, and in arrears to her the sum
of the same did execute to her his deed commonly called
a mortgage on a tract of land lying in Southampton Co.
that the said deed was renewed this 11th of September 1839
the writing of said deed by Brantly, that the land was
not sufficient to pay debt and costs in consequence of
which consideration he drew an actual deed in order
to save costs. But it was ~~found~~ ^{which would necessarily be a suit} ~~in a suit~~
between the parties that whenever ~~the said~~
Benjamin Blackhead should pay and satisfy

by the said debt interest and costs that his land
should stand clear of any incumbrance to said
debt to Brantly his heirs or assigns notwithstanding
standing any thing to the contrary contained
in said deed and that said debt to Brantly was
borne upon such pay must being made to recover the
same land to him said Blackhead his heirs
and further he said not

~~Joseph Brantly of Southampton Co.~~

Taken before us this 14th Sept. 1840

for
James Jones

J. + S. M. W.

Gir / Southampton September 6th 1810

Take notice that I shall on Friday the
14th day of this present Month, between the hours
of ten in the morning and four in the
after noon at Jones's Shop in the County of
~~the~~ proceed to take the deposition or affirma-
-tion of Joseph Gordon to be used as evidence
in an Injunction now depending in the County
Court of Southampton in which I am
Complainant and your now wife
respondents

Yours &c.
Mr John Drake and Mrs Mary
Drake, late Mary W Brantley
Benja Blackhead
Southampton

Southampton 14th

This day William Atkings of
-peared before me a Justice of the Peace
said County ^{and made oath} that he did on this
deliver to Mr Drake a true copy
the above notice

Given under my hand.
6th day of Sep. 1810
Genfolds

Black head
18 £ commission
Drake & Co

The Commonwealth of Virginia, to James Jones and
Jeremiah Cobb Gentlemen Justices of the Peace
for the County of Southampton — And State of
Virginia greeting, Know ye that we trusting to your
fidelity and Provident Circumspection in diligently examining
Joseph Denson ^{as a} ~~material~~ ^{for a} witness
material witness for Benjamin Blackhead Complain-
-ant against John Drake and Mary his wife
late Henry W Brantley in an infraction now depend-
ing and undetermined in Southampton County Court. Sept⁵
and we do give unto you Power to call ~~and~~ and cause to come
before you the Witness aforesaid when (and where you shall appoint
(and diligently examine him on the holy Evangelists of
Almighty God and his examination so taken that you
distinctly and openly Certify us thereof in our County Court of
Southampton and State of Virginia aforesaid under your hands
(and Seals inclosed returning to us also this writ Witness Samuel Hells
clerk of our said Court at his office the 27 day of July
1810 in the 35th year of the Commonwealth

Sam. Hells

