

1886-02

Southampton County Chancery

Brown, Mary, vs Bain, T. L. et al

Restraining order from
selling property to collect
for worthless goods.

Hopkins, W. T.

Brown

Tos $\frac{4}{2}$ Deere

Bain Trustee &c.

November Term/86.

to be entered.

Geo. Brown,
✓

Brown 115
or 3 Stat Rules
Bain Hunter &

In Southampton Circuit Court.

Mary Brown

Against

J. L. Bain & W. F. Hopkins Defts

Plff }
vs }
L. C. Chacey.

1885

Jan 10.

Injunction here filed - bond given.

" 12

Summons to Feby Rules.

Feby Rules.

Exts. and decree nisi.

March ..

Case set for hearing.

May 2.

Answer of W. F. Hopkins filed.

Spec. Run - 20 - 2 copies 20 - Inj - 75 -
 Bond 1.74 mtg 35. at 10 - film 25 - 2 Rules 1.00
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as 3 Deere
Bain Insitu &c

To be Entered

Nov Term 1885-

Geo Brown,

✓

Brown

vs } Deane

Bain Trustee

This day this cause came on to be heard on the plaintiffs bill and the injunction granted in accordance therewith and on the answers of the defendants. H. F. Hopkins and exhibit filed therewith and on the answer of the defendant J. L. Bain Trustee ~~re and petition of said defendant for dissolution of said injunction~~. And was argued by counsel. On consideration whereof the court doth adjudge order and decree that the plaintiffs bill be dismissed and the said injunction be dissolved and that the plaintiff pay unto the defendants all costs incurred by them in this cause.

Brown

vs 3

Bain Trustee for re

To Honorable George Blow judge of The
Circuit Court of Southampton County

answer of J. L. Bain Trustee re to a bill
in equity exhibited against him and
W. F. Hopkins in vacation before the
judge of County Court of Southamp-
ton County by Mary Brown

This respondent for answer to said
bill or as much thereof as he is
advised it is material for him to
answer. answering says That on April
28th 1884 Mary Brown made him
Trustee in a certain deed of Trust
made by her for the benefit of W. F. Hopkins
and when afterwards to wit; on July
13th 1885 when according to the terms
of said deed he was going to sell
the property (or as much as was necessary
thereof) therein conveyed. She obtained
from the judge of the County Court of
Southampton an injunction restrain-
ing him from selling. More of the
facts in this case this respon-
dent knoweth not. And showing them
fully answered prays hence to be
dismissed with his costs re

(over)

T. L. Bain

Shands & Son h.d,

State of Va

Swiss County to wit

I Jno L. White a Justice of the peace
in and for the county & State. aforesaid hereby
certify that this ^{day} personally appeared before
me T. L. Bain whose name is signed to the
above answer and made oath that the state-
ments therein contained were true & given
under my hand this 2nd day of April 1885

Signed -

Jno L. White J. P.

Brown

3

Bain Justice for

Swiss County

1885 - May 2 Jico

Shands & Son h.d

Brown

N 3

Bain Insure for re

Answer of H. F. Hopkins

1885- May 2 filed

Shan H & Son Inc.

Brown

n }

Bain Trustee re

To honorable George Blow judge of the
Circuit Court of Southampton County
answer of W. F. Hopkins to a bill in
equity exhibited against him and
T. L. Bain his Trustee ^{in vacation} before judge of
County Court of Southampton by
Mary Brown

This respondent for answer to said
bill or as much thereof as he is advised
it is material for him to answer
answering says That sometime in Feb'y
1884. Mary Brown of her own accord
and without any solicitation on the
part of your respondent sought him
and agreed to buy of him a certain
horse for the sum of \$75.00. that
one or two days afterwards she
sent for the said horse and had
him carried to her home. That
your respondent used no deceit
or fraud in selling her the said
horse. That when he sold her the
horse he was a good, sound healthy
horse fully capable of doing any
reasonable amount of work. That
on April 28th 1884 after having

had possession of and worked and
 duly used the said horse from Feb'y
 she taking him well & finding him
 good and sound agreed to keep
 him. but being unable at that
 time to pay for him. she gave her
 bond for \$75.00; that being the
 price she agreed to give. said bond
 being payable on Jan'y 1st 1885 and
 secured by a deed of Trust of even
 date from her to T.L. Bain Trustee for
 benefit of your respondent. conveying
 3 cows. 3 colts. one work ox. one horse
 and 12 hogs which deed has been
 duly admitted to record. That
 she continued to use and work
 the said horse. making a consider-
 able crop with him. kept him
 steadily at work all the summer
 taking little or no care of him
 and after having thus used and
 worked him down completely.
 she then, sometime in latter part
 of the summer ~~the~~ without any
 good cause returned him to
 your respondent and declared
 that she never intended to pay
 for him. That there was nothing

the matter with the horse, but that
 he had been overworked and under
 feed and not properly cared for
 your respondent refused to take
 him back in that condition. had
 him put up at public auction
 sold and gave her credit for what
 he brought. That the horse with
 proper food and attention soon
 got all right and is now living
 sound and healthy and cannot
 to day be bought for the sum
~~at~~ that your respondent sold him
 to Mary Brown for. and your
 respondent most emphatically
 denies that he procured any
 fraud or deceit in selling her
 the said horse. and that he was
 a good and sound horse. That
 upon the maturing of her said
 bond she refused to pay it. there
 upon J. L. Bain trustee in the above
 said deed of Trust. advertised to
 sell on Jan'y 13th 1885- the property
 conveyed therein or as much thereof
 as might be necessary to satisfy
 purposes of said deed. That she then
 obtained from the judge of the county

Court of Southampton and injunction
 restraining said sale. Now your res-
 pondent would further show unto
 your honor. That on April 8th 1885-
 after due notice to her. he obtained
 before R. A. Bristow a Justice of the
 peace of this county a judgment
 on the aforesaid bond of Mary
 Brown that some has been duly
 docketed. all of which will
 more fully appear from a certified
 copy of said judgment herewith
 filed marked exhibit no 10
 and prayed to be taken as a
 part of this answer. That at said
 trial the aforesaid bond was
 fully proved to be a good and
 sound one. not only at time
 of sale. but even at the present
 time. That said Mary Brown
 has no good ground for the
 further continuance of her injunction
 against your respondent he only
 wishes to avoid paying him
 the amount due him by her
 These being the facts your
 respondent is justly entitled
 to his said money and he

prays that the injunction an order
may be dissolved and the bill
dismissed &c and now having fully
answered this respondent prays hence
to be dismissed with his costs &c

Signed = W. F. Hopkins
Shands & Son h.d.

State of Va

Sussex County to wit

This day personally appeared
before me Geo L. White a Justice of Peace
in and for the county aforesaid W. F.
Hopkins whose name is signed to
the above statement and made
oath that the same is to the best
of his knowledge &c true. Given
under my hand this 27th day
of April A.D. 1885-

Signed = Geo L. White J. of P. for Va

Brown. Mary
to Bond
Cmch

Know all men by these Presents, That we *Mary Brown*
and Joseph L. Davis L.L. Manry

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of
one hundred & fifty Dollars, to the payment whereof well and truly to be
made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. And
we, the obligors herein, hereby waive the benefit of our homestead exemption as to this obligation. Sealed with our
seals and dated this *10* day of *January* A. D. 188*5*

THE CONDITION of the above obligation is such that if the above bound

Mary Brown shall pay to *J. L. Davis*
Trustee, for the benefit of *W. F. Hopkins*
the debt secured by the deed of trust
in the proceedings mentioned, and all
costs and damages which may be
awarded against her in case of
injunctive ~~shall be dissolved~~ awarded
by the Judge of the County Court in vaca-
tion, *Jan 10. 1885*. ~~shall be dissolved~~

~~shall faithfully discharge the duties of~~
or else to remain in full force and virtue.

~~office or trust according to law, then the above obligation to be void,~~

Signed, sealed and delivered }
in presence of the Court.

Mary + Brown
Mark
L. L. Manry



THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County—Greeting:

WE COMMAND YOU TO SUMMON

J. L. Bain and H. F. Hopkins

to appear at the Clerk's Office of our Circuit Court of Southampton county, at the Rules to be holden for the said Court
on the first Monday in *Feby* next, to answer a bill in Chancery exhibited against *them*
in our said Court by *Mary Brown*

And this *they* shall in no wise omit; and have then there this writ.

WITNESS, J. B. PRINCE, Clerk of our said Court, this *12th* day of *January*, 188*5*,
in the *109th* year of the Commonwealth.

Tuto. J. B. Prince C. G.

Brown

23 } Lijunotiro

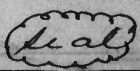
Bain, Trustee for the

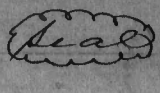
1885- Jan

An injunction is granted in accordance with the prayer of the bill, enjoining and restraining the defendant J. L. Baine and W. J. Hopkins, their agents, attys & all other persons' trustee, from proceeding to make sale of any of the property conveyed in the Deed of Trust from the Complainant to him as Trustee for the benefit of W. J. Hopkins, recorded in the Clerk's Office of Southampton County, or from removing or otherwise interfering with the same.

But before this injunction shall take effect, the said Complainant, Mary Brown, or some one for her, shall enter into and acknowledge bond, with good security, before the Clerk of the Court of the County of Southampton in the penalty of \$150⁰⁰ conditioned to pay the Deed of Trust, proceedings in which are thus enjoined, and all costs and damages as may be awarded against her in case this injunction shall be dissolved.

To the Clerk of
County Court of Ed. Baine &
Southampton County. Judge C. C. T.
in execution

The Commonwealth of Virginia.
To H. E. Branch, Constable of Southampton County.
You are hereby commanded to summon
Mary Brown to appear before you or some
other justice of the peace for said County -
on the 8th day of April 1885, at Berlin, to
answer the Complaint of H. F. Hopkins
of the non-payment of \$75.⁰⁰ due by
her. And make due return
how you have executed this warrant.
Given under my hand and seal this
28th day of March 1885.
H. M. Urquhart, J. P. 

Judgment is granted the Plaintiff
against the Defendant - seventy five
dollars, with interest from 1st day of
January 1885 till paid and five & 80/100 -
dollars Costs.
Given under my hand and seal this
8th day of April 1885.
R. A. Bristol, J. P. 
Atty.

J. B. Prince C. C.

Docketed April 20. 85

Cy lubu

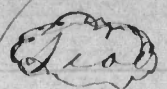
No 10

Rec^d. Sept 6th 1884
five 50/100 dollars
(for one Horse sold)
on within note -

J. L. Bain
Trustee

This Deed made this 28th day of
April 1884 between Mary Brown
of the County of Southampton
the first part and J. L. Bain Trustee
of the second part witnesses
that the said parties of the first
part grant unto the said party of
the second part the following
property to wit 3 Cows 3 Calves some
work ox one horse 12 hogs,
In trust to secure a note of seventy
five dollars in favor of W. F. Hopkins
of Sussex County by agreement
payable the 1st day of June 1885.
The condition of this deed on
which shall stand the said Mary
Brown of the first part pay the
note of seventy five dollars dated
April 28th 1884 in favor of W. F. Hopkins
this deed to be null and void otherwise
the said Trustee shall on being
so directed by W. F. Hopkins proceed
to sell the above mentioned property at public sale
to sell the same in three public
places in the County of Southampton
for cash sufficient to satisfy the said
Hopkins note and legal expenses
if there be upon the balance if any
to be paid to the said Mary Brown

on her legal representatives -
Witness the following signatures and
Seals -

Mary ^{her} Brown 
_{mark}

Notary of Virginia
County of Southampton to wit
C. B. M. Worguehant a justice of the
peace for the County of Southampton
do certify that Mary Brown whose
name are signed to the writing hereto
annexed bearing date April 28th 1884
acknowledged the same to be her act
& deed, given under my hand this 28th
day of April 1884.

C. B. M. Worguehant J.P.

Southampton County Clerk's Office
April 21st 1884.

This Deed of Trust from Mary Brown
to J. L. Bain Trustee for the benefit
of W. F. Hopkins was this day received
and together with the certificate hereto
annexed admitted to record

Attest J. B. Finnerby
Clerk
J. L. McQuinn S.C.

Brown
21 3 Bills 4

Rain, Trustees for
1885. Jan 10th filed

To the Hon: E. C. Barrall, Judge
of the County Court of Southampton.

In Chancery. In Vacation.

Humbly complaining, sheweth
unto your honor, your complain-
ant, Mary Brown of the said
County of Southampton, as follows:
That some time in February 1884,
W. J. Hopkins, Esq., of the County of
Sussex, approached your Com-
plainant and offered to sell to her
for the sum of twenty five dollars
a certain horse which, after numer-
ous inquiries as to its soundness,
age &c., she agreed to purchase at
that sum, and the said horse was
delivered in one or two days after-
wards; That the purchase of said
horse was evidenced by a note in
writing payable on January 1st 1885,
which was secured by a Deed
of Trust executed by your complain-
ant to J. L. Baine Trustee for the
benefit of the ^{said} W. J. Hopkins, convey-
ing 3 Cows, 3 Calves, one work ox,
one horse and 12 hogs, as will more
fully appear from a copy of said
Deed of Trust herewith filed and

made a part of this bill. That since the maturity of the said note and the refusal of your Complainant to pay the same, The Trustee, according to the terms of the said Deed of Trust, has advertised a sale of the property therein mentioned in satisfaction of the said note, and will, unless an injunction be awarded restraining the same, on Tuesday January 13, 1885, sell said property at public auction greatly to the prejudice and in fraud of the rights of your Complainant. And Complainant further charges and sheweth unto your honor that the said horse was warranted to be perfectly sound in every respect and represented to be not more than seven years of age; That for nearly two months the said horse remained in the stable well treated and cared for without having been used at all during that time; and that, the first and second times your Complainant undertook to use the said horse she discovered that it was very unsound

and old - several of the ribs on each side having been broken; moreover, it was vicious, would kick, and suffered dreadfully from emitting frequent bloody discharges - the said horse was totally worthless.

That in July 1884 your Complainant returned the said horse to the said W. T. Hopkins in whose possession it has since remained.

Your Complainant expressly states and charges that she knows nothing about horses, and that, in the purchase of the one in question she relied implicitly upon the integrity and honesty of the said W. T. Hopkins, she states and charges that he willfully took advantage of her ignorance, and, therefore, committed upon her a gross fraud. The cause of action arose in the County of Southampton. In consideration whereof, and forasmuch as your Complainant is without remedy except in a Court of equity where matters of this nature are alone proper to be heard, To the end, therefore that justice may be done, your Complainant prays that J. L. Baine,

Trustee, and W. J. Hopkins may be made parties defendants to this bill and Compelled to answer its allegations on oath. That an order may be entered enjoining and restraining ^{the said Hopkins, of his agents, parties & all other persons} the said J. L. Daine, Trustee from a sale of the any of the property in the aforesaid Deed of Trust, or from removing or otherwise interfering with the same, and that such general, further and special relief may be granted as the nature of the case may require or to equity may seem meet.

And as in duty bound your
Complainant will ever pray &c.,
Wm. H. Parker, f.c.

Virginia.

Southampton Co. } To wit:

J. B. F. McLeure a Com'r in Chan-
ce for the County and Circuit Courts
of Southampton County do certify that
Mary Brown this day personally
appeared before me and made oath
that the allegations contained in the
 foregoing bill were true.

Given under my hand this 10th day
of January 1885—

B. F. McLeure
Com'r in Chy