

1892-14

Southampton County Chancery - Peete, Thomas B. et al v. Marrell, J. F. et al

Sues to have defendants
barred from selling land
until title can be cleared

Myrick, Wm. A.
(Trading as Peete
+ Myrick)

Murrell, Emily
Holt - Susan J.
Smith, W. T. (Trustee)
Turner, R. W.
James, J. C. (Trustee)

Pete Smyth

5

Murree J. J. J.

~~~~~

Amman J.

Susan J. J.

1892. Apr 9. J. J.

Apr 9

The Answer of Susan J. Holt to a bill of  
Complaint exhibited in the Circuit Court of  
Smithampton Co against herself and others  
by Peter Myrick.

This respondent for answer to said bill  
says: That the charge in said bill of com-  
plaint that the deed of trust from J. F.  
Murrell to W. F. Smith trustee to secure a  
debt due her by said Murrell is wholly  
without valuable consideration, is  
without foundation. She says that  
the debt secured to her is a bona  
fide debt for money loaned to said  
Murrell from time to time and is as  
justly due as even one debt won from  
man. She denies all charges of fraud  
and calls for the strictest proof of the  
same. She is advised that as to the other  
allegations in said bill, it is not reason-  
able for her to answer. And having  
answered pray hence to be dismissed  
with her costs &c.

Susan J. Holt

Smithampton County Court.

Personally appeared before the undersigned,  
a Justice of the Peace for the County of Prince George in the  
State of Va. Susan J. Holt and made oath that  
the answer above is true. Given under my hand  
at Abbe - 8<sup>th</sup> 1892. Wm. Beaton J.P.

Pete & Myrick

& ~~3~~ <sup>2</sup> August. Bred

Marrell & al

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1892. April 1. filed

Know all men by these Presents, That we *W. A. Myrick and*  
*Jas. L. Cagdale*

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of

*Three hundred* 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, and also waive any claim, right or privilege to discharge any liability arising under said bond in any currency, funds, counter-claims or offsets other than legal tender currency of the United States.

Sealed with our seals and dated this *1<sup>st</sup>* day of *April* A. D. 1892

THE CONDITION of the above obligation is such that if the above bound *W. A. Myrick*, a member of the firm of *Peck & Myrick* - which said firm having exhibited before *C. W. Hill*, Judge of the Circuit Court of Southampton County - in vacation, an injunction enjoining and restraining *J. F. Murrell*, *J. C. James*, Trustee, *R. W. J. J. J.*, *H. J. Smith*, Trustee, *Susan J. Holt* and *Emily L. Murrell*, their Agents, Attorneys and all other persons, from making sale of or in any way disposing of the real estate in the bill and proceedings mentioned. Known as the *J. F. Murrell* tract, and containing about 200 acres - either on the 2<sup>nd</sup> day of April 1892, or at any other date, until the future order of this Court. Shall pay all costs which may be awarded against them, and all such damages as may be incurred in case this injunction 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.

*B. F. McLemore C.C.*

*Wm A. Myrick*  
*Jas L. Cagdale*  
mark



THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON

*J. F. Murrell, Emily L. Murrell,  
Susan J. Asst. N. J. Smith, Trustee. R. W. Joyner and J. C.  
James, Trustee.*

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 *1<sup>st</sup>* Monday in *April 1892* ~~next~~, to answer a Bill in Chancery  
exhibited against *them* in our said Court by *Thos. E. Peete & H. A. Myrick*

*Merchants and Farmers, trading and doing business  
as Peete & Myrick*

And this *They* shall in no wise omit under penalty of law. And have then there this writ.

WITNESS, B. F. McLEMORE, Clerk of our said Court, at the Courthouse, this *1<sup>st</sup>* day of

*April*, 189*2*, in the 11*6*th year of the Commonwealth.

*Testo: B. F. McLemore* C. C.

Feete & Myrick

or  
Murrell & others

} Injunction Order.

On motion of the Plaintiffs, and for reasons appearing satisfactory to the Judge, an injunction is granted them enjoining and restraining J. F. Murrell, J. B. James, Janslee, R. W. Joyner, W. J. Smith, Janslee, Susan J. Holt, and Emily L. Murrell, their agents, attorneys, and all other persons from making sales of or in any way disposing of the real estate, in the bill and proceedings mentioned, known as the J. F. Murrell tract, and containing about 250 acres, taken on the 2<sup>nd</sup> day of April 1892. At any other date, until the future order of this Court. But the said Plaintiffs shall not have the benefit of this order until they or some one of them shall have entered into bond with approved security, before the Clerk of this Court, in the penalty of \$300.00 - Conditioned as the law directs.

A. Copy. Teste: B. F. McLemore C. J.

I certify that the bond required by the foregoing order has been given with approved security.

B. F. McLemore C. J.

Feete & Myrick

or  
Sum: \$5

Murrell & al:

1892. 1. April Rules

Cir: Ct.

Executed April 2<sup>nd</sup> 1892  
by delivering a copy of  
this Court's and injunction  
order to each of the within  
named parties.

J. W. Williams  
Shff.

X

In Southampton Leicwick Court,

March 21<sup>st</sup> Term, 1892

Thos. E. Peeto & H. A. Myrick. merchants  
+ partners, trading as Peeto & Myrick Pltff.  
Against

In Leibh

Jesse F. Murree Deft.

Judgment for the Plaintiff against the Defendant for \$546.<sup>95</sup> with  
legal interest thereon from 20<sup>th</sup> day of February, 1892, till paid,  
and costs, \$6.<sup>19</sup>

Extract.

Homesstead waived.

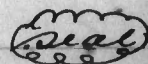
Teste:

B. F. McLemore C. C.

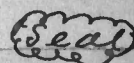
1885 This Deed made this 18th day of December  
between Jesse F. Murrell and Emily L. his  
wife of one part and J. B. James, Trustee of  
the second part. Witnesseth that for and in con-  
sideration of five dollars, in hand paid, the  
receipt of which is hereby acknowledged. The  
said Jesse F. Murrell and Emily L. his wife  
doth grant, bargain, sell and convey with gen-  
eral warranty, unto said trustee, the following  
property to wit: A. Certain lot or tract of land,  
containing two hundred and fifty acres, more or  
less, situated in Southampton County Va. and  
bounded by the land of H. L. Smith, by the  
County road leading from Hebron Church by  
H. L. Smiths to Branchville, and the flat  
swamp. In trust, to secure the payment of  
on certain Bond for five hundred dollars, bear-  
ing even date with this deed, and due & pay-  
able to Richard W. Joyner. It is stipulated  
and agreed, that should a sale take place  
hereunder, the trustee shall receive the usual  
commission of five per cent. upon gross a-  
mount of sales.

Witness the following signatures and seals.

Jesse F. Murrell



Emily L. Murrell



Virginia

Southampton County. to wit:

I, B. F. M. Lemore, a Commissioner in  
Chancery of the County Court for the County  
of Southampton in the State of Virginia. do  
certify that Jesse F. Murrell whose name is  
signed to the writing<sup>above</sup>, bearing date on the 18<sup>th</sup>  
day of Decr. 1880. has acknowledged the same  
before me in my County aforesaid. And  
I further certify that Emily L. Murrell, the  
wife of the said Jesse F. Murrell, whose name  
is also signed to said writing, bearing date  
as aforesaid, personally appeared before me in  
my County aforesaid, and being examined by  
me privily and apart from her husband and  
having the writing aforesaid fully explained to  
her, she, the said Emily L. Murrell acknowledged  
the same to be her act and deed, declared  
that she had willingly executed the same  
and does not wish to retract it.

Given under my hand this 18<sup>th</sup> day of Decr 1880

B. F. M. Lemore

Comr in Chancery

Southampton County: In the Clerk's Office. Decr 21<sup>st</sup> 1880  
The foregoing Deed of Trust from Jesse F. Murrell  
& wife to R. M. Joyner's Trustee, was this day received  
and with the certificate annexed, admitted to  
record.

Teste

J. B. Prince C. C.

A Copy

Teste.

B. F. M. Lemore C. C.

This Deed made Feby 22nd 1892 between Joseph F. Murrell and Emily L. his wife of one part, and W. T. Smith Trustee of the second part, witnesseth; That in consideration of five dollars, the said parties of first part do grant and convey with general warranty unto the said trustee the following tract of land Situated in Southampton Co. Va. to wit: one certain tract of land Containing 285 acres be the same more or less, bounded by the land of H. L. Smith, the Public road leading from Nelson Church to the Whitehead Road & the Flat Swamp - In trust to secure the following debts, a bond due Mrs Susan J. Kalk for five hundred & twenty <sup>dated</sup> dollars, the 1st. day of January A. D. 1890 and a bond due Emily L. Murrell for four hundred & Eighty dollars. dated the 16 day of Feby A. D. 1891

Witness the following signatures & seals

J. F. Murrell

(Seal)

Emily L. Murrell

(Seal)

Virginia, Southampton County, To wit:

I W. M. Beaton a Notary Public for the County aforesaid in the State of Virginia do certify that J. F. Murrell and wife Emily L. Murrell whose names are signed to the above writing bearing date the 22nd day of February 1892 - have

acknowledged the same before me in my  
County aforesaid. Given under  
my hand this 23rd day of February 1892.  
W. M. Beaton  
Notary Public

Southampton County: In the Clerk's Office  
Feby. 24<sup>th</sup> 1892 The foregoing Deed of Trust  
from J. F. Murrell & wife to Mrs S. J. Holt<sup>ma</sup>  
Emily L. Murrell's Trustee was this day re-  
ceived and with the certificate annexed ad-  
mitted to record.

Teste: B. F. McLenore C. C.  
A. Copy.  
Teste: B. F. McLenore C. C.

Peete & Myrick  
vs. 3 Injunction  
3 Order

Murrell & others

In Vocation  
To the Clerk of the Circuit  
Court for Southampton  
Co Va

To be entered  
March 31<sup>st</sup> 1892

C. W. Hill

✓

# In. Vacation.

Pette & Myrick

Against <sup>3</sup> Injunction order  
Murrell & others

On motion of the plaintiffs and for reasons appearing satisfactory to the Judge, an Injunction is granted them enjoining and <sup>x J. F. Murrell</sup> restraining J. C. James Trustee, R. W. Joynet, W. J. Smith Trustee, Susan J. Holt, and Emily L. Murrell, their agents, attorneys, and all other persons from making sale of, or in any way disposing of the real estate in the bill and proceedings mentioned, known as the J. F. Murrell tract and containing about 250 acres; either on the 2nd day of April 1892, or at any other date, until the further order of this Court.

But the said plaintiffs shall not have the benefit of this order until they, or one of them shall have entered into bond with approved security before the Clerk of this Court in the penalty of \$300.<sup>00</sup>/<sub>100</sub> conditioned as the law directs.

LeWrie

To the Clerk of the Circuit }  
Court for Southampton County Va.

March 31<sup>st</sup> 1892

Feet & myrick  
no. 3 Bier & Co  
Muswell & others

A

J. B. F. M. Lemoore Clerk County Court  
of Southampton do certify that J. E. Peete  
of the firm of Peete & Myrick, whose name  
is signed to the annexed bill of Complaint,  
personally appeared before me and made  
oath that the statements as contained in the  
said bill so far as made of his knowledge are  
true, and so far as made upon information  
derived from others he believes to be true -  
Given under my hand this 30th day of  
March 1892

J. B. F. M. Lemoore C. C.

The Honorable C. W. Hill Judge of the Circuit  
Court of Southampton County:

Your complainants Thos. C. Peete &  
Wm. A. Myrick merchants and partners trading  
and doing business as Peete & Myrick, hum-  
bly complaining, sheweth to your honor:

That J. F. Murrell, on February 20th 1892,  
and some time before that day, was indebted  
to your complainant, in the sum of \$546<sup>95</sup>  
as will appear by copy of the note and also  
extract of the judgment obtained upon the same  
executing the debt, filed herewith as exhibit  
"A" and prayed to be taken as a part of this  
bill.

That said indebtedness arose by reason  
of goods and money furnished said Murrell  
by your complainant in the year preceding  
the signing of the said bond, and that said  
goods and money were furnished said Murrell  
to enable him to operate his farm, cultivating  
and harvesting his crops.

That at the time the indebtedness aforesaid  
was contracted by the said Murrell he was  
seized of valuable real estate and considerable  
personal property in the aforesaid county  
of Southampton. which real estate and personal  
property are worth at the least \$3000. to wit:  
a tract of land supposed to be worth \$1500 - and  
personal property, consisting of horses, mules,  
farming implements, buggy cart, wagon, and

his entire crop of corn cotton, peanuts fodder  
worth \$1500. which personal property he  
has privately sold, and taken the proceeds arising  
therefrom, to his own use, without paying any of  
his debts or securing them, so that an execution  
against him would be unavailing. and the real  
estate is <sup>the</sup> only describable property upon which his  
creditors can resort.

That on the 18th day of Decr. 1885, the said  
Murrell wife conveyed the aforesaid real estate  
to J. C. James Trustee to secure a certain debt  
of \$500. due to R. W. Joyner. that said debt or a  
portion thereof is yet unpaid. Your orator states  
further that on the 22 day of February 1892, the  
said J. F. Murrell & wife, by a writing purporting to  
be a deed of trust, attempted to convey all his  
real estate of every nature to W. J. Smith Trustee,  
to secure certain debts alleged to be due to Ellen  
Ann J. Holt who is the mother in law of the said  
J. F. Murrell, and to Emily L. Murrell wife of the  
said J. F. Murrell. which amounts are more than  
sufficient to absorb the entire estate then attempted  
to be conveyed. all of which will more fully  
appear by certifying copies of the said two deeds  
of trust herewith filed as exhibits "B" & "C" and  
prayed to read as a part of this bill.

Your complainant believes, charges and  
alleges that the said last mentioned conveyance, from

J. F. Murrell wife to W. J. Smith Trustee is wholly without valuable consideration, was made <sup>to Susan J. Ross</sup> ~~partially~~ to secure a debt claimed to be due from the said Murrell directly to his wife, is in the nature of a post-nuptial settlement on said wife, without consideration, was made to hinder delay, and defraud the creditors of the said J. F. Murrell of which your complainants are one. And that they are entitled to have the said Deed of Trust set aside and the property therein named subjected to the payment of their debt.

Your Orators would state further that J. C. James Trustee by virtue of the first mentioned Deed of Trust made to secure R. H. Gayner, has advertised to sell the said farm on April the 2nd 1892 at Branchville Va. to satisfy the debt therein secured, and that to permit the property to be sold with the suit now pending to set aside a deed upon the same would materially effect the price for which the same would sell, that this cloud upon the title, together with the stringency at this time in financial circles and the inability of the Trustee to give a good and clear deed, would make the sale at this time almost ruinous to the interest of your Complainant and all other parties in interest.

Your Orators are advised that they are, under such circumstances, entitled to have the proposed sale of the land, enjoined and stayed until the cloud upon the title, and other complications

as set forth herein, are removed.

In tender consideration whereof and for-  
as much as your Complainants are residents  
in the premises, said by the aid of a Court of  
equity where matters of this kind are alone and  
properly cognizable, they pray that J. F. Murrell  
Emily L. Murrell, Susan J. Heath, W. J. Smith  
Trustee, R. W. Joyner and J. C. James Trustee be  
made parties defendants to this bill, and required  
to answer the allegations contained herein, but  
an answer under oath is waived as to all the parties -  
that the said J. C. James Trustee be enjoined from  
selling the tract of land in the bill mentioned on  
April 2nd 1892 and until the questions involved in  
this suit can be adjudicated. That the deed of  
Trust to W. J. Smith Trustee be set aside as frau-  
dulent and void and the property therein conveyed sub-  
jected to your orators debt. and that such other  
and further relief may be granted to your orators as  
the nature of their case may require or to equity  
may seem meet. And that a reasonable attorney's fee  
be allowed the counsel conducting this case.

And your orators will ever remain &c.

Pete & Myrick

J. E. Pete

Wm A. Myrick

Shanderson & McClellan for.

Virginia

County of Southampton to wit.

The answer of Emily L. Murree to a bill of complaint exhibited in the Circuit Court of Southampton against herself and others by Peter Myrick.

This respondent for answer to such parts of said bill as she is advised it is material for her to answer, says that the charge in the bill of the complainants that the deed of trust from J. F. Murree to W. F. Smith to secure a certain debt to her due by said J. F. Murree "is in the nature of a post-nuptial settlement, without consideration, and was made to hinder, delay and defraud the creditors of the said J. F. Murree" is untrue. She avers that the debt secured to her under said deed of trust is a just debt, as just as the debt due any creditor of said Murree - and that said trust-deed was made in good faith, without any attempt at fraud in any sense. She further says that she is informed that under the laws of Va, a <sup>debtor</sup> ~~creditor~~ in failing circumstances has a perfect right to prefer his creditors, and that it is a matter of frequent occurrence for this to be done. She further insists that the charge of fraud in this case is entirely gratuitous.

Made without sufficient cause and  
she asks the Court to have the trial  
proof of the same. She denies all  
charges of fraud or attempts at fraud.  
And having answered facts here to  
be dismissed with her costs.

+ Emily L. Murrell  
County of Southampton Court.

Personage appeared before the undersigned, a Notary Public Justice of the Peace  
for the County of Stafford in the State of  
Virginia, Emily L. Murrell and made  
oath that the facts as set forth in her  
answer above are true to the best of  
her knowledge and belief. Given under  
my hand the 8<sup>th</sup> 1892.

Wm. M. Murrell J.P.

Pete & Myrick  
or 3 answers  
P. F. Munnice  
Munnice & others

1892. April 6. filed.  
B. F. McLennan

The Answer of J. F. Merrill to a bill of  
Complaint exhibited in the Circuit  
Court of Southampton against himself  
and others by Pute & Myrick..

This respondent for answer to said  
bill says.. That he admits he is justly  
inculped to the complainants in the sum  
of \$546. <sup>95</sup> as claimed by them in their bill.  
Respondent denies that he has privately  
sold his personal property and taken  
the proceeds arising therefrom to his own  
use, without paying any of his debts or  
securing them. and calls for the strictest  
proof to sustain the unfounded  
allegation. He also admits the correct-  
ness of the charge in said bill as to the  
class of trust in favor of Mr. J. J. J. J.

He also admits that on the 22 day of Feb  
1892, he not only attempted but did actual-  
ly convey all his real estate to W. J. Smith  
Truster to secure certain debts really due  
to Mrs Susan J. Holt, and to Smith L. Murree  
whether these debts with the debt due  
Mr. J. J. J. J. were more than consume his  
real estate he cannot tell.

Respondent denies positively that the deed  
of trust made by him Feb 22. 1892 to W. J.  
Smith Truster to secure a debt due Susan  
J. Holt and a debt due Smith L. Murree was

without valuable consideration. He insists  
that the debts secured in said trust deed  
are bona fide debts in every sense.

He denies that the debt secured on said  
Smith L. Murrell is in the nature of a post-  
nuptial settlement, without considera-  
tion or that it was made to hinder, delay  
and defraud his creditors. and calls  
for the strictest proof of this charge.

Respondent says that "fraud is easily charged-  
but he insists on the most convincing proof  
to establish it. He is informed that the law  
does not presume fraud, nor is it to be  
assumed on doubtful evidence or cir-  
cumstances of mere suspicion, that the  
party alleging it must clearly and dis-  
tinctly prove it." and he insists that it  
shall be proved or alleged in the face  
of complainant's. or that said bill shall  
be dismissed at their costs.

Respondent denies all charges of fraud  
against himself or any other party to  
this suit. Respondent asks the Court  
to dissolve the injunction awarded  
in this suit at the plaintiff's costs.

And having answered, he prays hence  
to be dismissed &c.

J. F. Murrell

J. B. Davis Jr.

Southampton Co. Court.

J. B. F. McLennan a Clerk in Charge for  
the Circuit Court of Southampton County  
in the State of Va. do certify that J. H.  
Murrell whose name is signed to  
the above answer personally appeared  
before me in my Court aforesaid  
and made oath that the above  
answer is true to the best of his  
knowledge and belief. Given under  
my hand Apr 6. 1892.

B. F. McLennan  
Clerk in Charge in  
for Circuit Court of Southampton  
Co. Va.

Peeto & Myrick 191

Stat: Rules

Murrell & others

✓ apl

Thos E. Peeto & W. A. Myrick  
Merchants & Partners, trading  
and doing business as  
Peeto & Myrick.

*Plffs*

Against

J. F. Murrell, Emily L.  
Murrell, Susan J. Holt.  
W. J. Smith Trustee.

R. W. Joyner and

J. B. Garner, Trustees.

*Defts*

In Chancery

1892 April 1. Process issued to 1<sup>st</sup> April Rules. with designation

Order endorsed thereon. Bill lodged in Office.

" 1<sup>st</sup> April Rules: Process executed. Bill & Ex. filed.

de cree nisi

" 2 " "

"

Answer of J. F. Murrell, Emily L.

Murrell and Susan J. Holt, filed.

Genl. Refr + Cause set for hearing

Teete & Myrick

of ~~the~~ Deere

Manuel & others

1892 Nov. Term

To be entered

CMS

Entered

Teete & Myrick  
vs. 3 Deere  
Merrill & others

This day this cause came on  
to be heard on the bill & exhibit filed,  
answers of defendant with general replication  
and was argued by counsel. On consider-  
ation whereof, and it appearing from  
plaintiffs Counsel that the matters in dispute  
herein have been settled out of Court doth  
order that the same be removed from the  
docket at the costs of plaintiffs.