1897-09 Southampton County Chancery Bryant, Charles &c Vick, Willis H. et als

"Deed of Trust to be set aside"

Wyriek, Wm A. Trustee
Bryant, Theo
Bryant, Sarah
Jaynes, Thomas

To the Hon. C. W. Hill, Judge of the Circuit Court of Southampton Co.

Humbly complaining sheweth unto your Honor that Charles Bryant, one of your orators, was seized of a certain piece of property in Southampton Co. which came to him by descent, being a 1/2 undivided interest in 65 acres of land which passed to him from his mother, Lucy Bryant, and a like interest in 51 acres which he derived from his grandmother Priscilla Channell. And that on the 12th day of January 1889 he executed along with Frank Vick and Alice Vick, his wife, formerly Alice Bryant a certain paper writing purporting to be a deed of trust to Wm. A. Wyrick Trustee for the benefit of Mills H. Vick to secure to him, the said Mills H. Vick the payment of the sum of $316.27, a copy of which deed is herewith filed marked exhibit "A" and asked to be made a part of this bill. Your orator furthermore states that at the time of the making of said deed he was then an infant under the age of 21 years, that he was born on the 28th day of July

1868 and therefore could not reach his majority before the 28th day of July 1889. some months after the signing by him of the paper writing purporting to be a deed. Your orator although under the age of 21 years was unwilling and hesitated a long time before signing the said writing & that it was not until he had been urged and over persuaded by the said Miss H. Vick that he reluctantly consented to do so, with the promise at that time from the said Miss H. Vick that the property thereby conveyed would never be sold so long as the said Vick lived & had control of same providing the interest was annually paid. That the said Miss H. Vick on the 5th day of Oct. 1889, within nine months after the signing of the said supposed deed, in spite of the promises as set forth above exposed the property to sale at public auction in direct opposition to the wishes and intimation of your orator. That your orator was present on the day set for the sale, and at the time said property was being cried, publicly forbid the sale of the same giving as

his reason that he was a minor of
tender years and incapable of appreci-
ating the importance of his actions at the
time the same was signed by
himself, Whereupon the Trustee declined to
sell the property, but the said Miss H.
Vick, the beneficiary ordered the crier to
proceed and the said property was knocked
out to the said Miss H. Vick at the small
sum of $350.00, she being the sole bidder
for the same, Your orator states further
that if said sale be allowed to stand as
firm and binding upon the parties, that
not only would your orators property be
taken from him by writing signed upon
he reached his majority but that the inter-
est of all your complainants would be
greatly sacrificed on account of the
cloud cast upon the said property by
the minor Charles Bryant publicly ob-
jecting to the sale of same, said property
being richly worth from five to six
hundred dollars, In tender consideration
whereof and for as much as your orators
are without remedy save in this Court
where matters of this nature are alone and
properly cognizable to the end therefore that
justice may be done, Your complainants pray

that Miller H. Vick, Wm. A. Myrick, Trustee, Thos. Bryant and Sarah Bryant, his wife, and Thomas Joyner be made parties defendant to this bill & required to answer the allegations contained in the same (but answer under oath is hereby waived) That the said supposed deed of trust of Jan. 12th 1889 so far as it purports to convey the property of one of your orators, Chas. Bryant, be set aside as null & void and all future transactions had by means of said deed of trust declared of no effect, That all such accounts may be taken and decree entered and such further general and special relief granted as to equity may seem meet and the nature of the case may require.

And your orators will ever pray &c.

Chas. L. Corbitt
J. L. McLemore / P.Q.

Bryan et als
vs
Bill & Exhibits
Vick et als

Corbitt & McLemore

Bryant + als:

4" { WITNESS' SUBPŒNA.

Vick + als:
1892. Sept 23".

Executed Sept 14 " 92 by delivering a copy of this "Spa" to each of the within named parties

R. L. Lemmons
Deputy
for J. T. Williams
Sheriff

Everett Waddey, Stationer and Printer, Richmond, Va. } Form No. 401.

The Commonwealth of Virginia,

To the Sheriff of the County of Southampton, Greeting:

You are hereby commanded to summon R. A. Gray. J. J. Vick. Thos. Bryant. Franc T. Simmons. Frank Vick. John Johnson. Alice Vick. and Geo. Owen

personally to appear before the undersigned, one of the commissioners in chancery of the Circuit Court of the County of Southampton, at his office, at the court-house of said county, on the 23" day of September 1892 ~~next~~, to testify and the truth to say in behalf of Chas Bryant + als:

in a certain matter of Depositions

referred to the said commissioner for taking, by a decree of the said court in a suit in chancery therein pending between Bryant & Vick

And this duty shall in no wise omit, under the penalty of £100. And have then there this writ.

Witness, B. F. McLemore, Commissioner of the said court, at the court-house of said county, the 1" day of September 1892, and in the 117" year of the Commonwealth.

B. F. McLemore, Com'r

Vick et al
adv. { Notice to take
Deposition.

Bryant et al.

Acknowledge legal
service of this notice.

To Chas Bryant &
Plaintiffs in suit Bryant &c. vs. Vick &c.

You are hereby notified that on the 24th day of Oct. 1892, at the office of W. J. Scherer in Cornland Va, between the hours of 8 A.M. and 6 P.M., I shall proceed to take the depositions of I. L. Ferguson & others to be read in behalf the defendant in a certain suit in Equity depending in the Circuit Court of Southampton, in which I & others defendants & you and others are plaintiffs —

Miles H. Vick,
By Counsel.

Oct. 10th 1892.

The Depositions of S. L. Ferguson & others taken before me, B. F. McLemore, a Comr. in Chancery for the Circuit Court of Southampton, pursuant to notice hereto annexed, at the office of W. J. Sebrell in Courtland Va., on the 24th day of Oct. 1892, between the hours of 8 A.M. & 6. P.M. to be read as evidence on behalf of Mills H. Vick, in a certain suit in Equity, depending in the Circuit Court of Southampton, wherein Chas. Bryant & others are plaintiffs and Mills H. Vick is defendant.

Present: J. L. McLemore Esq.
W. J. Sebrell, Esq.

The witness S. L. Ferguson being duly sworn deposes as follows:—

Q. What is your age, where do you reside & do you know the parties to this suit?

A. Am 37 years old, live near Newsoms, in Southampton County & know the parties to the suit?

Q. Do you know & how long have you known the tract of land in controversy?

A. I do know — have known it nearly all my life, having lived close by it.

Q. What do you think was a fair price for it at the time Mr. Mills H. Vick, bought it at the trustee's sale two or three years

ago?

A. I don't think it was worth over $3.00 per acre. I own no land myself and have never owned any.

And further this deponent saith not.

S. L. X Ferguson
his mark

The witness Henry A. Worrell, being duly sworn, deposes as follows:

Q. What is your age, where do you reside and do you know the parties to this suit?

A. Am 31 years old, live near Newsoms in Southampton County & know the parties to the suit?

Q. State whether or not, Theophilus Bryant, the father of Charles Bryant, [redacted] or four years ago - in the fall of the year, at Mr. John Lyles's, where he was then living, stated to you or in your presence that his son, the said Charles Bryant, was born in the year commonly known as the wet year?

A. He did so state to Mr. Miller H. Vick in my presence.

Cross-Examined by Plff's Counsel.

Q. Was this conversation with Mr. Theophilus Bryant had before or after the last deed was made by Charlie Bryant to Miller H. Vick?

/

trustee?

A. I dont know — don't know when he made the last deed.

And further this deponent saith not —

H. C. X Worrell
mark

The witness Jno. J. Vick, being duly sworn, deposes as follows: —

Q. What is your age, where do you reside and do you know the parties to this suit?

A. Am 61 years old, live near Hurricane — about two miles from the tract of land in Controversy, & know the parties to the suit —

Q. I married a sister of the defendant, and Theophilus Bryant married my step — daughter.

Q. What do you consider a fair price for the said tract of land at the time, Mr. Vick bought it at the trust sale?

A. Have known the land for 30 years — It is very poor & there are very little improvements thereon — I consider $3.00 per acre the fair value of the land at the time Mr. Vick bought it — It is divided into 3 or 4 little tracts or parcels — There is a a frame-house, with one room up & one down stairs — but the chimney has left the house, & there are two log-houses on one of the tracts — a smoke-house

+ kitchen — + a log-house on the ten acre tract -

Q. State whether or not you know the age of Charles Bryant, the son of Theophilus Bryant, and if so what is it?

A. I do know his age; he was born during the year called the "wet year", namely, in 1867.

Crop-Examined by ~~Defts~~ counsel.

Q. Why is it that you remember particularly Charlie Bryant's age?

A. Because it was that "wet year", 1867.

Q. Do you mean to say that you remember the age or date of birth of every child that was born within two miles of you during the "wet year"?

A. Not every child -

Q. Can you name a single other child [redacted] born within two miles of you during the "wet year"

A. I don't know that I can recall another at this time.

Q. How old was Charlie Bryant when you first saw him?

A. He was a ~~baby~~ small boy walking about, at the first time I remember to have seen him. He might have been one or two years old, but don't know exactly what was his age at that time -

Q. What year was it that you first saw him?

A. I don't know -

Q. Then how can you say that you know the date of his birth.

A. Because I know he was born the "wet year". And further this deponent saith not.

John J. Vick

The witness W.R. Worrell being duly sworn deposes as follows:—

Q. What is your age, where do you reside & do you know the parties to this suit?

A. Am 41 years old, live near the land in the proceedings mentioned & know the parties to the suit?

Q. What do you consider a fair price for it at the time Mr. Vick bought it at the trust-sale?

A. About $3.00 per acre.

(The Defendant has exhibits to the Commissioner a plat made on the 21st Oct. 1892, by H. B. Kindred, surveyor, showing the tract of land in controversy to contain 113 11/12 acres.)

Q. State whether or not you know the age of Charlie Bryant, or know any facts tending to show his age?

A. He was born the second year after the war, named in 1867.

Cross Exam. by Pltff Counsel

Q. How do you know Charlie Bryant was born in 1867?

A. I went there to Hopkins Bryants. the second year after the war, to a Corn-shucking & they were teasing him about having a young child born. the first year after he was married -

Q. Do you know the "young child" referred to was the same Charlie that is now plaintiff in this suit?

A. No sir.-

Q. Then you do not know that Charlie was born that year, do you..?

A. No. sir. I don't know whether it was him or not.

Q. Then you know nothing about Charlie's birth do you?

A. No sir - I only wanted to say that he had a child born the first year after his marriage,- namely that the child was born in 1867. but don't know what or who it was.-

And further this deponent saith not

his
D. R. X Worrell
mark

The Witness Thos. L. Vick being duly sworn deposes and says.

Q What is your age residence and do you know the parties to this suit.

A. I am 41 years of age live near Newsoms S. and know the parties to this suit.

Q. State whether or not you were at Newsoms at the time Chas. Bryant made the last deed of Trust to W. A. Myrick Trustee for Mills H. Vick & if so, whether or not you heard said Chas Bryant then & there make any statement as to his age?

A. I was present and Charlie stated to Mr Myrick in Mr. Vicks presence & in my presence that he was 21 yrs of age.

Cross Examination, by Plaintiff.

Q Are you related to Mr. Mills H. Vick,

A. I am related some distance off.

Q. Is not Mr. H. C. Worrell also related to him?

A. If he is, its a long way off.

Q. What year was it that you heard

Charlie say at Newsoms that he was 21 years of age.?

A. I cant tell the exact time but it was one or two years ago the time he made the last deed.

Q. How do you know it was the time he made the last deed?

A. Because he has'nt made one since.

Q. Have you been attending to Mr Vick business for him collecting his money &c.?

A. Yes sir. I have been collecting his bonds such for him for eight or 9 years.

Q. Do you charge him for your services in this collecting?

A. No Sir; I make no charge. he sometimes give me something for collecting.

And further this deponent sayeth not

Thos. L. Vick

The witness W. A. Allyrick being first duly sworn deposes and says:-

Q What is your age, residence & do you know the parties to this suit.?

A. Age 41 yrs. old reside at Stinson within County & know the parties to this suit.

Q State whether or not you were the Trustee in the deed of Trust executed by Chas Bryant & Frank Vick & wife to the benefit of Will H. Vick & if so whether or not you sold the land thereby conveyed as said Trustee?

A I was Trustee & sold land under said Trust deed having first advertised time & place of sale.

Q. Is it a fact as alleged by plaintiff in this deposition that at said sale you declined to proceed to sell & the sale was then carried forward by direction of Will H. Vick to the auctioneer?

A. It is not a fact. The sale was squarely & fairly made by me as Trustee.

Q Who prepared the deed of Trust under which this land was conveyed & were present at the time the same was prepared & signed?

A. I wrote the deed & Willie Vick, Chas Bryant

Frank Dick Alice Dick his wife & Thos. L. Dick.

Q. Did the plaintiff Chas Bryant make any statement then in regard to his age?

A. Yes. he said he was passed 21 yrs. going in 22. and Frank Dick & Alice Dick both declare at the same time that he was ~~not~~ 21 yrs. old.

Objected to by plaintiffs Counsel because the statements of Frank Dick & wife made that day are not evidence of his age. and are not the best evidence -

Q Had Chas. Bryant previously made any statements to you or in your presence as to when he would be 21 yrs of age?

A. Yes. at the time he executed the first deed he said he was not at that time 21. but that he would be 21. on a certain day some time thereafter the exact time I do not remember. which time I know had passed at the time of the making of second deed under which the land was sold.

Q Do you know whether or not Mills & Dick made additional advances or loans of money to plaintiffs in consequence or on account of their executing the second deed of Trust?

A. He did.

Q At the time the second Deed of Trust

was prepaid by you at in the presence of the Pltffs & dfdt. Sayan have already stated, did the defendant Mills A Vick make any promise to Chas Bryant that the property conveyed in said deed should never be sold as long as he lived & had control of same. provided the interest was annually paid?

A. There was no promise except what was expressed in the deed that I heard.

Cross. Examination.
by Pltffs Counsel -

Q. At the time the defendant Mills A Vick made these further advances as you say to plaintiffs was any of that money paid to Charlie Bryant?

A. I dont know.

Q Do you not feel interested in this suit in favor of the defendant Mills A. Vick?

A. Well I must say I do. because I think Mr Bryant is trying to get money from Mr. Vick fraudulently.

And further this deponent sayeth not

Wm A Wynne

11

Nicks & als
ads
Depositions.
Bryant & als:
1892 Oct. 24 filed.

Virginia:

Southampton Co. to wit:

I, B. F. McLemore, a Comr in Chancery of the Circuit Court for Southampton County. do certify that the foregoing Depositions of S. L. Ferguson & others was this day taken, subscribed and sworn to before me. pursuant to Notice.

Given under my hand this 24th day of Oct 1892.

B. F. McLemore
Comr in Chancery

Comrs fee $2.50.

This Deed made this 12th day of January 1889 between Frank Vick and wife Alice L, and Charles Bryant of the first part and Wm A Myrick Trustee of the second part. all of the County of Southampton, Witnesseth: that in consideration of the sum of Five dollars in hand paid, the said parties of the first part do grant and convey with general warranty unto the said Wm A. Myrick Trustee the following real ~~estate~~ Estate. to wit: a certain tract containing ten acres more or less purchased of Edd Day and a certain other tract containing Sixty five acres more or less purchased of W. A Myrick Trustee from Theophelus Bryant. and a certain other tract containing Fifty one acres more or less and being the Priscilla Channel Dower lands. in all one hundred and twenty six acres more or less and adjoining the lands of A.B. Kindred. John C Sykes. Newit Johnson & others. In trust to secure the payment of a bond for Three hundred and Sixteen and 27/100 Dollars. due by Frank Vick. Alice L. Vick and Chas. Bryant to Mills N. Vick. bond of even date with this deed. and on demand. and it being agreed by the parties to this deed that whenever the said Mills N. Vick shall desire by notifying the Trustee verbally or by in writing this deed shall be enforced after twenty days notice of time and place of sale and upon such terms

as the said Miles H Vick may desire and in the event of a sale by virtue of this deed the Trustee shall be entitled to five per cent on gross amount of sale.

Witness the following signatures and seals

Frank his X mark Vick (Seal)

Alice her X mark Vick (Seal)

Charles his X mark Bryant (Seal)

State of Virginia

Southampton County To wit:

I R.E. Vardum a Notary Public for the County aforesaid in the State of Virginia do certify that Frank Vick whose name is signed to the within writing bearing date on the 12th day of January 1889 has acknowledged the same before me in my County aforesaid. And I do further certify that Alice L. Vick the wife of Frank Vick whose names are signed to the within ~~not~~ writing bearing date on the 12th day of January 1889 personally appeared 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 the said Alice L. Vick Acknowledged the said writing to be her act and deed and declared that she had willingly executed the same and does not wish to retract it. And I do also further certify that Charles Bryant whose name is signed to the within writing

bearing date on the 12th day of January 1889 has acknowledged the same before me in my County aforesaid. Given under my hand this 12th day of January A.D. 1889.

R.E. Dardin N.P.

Southampton County: In the Clerk's Office January 21, 1889 The foregoing Deed of Toust from Frank Vick and others to M.H. Vick's Trustee, was this day received and with the certificate annexed admitted to record

Teste B.F. McLemore C.C.

A Copy:

Teste: B. F. McLemore C.C.

Bryant + als v. 171

Ex parte } Stat: Rules

Vick + als

Chas. Bryant. Frank Vick
& Alice Vick, his wife Pltff
Against
Mills N. Vick. Wm A. Mystick
Tinslee. Theo: Bryant. & Sarah
J. Bryant his wife. and Thos Joyner
Vendee. Dfts

1891 Oct. 7. Process Iss? to 2d Oct. Rules
" 2" Oct. Rules. Process Executed - bill & Ex:
filed. decree nisi
" 1 Nov " Answer of M.N. Vick filed.
Bill taken for confessed as
to other defendants.
Gen. Repl: and cause
set for hearing.

The answer of Mills H. Vick, one of the defendants, to a bill of complaint exhibited against him and others in the Circuit Court of Southampton County, by Charles Bryant and others—

The respondent reserving to himself the benefit of all just exceptions to the said bill, for answer thereto, or to so much thereof as he is advised it is material that he should answer, answers and says, that true it is that, at the time alleged in the said bill, the said Charles Bryant, along with Frank Vick and Alice Vick, his wife, executed a deed of Trust to Wm. A. Myrick, Trustee, conveying the property mentioned in complainants' bill in trust to said Myrick, to secure a debt of $316.27 due to your respondent by the complainants, but that it is not true that at the time of the making of the said trust-deed the said Charles Bryant was an infant, under the age of twenty one years. On the contrary, the respondent avers that, at the time of the making of the said trust-deed, the said Charles Bryant was 21 years of age, and that then and there, in the presence of the said Wm. A. Myrick, Trustee, and others,

he, the said Charles Bryant, frankly admitted and positively stated such to be the case; that the respondent is informed, and verily believes, and so charges that previous to the making of the said trust-deed, the said Charles Bryant had registered and voted under and upon his solemn and sworn statement that he was twenty one years of age. Your respondent denies that he, in any way, improperly urged or over-persuaded the said Charles Bryant to execute this said trust-deed, and in this connection begs to state to your honor the circumstances under which this said deed of trust was made, which were as follows:- About a year or two before the making of this aforementioned deed of trust, the life-estate in and to the said lands of Theophilus Bryant, the father of said Charles Bryant & of said Alice Nick, was exposed to sale under a deed of trust, at which said sale, the said Charles Bryant and Frank Nick became the purchasers, but they had not the money with which to pay the purchase-price, and your respondent advanced the same for them, for which ad-

vancement so made, the said plaintiffs executed to your respondent a first deed of trust, at the time of the making of which said first trust-deed, the said Charles Bryant was, in truth, under 21 years of age. Some time thereafter, however, and after the said Charles Bryant had arrived at the age of 21 years, the said Charles Bryant and Frank Vick desired your respondent to make for them still further advances, which your respondent declined to do, unless they would execute to him a new deed of trust, in lieu of the old one, now that the said Charles Bryant had arrived at twenty one years of age. This they consented to do, and executed the said deed of trust mentioned in complainants' bill, to Wm. A. Myrick, trustee, at which time, they, the said Charles Bryant & Frank Vick, positively stated in the presence of said trustee and others that the said Charles Bryant was twenty one years old. And your respondent here states, that it was in consequence of this that he made them the additional advances aforesaid.

The respondent denies that he promised that the property conveyed in said trust-deed should never be sold as long as said Vick lived & had control of the same providing the interest was annually paid,

and, on the contrary, here states that the only agreements and conditions in the premises were those embodied in the said deed of trust, which are entirely at variance with the allegations in complainants' bill on this point - As to the complainants' allegations in regard to the sale under the said trust-deed, it is true that the said property was sold under said trust-deed on the 5th day of Oct. 1889, but it is not true that the trustee then & there declined to sell the same & that the respondent ordered the trustee to proceed &c., as alleged in complainants' bill - On the contrary, the respondent states that the said trustee, after due notice of time, place & terms of sale, did, on the said 5th day of Oct. 1889, sell said property, at public auction, at which said sale, thus fairly & openly made, your respondent became the purchaser, received from said trustee a deed for said land, after having paid him the full purchase price - And as the respondent again traversing and denying the allegations of the plaintiffs in said bill, avers that their complaint is groundless and characterized by unusual and unblushing hardihood, and with confidence submits his rights to the protection of the Court -

The respondent denies all fraud,

Vick et al.
adv. } In Chy.
Bryant et ors

Answer of Mills
H. Vick.

1891 Oct. 28 filed

unlawful combination and con-
federacy; and having fully answered,
prays to be hence dismissed with
his reasonable cost in this behalf ex-
pended, & he will ever pray &c.

Price & Sebrell, p.q. } Mills H. X Vick
his
mark.
Witness: J. L. McLemore

Virginia:

County of Southampton, to-wit:

This day personally appeared
before me, Jas. L. McLemore, a
Com'r. in Chancery of the Circuit Court
of Southampton Co., Va., Mills H. Vick,
whose answer is above-written, & made oath
that the statements therein contained,
so far as made of his own knowledge, are
true, and so far as made from know-
ledge or information derived from others
he believes to be true - Given under
my hand this 27th day of Oct. 1891.

Jas. L. McLemore
Com'r in Chancery Cir. Ct.

Bryant &c
Notice to
v. take deposition.
Dick & al.

I acknowledge
legal service of
this notice.
Aug. 19. 1892
Price & Schell
& d.

To. W. Mills Hedrick and Thos. Joyner
Jr. Exdrs.

You are hereby notified, that on the 23rd day of Sept. 1892 at the Office of James L. McLemore in Courtland Va between the hours of 10 A.M. & 6 P.M. of that day I shall proceed to take the depositions of Theophilus Bryant & others to be read as evidence in my behalf in a certain suit in Equity depending in the Circuit Court for the County of Southampton, wherein I am defendant and you are plaintiffs: and if from any cause the taking of the said depositions be not commenced, or if commenced be not concluded on that day, the taking thereof will be adjourned from day to day at the same place and between the same hours until the same shall be completed

Your obedient Servant
Chas. Bryant,
by J. L. McLemore his
Counsel.

Aug 19/1892.

Bryant + als:
vs
Depositions
Vick + als:
1892. Oct. 8. filed.

The Deposition of R. A. Gray and others, taken before B. F. McLemore, a Commissioner in Chancery of the Circuit Court of Southampton County. at his Office in Courtland, on the 23d. day of September 1892. to be read as evidence in behalf of Charles Bryant + others. in a certain Chancery Suit. pending in the said Circuit Court. under style of Bryant + als. vs Vick + als:

Present: J. L. McLemore, Atty for Pltffs.
Brinart Sebrell " " Defts.

The Witness R. A. Gray - being duly sworn, deposes as follows:

Q: What is your age, residence and occupation and do you know the parties to this suit?

A: My age is 40 years. reside in Southampton Co. am a farmer by occupation - and know the parties to this suit.

Q: Do you know the land which was conveyed by Frank Vick trustee + Chas. Bryant to W. A. Mynick Trustee - to secure a debt due to Mills N. Vick, and which was sold at Reasons, sometime in the fall of 1889. by order of said Mills N. Vick, and purchased by him - which said land is now the subject of dispute?

A: I know the land - but nothing about the sale.

Q: At that time, what, in your judgment, was a fair cash value of that land?

A: I think it was worth six hundred dollars.

Cross Examined by Defendants Counsel.

Q: How far do you live from this land in dispute?

A: Not more than one-fourth of a mile.

Q: How many acres are in this tract?

A: To my best judgment. I should say about one hundred & twenty five acres.

Q: To what extent were the improvements on this land at that time - in the way of buildings & otherwise?

A: A frame dwelling house containing two rooms, one below and one above. and necessary out buildings, made of logs which were going down.
And more this deponent saith not.

R. A. Gray

The witness J. S. Vick, being duly sworn, deposes as follows:

Q: What is your age, residence and occupation, and do you know the parties to this suit?

A: My age is 44 years. reside about three-fourths of a mile from the land in dispute, am a farmer by occupation, and know the parties to the suit.

Q: Do you know the land in the bill and

proceeding mentioned - and now the subject of dispute?

A: Yes sir:

Q: What, in your opinion, was a fair cash value of the said land at the time it was sold by W. A. Mysick, Trustee and purchased by Miles H. Vick.

A: I think it was justly worth six hundred dollars. it is level - good soil and easily improved.

Q: What buildings, if any - were on the place - their character &c:

A: A frame dwelling - containing two rooms - one below - and one above - and out houses - built of logs - which were in going down on the tract - and a log building - with Crib - Stable &c - on that part of the tract - near Mrs R. M. Harts.

Q Do you know how many acres of land are in the tract?

A. I don't know exactly but think there is about 120 acres. It was poor but level.

And further this deponent saith not.

his
J. S. x Vick
mark

12370

1770
A7.50
25.00
120
123 70

The witness Frank

2620 / 1.3100

123
433.42
756.42
757.30
849 80
1717.60
42470
1,243.0

4,875.0

666.75
3.3.3378

1996
9980

973.0
4875.0

130.40
6620 60

The further taking of this deposition is continued until Saturday. Oct. 8. 1892 at 10. Oclock A. M.

B. F. McLemore
Com'r in Chancery

Saturday morning. Oct. 8. 1892.

Present: J. L. McLemore, Atty for Pltff
W. J. Sebrell " " Defts.

The Witness Thos. Bryant. Fifty years of age. a resident of Southampton County. Knows the parties to the suit. and being duly sworn. deposes as follows:

Q: What relation are you to Charles Bryant?

A: I am his father.

Q: Do you know when he was born, and if so, state when. & how you know the date?

A: He was born in 1868. that is the date of his birth. as shown by the family Bible. I know that the year after the War ended I lived with Mr Miles Worrell. the next year. 1867. in August. I was married. and on July 28th 1868. Charles was born.

Q: During the year 1865. from the close of the war to the end of that year. what did you do. or what occupation did you follow. and where did you live?

A: I had no particular home during 1865. after the surrender. worked about at different places. doing odd jobs when ever I could find employment.

Q: Has not ~~Charles~~ the date, of July 28. 1868. been reputed as the correct date of Charles

birth among the members of his family?

A: It is generally known among the family that he was born July 28. 1868.

Q: You know, do you not. the quantity and quality of the land conveyed to W. A. Mysick Trustee for Mills St. Vicks by Frank Vicks wife and Charles Bryant. What in your opinion was the land worth at the time the land was conveyed to said Trustee?

A: I suppose it was worth about $600.00.

Cross Examined by Defendants Counsel:

Q: You state upon your examination in chief. that you were married in August 1867. who did you marry?

A: Tampy J. Bryant.

Q: How long was it. after you were married to Tampy J. Bryant before the Plaintiff, Charles Bryant, was born?

A: I can't answer - for I don't know.

Q: Was Charles Bryant born the next year after your marriage or not?

A: Yes. he was born the next year after my marriage. in July following. to the best of my recollection.

The Defendant here offers in evidence ~~a copy of~~ the marriage Certificate, with Ministers return thereon - showing that said Chas Bryant & Temperance J. Bryant were married on the 16th

day of Augt. 1866.) and prays that a certified copy of the filed ~~a part of~~ same be and read as part of their depositions.
~~which is accordingly done.~~)

(Excepted to by Plaintiffs Counsel. because the fact should be proved by Certified Copy from the marriage Register) ~~and became the Com~~

Q: Did you or not, three or four years ago. in the Fall of the year. and at Mr John Tyler's. where you were then living, state to Messrs N. Vick & Stephen C. Worrell that your son, Charles Bryant. was born in the year. that is commonly known in this section as the "Not" year!

A: No. I did not. I told Mr Vick that I did not know when he was born. Mr Vick offered me fifty cents to go to Brandwicke and swear to Charlie's age. and I told him I would not do it.

(Excepted to by Plffs. for reasons appearing, which are, that the foundation for rebuttal has not been laid.)

Q: You stated in your Examination in chief that Charlie's age was set down in the Bible. Have you that Bible with you?

A: Yes Sir:

(Where Bible is produced. and it appears that the figures, which is claimed by Plaintiffs to be an "8", the curved part of said figure is of different shades of ink from the other part of said figure, and from the other figures.

and further this deponent sayeth not.

Theo. his + mark Bryant

The witness Frank Vick, being duly sworn deposes as follows:

Q: What is your age and residence and do you know the parties to the suit?

A: My age is 34 years. reside in Southampton County - and know the parties to the suit!

Q: Are you related to Charlie Bryant?

A: No.

Q: How long have you known Charlie Bryant?

A: I have known him since he was a small boy. I married his half sister.

Q: What is the general repute among this family as to the date of his birth?

A: I understand that it is generally reputed among the family that he was born on July 28. 1868.

Q: Is the [illegible] in the family Bible, denoting the time of his birth, and which it is contended has been changed - the same now that it was the first time you ever saw it. (Witness is here shown the Bible)

A: It looks just like it did the first time I ever saw it. it had the same blot and appearance then as now. which was some ten years or more ago.

Q: When Charlie Bryant was first approached by Mr M.A. Vicko. for the purpose of getting him to sign the deed of trust with you, to secure a debt of $316.00, did he willingly and freely consent to sign said deed?

A: No. he refused to sign it. and when we met at the Dpot. (Newsome) to execute the deed. Charlie Bryant and Mr Vicko got in Crop questions about the matter. Mr Vicko promised if Charlie would join me in the deed, that he would never push us as long as we kept the interest paid up. He did not sign that day. but left. and on the next day, through my persuasion, we met again and he signed it. Mr W.A. Myricko. heard the conversation between Mr Vicko, Charlie Bryant and myself.

Q: After you and Charlie Bryant had signed the deed. did Mr Vicko comply with or keep his promise about not selling the land? so long as the interest on the debt was paid?

A: No. he did not. the deed was made in January. and the land was sold in October. ~~he~~ Mr Vicko told me in June of this same year. that he was going to sell the land. and did sell in October and kept the land himself. never asked for any interest. for none was due.

Q: Did Charlie Bryant ever receive one cent of the three hundred and sixteen dollars for which the trust deed was made to secure?

A: No. he did not.

Q: Were you at the Trustee's sale of this land in October 1889.? and if so, state whether or not Charlie Bryant publicly objected to the sale.

A: I was ~~at the~~ present at the sale. and Charlie did ~~publicly~~ object to the sale. When the land was put up for sale. Charlie Bryant went to Mr Mysick, the Trustee, and objected to the sale. Thereupon Mr Mysick ordered the Crier, (Mr Moore) to stop. but Mr Vick, ordered the Crier to go ahead and sell. the Crier then proceeded and Mr Vick, the beneficiary. being the only bidder, bought the land. at his first bid

Q: At the time the deed of trust was executed what did you consider a fair cash value of the land?

A: I think it ~~would~~ was worth about $600.00

Q: Is not Charlie Bryant very illiterate, not even being able to write his name. or to read?

A: He can neither read or write. and is very illeterate. not considered bright.

Prosp Examined by Defts' Counsel -

Q: Mr Vicks, can you read or write?

A: No sir:

Q: How, then can you identify the piece of writing shown you in your Examination in chief by Plaintiffs Counsel. and say that it is the same now as when you first saw it some ten or more years ago?

A: I can make figures, but cannot read or write.

Q: Witness is here shown the said piece of writing in the Bible. and asked if he can look at it, and tell what it is about or refers to?

A: I can't say what it refers to.

Q: Then how do you know that you ever saw it before?

A: Because I know the figures - You must allow for a man that has no education.

Q: Have you not seen that figure elsewhere. and how can you say you ever saw it in this particular writing, if you do not know what the writing is?

A: I have seen the figure 8 in many Books, Almanacks & other places. and because I know the figures.

Q: Who furnished the money to purchase the land in question - when it was bought by you and Charlie Bryant?

A: Mr Mills M. Vick sold Charlie Bryant & myself ~~a portion of~~ the life estate of Theo. Bryant in the land - about 65 acres - and to secure him for the purchase price $230.00 - we gave him a deed of trust on that interest in the land that sold us, and also upon about 65 acres more, which we owned below -

Q: Are you not one of the parties Plaintiff to this suit?

A: Yes - but I have no interest in it.

Q: Did you not state in the presence of N. A. Mypich, Trustee - at Newsom - about the time when Charles Bryant and yourself executed the deed of trust to said Mypich, Trustee for the benefit of M. M. Vick, that Charles Bryant was then 21 years of age?

A: No, I never did any thing of the kind. (Excepted to - it on the ground that the proper grounds for impeachment has not been laid)

Q: Did not the said Charles Bryant, in your presence & in the presence of N. A. Mypich - at Newsom - on said day (the day of making the trust deed) that he was

21 years of age?

A: He never said so in my presence.

Re-Examined - by Pltf.

Q: Do you not know the family Bible, which has been here shown you - because of the peculiarity of the figures

A: Of course I do - I know it by the figures

Q: Do you not know that the figure "8" - about which there is a contention, has the same appearance now as it had when you first saw the book?

A: I have the same appearance now that it had when I first saw it.

And more this deponent saith not.

Frank his + Vick
mark

The Witness Alice Vick - being duly sworn, deposes as follows:

Q: Do you know the parties to the suit?

A: I do - am a half sister to Charlie Bryant + wife of Frank Vick + but have no interest in the suit.

Q: What is the general repute among the family as to the date of Charlie Bryant's birth?

A: July 28. 1868.

witness is here shown the family Bible, and asked. if you know ~~that~~ to be the family Bible - if so. how do you know it?

A: It is - I know it because my mother wrote my ~~age~~ birth and my brothers birth, and has repeatedly shown it to me. (and ~~has~~ here the witness pointed to the entries of her own and her brothers births)

Q: Has the peculiarity about the figure "8" in the record of Charlie's age attended in any length of time, and if so. how long?

A: I have known the Bible for fifteen years or more. the peculiarity about the figure "8" has existed ever since I have known the Book or could recollect it has been as it now is.

Q: The day the deed of trust was signed by you three - did Charlie object to signing it. and did Mr M.H. Veile urge him to do so - and make certain promises provided he would sign it. and what were these promises?

A: Charlie objected to signing the deed, Mr Veile urged or persuaded him to do so. and promised that if he would sign, that he would never trouble him, as long as the

Wilcox was paid up- that he only wanted security for his money.

(Answer objected to because a portion of same tends to contradict or change the terms of the deed of Trust which is a written instrument)

Cross. Examination by Defendant

Q: How old were you when Chas. Bryant was born?

A I dont know-

Q: Do you know in what year the entry in the Bible regarding Charlie's birth was written therein?

A. I do not-

Q: When was your attention first directed to the peculiarity of the ~~figure~~ so-called figure "8"?

A About 15 years ago.

Q. Was there any contention about Charlie's age at that time?

A There was not.

Q. Why then was it that you being so young should have had your attention directed to the figure "8" when there was no controversy or contention about it?

A. I dont know any thing about the "8"

but only know that Mama used to tell me that that was our age in the Bible. my mother has been dead about 15 years I reckon -

Re-Examination by Pltffs.

Q: You have said in cross examination that you did not know anything about the "8" in the date 1868 as it appears now in the Bible, do you mean to say you had never seen the figure "8" or that it was not in the bible at that time?

A No. I do not. It was there just as it has always been & is now - I never took notice of the "8" in particular all I know was what Mamma told me about our ages -

Q: Did you read them then, or do you know that it was at the time your mother showed it to you, 1868 as it is now?

A. Mamma used to read them to me & I know she read Charlie's to me "1868" "July 28"

Cross-Examination by defendants Counsel -

Q: You state in your re-examination

that you only know yours & Charlies ages because your Mother used to read them to you in the Bible & that she read Charlies to be 1868, what did she read yours to be-?

A I dont recollect the date of the year I was born January 25th.

-Excepted to because irrelevant and also because the defendants Counsel had closed his own 1st examination, ~~on the part~~, & no new matter was brought out by the re-examination of Plaintiffs Counsel-

And further this deponent sayeth not

Alice her X mark Veidt

The Witness Frank Simmons, being duly sworn - deposes as follows:

Q: What is your age & residence and do you know the parties to this suit?

A: I am 39 years old, reside in this County and know the parties to the suit!

Q: How long has this Family Bible referred to in their depositions been in your possession?

A: It has been at my house about 18 years.

Q: Have the figures 1868. denoting the date of the birth of Charles Bryant been altered or changed in any way since it has been in your possession?

A: I have never seen any change made, in fact I never notice the figures until the dispute occurred over the land. the first man who came to see the Bible was Frank Vick. I looked at the age before Frank Vick carried it away. or took it out of my sight - it was the same then as now.

Q: What is the general report among the members of the family as to the ~~age~~ birth of Charlie Bryant?

A. The general report is that he was born July 28th 1868. I have never heard them say much about it until here lately.

Q: What do you consider the land worth the day Mr Vick purchased it at Newsoms from Trusler?

A I reckon it was worth $600 -

Q: Were you at Newsoms the day it was sold or do you know what occurred that day?

A Yes, Charlie went to Mr Myrick

& told him he objected to the sale & Mr. Myrick told the Crier to stop but Mr. Vick the Executor in the deed ordered the Crier to go ahead, & he did proceed. Mr. Vick purchasing the land at the first & only bid made - others would not bid on the land because, (I suppose,) Charlie Bryant had forbid Mr. Myrick selling =

Q. Where did you keep the Bible before Frank Vick came there to look at & did any body else carry it away from your house before Frank Vick?

A In my chest & trunk. & no body ever carried it away that I know of. I kept the trunk locked but there was no lock to the chest. I married a half aunt of Charlie Bryant & members of that family have visited me frequently.

And further this deponent saith not

J. P. his + Simmons
mark

Virginia:
Southampton Co. to wit:
I, B. F. McLemore, a Commissioner in Chancery for the Circuit Court of Southampton County, Virginia - do hereby Certify that the foregoing depositions of R. A. Gray and others were duly taken, subscribed and sworn to before me, at the time and place therein set forth, pursuant to Notice hereunto filed.
Given under my hand this 8th day of Oct. 1892.

B. F. McLemore
Com'r in Chancery

Com'r fee $10.00

Bryant et als.

Va.

Plaintiff et als.

This day this cause came on to be again heard upon the papers formerly read, and upon the depositions of witnesses, and was argued by Counsel. On consideration whereof it is adjudged that the bill of plaintiff's be dismissed at plaintiff's cost.

And it is ordered that the Clerk of Court do certify to the Court of Appeals a copy of this order.

Bryant
v.
Pierce
Nick & others

Sept March 25.

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Bryant et als.

Vs.

hXiskx# et als.

This day this cause came on to be again heard upon the papers formerly read,and upon thedepositions of witnesses,and was agued by Counsel. On consideration whereof and it appearing tothe Court from statement of Plaintiff's Counsel that the matters in controversy have been settled out of Court,dothorder that this cause be dismissed at plaintiff's cost.