

1820 - 047 Chancery Causes : Thomas Johnson vs John Bracy
Isle of Wight County Jonathan Suter, adm of John P. Johnson vs John B. Bracy

other surnames: Bracey, Gay,
Fowler, Sumner, Whitney, Carr,
Lewter

Johnson

W.

Bill

Bracey

June 1806

Bill filed

Feb. 1807

Ans. filed

Feb 1814

Ans. P. Johnson made party
to bill by his son

Mar. 1817 depo. filed

Jan 1818 depo. filed

June 1818 removed in the
name of L. P. Johnson

May 1820 cont. as

Johnson {
 " { Bill -
 Bracy }
 Johnson
 " (Bracy)

To the justices of Isle of Wight court, sitting in chancery,
 humbly complaining shews to the court your orator
 Thomas Johnson.

That some years ago, John Bracy and
 Drewy Bracy jointly held a tract of land containing
 by estimation one hundred acres lying in this
 county and within the jurisdiction of this court.
 That your orator bought the interest of Drewy
 Bracy in the said land, on or about the day
 of A.D. and received from him a regular
 conveyance. That afterwards John Bracy proposed
 also to sell his part of the same land to your
 orator for fifty dollars. That they finally entered
 into a contract by which your orator agreed
 to pay fifty dollars for the land, and the said
 John for that consideration undertook to make
 a legal title to the same. That your
 orator in pursuance of his agreement actually
 paid to John Bracy the said fifty dollars, who
 promised that he would furnish a deed
 for the land at the first convenient
 opportunity. That he has repeatedly applied
 to John Bracy for the deed, who at first made
 various excuses for his neglect, and finally
 refused to execute the deed.

In tender consideration whereof, and for as much
as your orator is remediless in the premises at
law, he solicits the aid of your Worship.

To the end therefore he prays that
the said John Bracy may be made dependant
to this bill of complaint, and that he may on
his corporal oath full true and perfect answer
make to all and singular the allegations therein
and that as fully as if the same were here presented
and he thereto particularly interrogated. Especially
if such a contract was not made for the said land,
if your orator did not pay him fifty dollars for
the same? if he did not promise to make a legal
title to him? if he has not the land at this time, and
if he has since conveyed the same to any other
person, what was the consideration thereof. Your
prays that your Worship will decree the
execution of the said contract by the said
Bracy, or that you will make such
or decree in the premises for his relief
seen just and equitable.

May it please

either answer sworn to before me a Justice of
the peace for ~~the~~ Ighowright County, by
John G. Porrey this 2nd day of February 1807
And W. Woodley

Bracy
W. G. Answer
Johnson
Atty. 1007 Ans. & Deeds

W. Woodley

did they ever enter into any contract concerning the
sale or purchase of land, nor did he ever undertake or
promise to make to the Complainant any title to
land or furnish a deed, nor indeed has he ever conceived
it was convenient or right for him so to do -

Instead of that he is struck with astonishment to think
that any man possessing common sense, should thus care
to insult plain truth, and delight in speaking of things
which never existed - Your respondent is willing to acknow-
ledge he has the land or the interest which he formerly
held, at this time and has not conveyed them away

This respondent remembers of no contract whatever
made by him with the complainant, except for
the purchase of a horse for which he gave
him a note bearing date the 22nd day of Decr 1809
for £16.10 in the penalty of thirty three pounds
which said bond or note was made payable the
22nd day of June 1804 which has long since been
paid ^{he hopes it will be taken & considered also as a part of this note} taken or cancelled, this respondent has some
faint recollection of having told Johnson that if he
did not pay off the said note he would make him
safe by a conveyance of said land, but he

has paid the actual cost to Johnson, and so
that time declared that he had no claim of any kind
against your respondent but that amount in his said
bond mentioned. It is not reasonable the Complainant
would have paid the defendant fifty dollars on account
of the purchase of land at a time your respondent was
in ~~the~~ arrears to him, and if he considered the money paid
him on said note or bond as so much paid he cannot claim
any benefit from that at present, because he has re-
paid the amount in cash. But perhaps the complainant
may say the alleged contract for the land was made
before the sale of the horse to your respondent - ~~then~~
the answer is why would he trust the respondent for
a horse when he had before deceived him in the
land - or why demand a ~~deed~~ note for the purchase
or consideration of the horse and not a deed for the
land, he thinks. That the complainant is striving
because he has a moiety of the interest of said land
to obtain a full and absolute title without paying
any consideration. He prays therefore the bill of the
complainant be dismissed himself paying costs and
be generally relieved may it please the Court &c

The Answer of John Bracy to a Bill in
exhibited against him in the Worshipful Court of Chancery
by Thomas Johnson

This respondent, now and at all other times
hereafter saving and reserving unto himself all and all manner
of exceptions to the complainants' bill for the many
gross errors, imperfections, absurdities, informatities, and
untruths therein contained; in answer thereto, or to so much
thereof as he is advised that it is material for him to
answer saith—

That true it is your respondent ~~and~~ ~~Bracy~~
Bracy were jointly entitled to the remainder of a piece
parcel or tract of land in Gloucestershire County (which
maybe as far as this respondent knows contain
hundred acres. That he purchased the interest of
Dewey Bracy, in or to the said Land this respondent
will also admit to be true; but he believes most particu-
larly that not one of the allegations contained in the com-
plainants' bill (except those already admitted) are true

This defendant utterly denies that he ever sold to the Complainant any land or interest therein, nor did the Complainant ever pay him any money or other thing in consideration

Not registered in list of witnesses

Johnson

61

3 Spa. in Chy.

Bracey

R. W. Byrd att^{es}
for plt. 3

May 1885

A. Spa. in Chy.

Solo. Witness for
Wells Wells & Wells

The Commonwealth of Virginia to the Sheriff of
Isle of Wight County, Greeting: we command you, that
you Summon John Bracy

to appear before our Justices of our County court of
Isle of Wight at their Courthouse of said county
on the first Monday in May
next; then and there to answer a bill in chancery
against him Exhibited by Thomas Johnson

and this he shall in no wise omit, under the
penalty of £ 100 and have there also
this writ. Witness Nathaniel Young Clerk of our
said Court the 10th day of April 1885 and
in the 29th year of the Commonwealth —

Nathl Young

Johnson

11.

Spa. in Chy)

Bracy

W. H. Bayre 3
also for Comptt.

June 1865

A. Spa.

Not received for reason of distance

Henry W. May Esq.

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W. May Esq.

The Commonwealth of Virginia to the sheriff of Isle of Wight
County Greeting: We Command you, that you Summon
John Bracey

to appear before the Justices of our County court of Isle of
Wight at their Courthouse of said County, on the first
monday in June next, then and there to answer
a bill in Chancery against him Exhibited by
Thomas Johnson

And this you shall in no wise omit, under the penalty
of £100 and have then this writ. Witness
Nathaniel Young Clerk of our said court, the 13th day
of May 1805 and in the 29th year of the Common-
wealth

Nath^l Young

The Commonwealth of Virginia to the Sheriff of Isleswright County,
Greeting, we Command you, that you summon John Braly

To appear before the Justices of our County court of Isleswright
at their Courthouse of said County, on the first Monday
in July next, then and there to answer a bill in
Chancery against him Exhibited by Thomas
Johnson

and this he shall in no wise omit under the penalty
of £ 100 and have then this writ. Witness
Nathaniel Young Clerk of our said Court, the 7th Day
of June 1805 and in the 20th year of the Com-
monwealth

Nath. Young

The Commonwealth of Virginia to Joseph W. Ballard and James Linn
— son — Senr.

Gentlemen Justices greeting know ye that we trusting to your fidelity and
provident circumspection in diligently examining Daniel Sumner
Benjamin Carr and John Whitney

as well on behalf of Jonathan Twiter Guardian of John P. Johnson
as on the behalf of John G. Bracey —

Command you or any two or more of you, that at such certain days and
places you shall appoint, you assemble yourselves and the witness afore
said before you or any two or more of you, you call and cause to come
and diligently examine on the holy Evangelist of Almighty God and
such examination in writing into our County Court of Isle of Wight
distinctly and plainly without delay you shall send and certify
inclosed returning also this writ Witness Nathaniel Young Clerk
of said Court at the Courthouse the 7th day of Janry 1817 in the
41st year of the Commonwealth

Nathl. Young

The Commonwealth of Virginia to John Lawrence,
and Emma Eley ——— Gentlemen Justices greeting know
ye that in trusting to your fidelity and provident circum-
spection in diligently examining Dorey Bracey and Meriam
Bracey ^{and}
as well in that of ^{and} Frank Bracey as on the behalf of Jonathan
Devoter Guardian of John P. Johnson

Command you or any two or more of you that at such certain
days or place you shall appoint, you assemble yourselves and
the witnesses aforesaid before you or any two or more of you, you
well and cause to come and diligently examine in the
holy Evangelist of Almighty God, and such examination in-
writing into our County Court of Allegheney distinctly and
plainly without delay, you shall ~~certify~~ send and certify
~~the~~ enclosed returning also this writ witness Nathaniel
Young clerk of said Court, at the Court House the 7th day
of July 1817 in the 4th year of the Commonwealth.

Nathaniel Young
Clerk

The Commonwealth of Virginia to Joseph W Ballard
& ~~James B. Dashi~~ Gentlemen Justices Quiting, know ye that
we trusting to your fidelity and provident circumspection in diligently
examining John Whitney -

as well on behalf of John G. Braury as on behalf of John P. Wren
son

command you or any two or more of you that at such certain
days and places you shall appoint, you assemble yourselves
and the witnesses aforesaid before you or any two or more of you
you call and cause to come and diligently examine on the holy
Evangelist of almighty God, and such examination in writing
into our Record Book of Hecofwight distinctly and plainly without
delay, you shall send Hecofwight returning also this Writ.
Witness Nathaniel Young Clerk of our said Court at the Court
house the 5th day of September 1819 in the 44th year of the
Commonwealth -

Nathl. Young

February 26th 1820 This Day Mills Bridges came
before me and made oath that he delivered a
true copy of the within to John J. Macy on the
16th Day of this Inst. vs

Joseph W. Ballard Jr

Mr. John G. Bracy February 16th 1820

Sir. take notice that I shall proceed to take the Deposition of John Whitney at the house of Colo Joseph W. Ballards in the county of Islef Wright on saturday the 26th day of this present month between the hours of Eleven O'clock in the morning and three O'clock in the afternoon of the same day: To be read as evidence in a suit depending in the County Court of Islef Wright where I am plaintiff and you are defendant.

John D. Johnson

The Commonwealth of Virginia to

Wm. Darden

Thomas Darden

Gentlemen Greeting Know ye that we
trusting to your Fidelity & prudent Circumspection in diligently examin-
-ing as well on the behalf of Thomas Johnson
plaintiff as on the behalf of John Bracey

command you or any two or more of you
that at such certain days & places ^{as} you shall appoint you assemble your
selves & the Witnesses before you or any two or more of you, you call & cause
to come and diligently examine on the Holy Evangelists of Almighty God
and their examination into our County Court of Bedfordshire distinctly &
plainly without delay, you shall send and certify inclosed returning also
to us this writ Witness ^{Nathaniel} ~~James~~ Young Clerk of our said Court at the Court
house the 7th day of June 1895. and in the 31st Year of the
Commonwealth

Nathaniel Young

Course

12 Dec.

part

11

William Darden made oath that he delivered a copy
of the within Notice to John G Bracy —

July 11th 1806

Will Darden

Sir Isle of Wight July 19th 1806

Take notice that on the last Saturday In this Instant
at Mr John Barlors Between the hours of ten in the
Morning & five in the afternoon I shall proceed to take
The Depositions of Arthur Fowler Henry gay and Sally gay
to be read as Evidence in a sute in Chancery depending
in the Court of the fore S^d county which you are
Defendent and myself Plaintiff.

Mr John Barlors } I am your obe^t st Thomas Johnson

for as you could discover . . .
Answer. They were both very sober. There was nothing there
to drink. ~~that~~ Bracy seemed very desirous
to bargain, and proposed Johnson to it, and
that after it was closed, or agreed on, both
seemed very well satisfied as appeared
to me. — And further this deponent
saith not. —

John Barlow

Henry

his
+ of my
mark

The foregoing depositions were taken before us in
due form, at John Barlow's office on the 26
of July 1806: being Saturday, between ten o'clock
in the morning and five in the evening — and
were signed and sworn to by the deponents
Arthur Fowler and Henry Gay. —

Thos Smelly J^r.
Wm Landon

and then did deliver the said watch in part
Compliance with his said undertaking. —

Johnson on his part — for and
in Consideration of the several undertakings on
the part of Bracy, herein before stated, bargained
~~and~~ agreed ^{Bridle Saddle} and sold to said Bracy, a
sorel mare, which he then and there did
deliver, and to pay six dollars in cash which
said Bracy then and there immediately
needed for some special purchase. ~~which~~
That Johnson not having the six dollars at the
moment, gave his note for it, which note was transferred
to Wiley Griffen, and, as this Dependant understands
and believes, the money has since been paid to it
the note taken in from Michl Griffen the
executor or adm^r of Wiley Griffen: —

Question by plaintiffs atty:

Did you consider both parties, solemnly, Calmly, and
fairly disposed and Contracting — — —

Ans^r — Yes They were. — and Bracy gave a note for
the fifty five dollars, which this dependant ~~has~~
has understood has been paid since. —

And further this dependant
saw the notes — — Arthur Fowler

The deposition of Henry Gay taken on the last
Saturday in July, being the 26th of the month, in
Compliance to the annexed notice and in virtue of
the Commission herunto also annexed — To be used
as evidence at the trial of a suit in Ch^t: now
depending in Isle of Wight County Court, in which
Thomas Johnson is Complainant and John
G. Bracy is defendant. — This deponent, being
duly sworn on the holy evangelists of God
deposeth and saith. — That he was at Johnsons house
when Bracy came there and said he must have a horse
to ride some horse or other; being intirely on foot, told
Johnson he had better take his land and supply him
with a horse, to which Johnson and he would
buy his land if they could agree. That the parties then
came on terms of bargaining, when it was agreed
between them, that Johnson should take Bracys right
to said land, which Bracy promised to convey to
him (Johnson) at next Court, Bracy to give Johnson
~~him~~ a silver watch, and his note for fifty five
dollars payable some time afterwards, for which
Johnson was to let Bracy have his mare,
saddle and Bridle, to be delivered next morning.
That he Johnson was to pay Bracy six dollars, either
then or at some short time afterwards which sum
Bracy said he wanted about that time. —

This deponent remembers hearing s^d
Bracy say afterwards, he had received the mare
Bridle and Saddle from Johnson, had given
his note to Johnson for fifty five dollars, said
he would have a deed ready and have it
recorded at next Court to Johnson for the land
adding he had got paid for it. —

Question by plaintiffs attorney
Was not this sober, serious & fairly posed as

The deposition of Arthur Fowler, of Lawfull age, taken the last Saturday of July - 1856. being the 26th of the month, at the office of John Barber, in conformity to the annexed notice, and in virtue of the Commission to us directed, which is also herewith annexed, to be read as evidence at the trial of a Cause now depending in the County Court of Isle of Wight in Chancery - in which Thomas Johnson is Complainant and John Bracy is defendant. —

This deponent being duly sworn on holy evangelists of almighty God, deposes and saith. That he was present at a conversation, some time ago, between the Complainant and defendant, at the Complainant's house, when the said parties were recapitulating a bargain which they seemed to have, previously, entered into - That they, called him, this deponent to take notice of the bargain. Which he did, and the substance was as follows. That said Bracy had bargained and sold to Johnson his right in and to a tract of land, in Isle of Wight County, which had been jointly held by and between said Bracy and his brother Drew Bracy; which he (Drew) had sold to said Johnson. And he the said John G. Bracy then and there in the presence of this deponent solemnly bargained, undertook and promised to make a deed or other satisfactory conveyance of his said right in said land to him the said Johnson, whenever he should be thereto required. — ~~In consideration~~ and to pay said Johnson fifty five dollars in Cash, some time in the succeeding fall, and to deliver him the said Johnson a silver watch. That he then

The deposition of Daniel Sumner taken at the House of Exum Ellys
in the County of Effingham on Tuesday the 11th Day of February
1817 by Virtue of a Commission issuing from the worshipful Court of
Effingham, and in Conformity to a Notice acknowledged by John G. Bracy
of said County to be read in evidence in a suit depending in said Court in
Guardian for John O. Johnson
Jonathan Butler, is Plaintiff & John G. Bracy is Defendant — This deponent
being duly sworn — saith that he well recollects of being at Thomas
Johnsons some time before his Death and heard said Johnson say that
he had sold John G. Bracy a Horse for his right in a tract of land then
in possession of Mrs. Nancy Bracy, that he well recollects of hearing said
Johnson say that said Bracy was to have made him a right to the land
but had not done it & that he should have a lawsuit with him to
compel him to make the right, if he did not make it otherwise
further this deponent saith not —

The above Deposition was taken before us in
Conformity to the Commission bearing date the 17th Day of Jan^r
1817 — Given under our hands this 11th Day of Feb^r 1817

Joseph M. Ballard
Jas. Johnson

The deposition of John Whitney taken at the House of Exum
Elegs in the County of Isle of Wight on Tuesday the 11th Day
of February 1817, by Virtue of a Commission issuing from the ^{full} worshipful
Court of Isle of Wight, and in conformity to a notice acknowledged
by John G. Bracy of said County, to be read in evidence in a suit
depending in said Court in which Jonathan Luter, is Plaintiff & John
G. Bracy is Defendant — This deponent being duly sworn — saith
that he well recollects of hearing John G. Bracy say that he had sold
Thomas Johnson his right in a certain tract of land then held by Mr.
Nancy Bracy for a Horse bridle & saddle & observe that a little something
was better than nothing as Mr. Bracy was about to cut up and ruin
the land, that he well recollects of being at said Johnsons afterwards in
company with said Bracy & that said Bracy told said Johnson he would
pay him the money for the Horse, bridle & saddle, & said Johnson observed
he did not sell them for money that he sold them to him for his right
in Mr. Bracy's land, that he well recollects after leaving said Johnsons
House that said Bracy observed that if said Johnson would not take the
money, he might get the land when he could, further this deponent
saith not

The above Deposition was taken before
us in conformity to Commission bearing date Jan^y 7th 1817
given under our hands this 11th Day Feb^r 1817

Joseph M. Ballard
Jas. Johnson

The deposition of Benjamin Carr taken at the House of
Essex Ellys in the County of York on Tuesday the
11th Day of February 1817 by Virtue of a Commission issuing
from the worshipful Court of York, and in conform-
to a Motive served on John G. Bracy of ist County to be read in
evidence in a suit depending in said Court in which Jonathan
Luter, ^{guardian of John P. Johnson} is Plaintiff & John G. Bracy is Defendant — This dep^{on}
being duly sworn — saith that some time before the death of
Thomas Johnson he well recollects of being present and saw said
Johnson deliver to John G. Bracy one Horse & Seventeen Dollars in
Cash which Horse and Money was for said Bracy's right in a certain
tract of land which was then held by a certain Mr. Maurice Bracy
& that he well recollects said Bracy had prepared a Deed to execute
to said Johnson for his right in said ^{land} Johnson made some objections
to the ^{Deed} and said Bracy promised to prepare another — further than
deponent saith not

The above Deposition was taken before us in conform-
mity to the Commission bearing date Jan^y 7th 1817 —
Given under our hands this 11th Day Feb^r 1817

Joseph W. Ballard
J^r. Johnson

Pursuant to a Commission hereto annexed bearing date the
7th day July 1817 issued from the Clerk's office of the
County Court to us Directed requiring us to take in
writing the Examination of Drury Bracey and Merim
Bracey after ~~their~~ swearing sworn on the holy Evangelist of Al-
mighty God as well on behalf of John G Bracey as on
the behalf of Jonathan Sewter Guardian for John P Johnson
and the said Jonathan Sewter appeared before us on the 15th
day of November 1817 and acknowledged that he had had lega-
l notice respecting the taking of the Examination of
mentioned in said Commission and we therefore proceeded
to take in writing the Examination of Drury Bracey &
said Merim Bracey as follows -

The said Drury Bracey deposed & said that John G Bra-
cy after said bought a mare of Thomas Johnson & gave said John
a Watch in part pay and the balance he owed said John
son he gave bond to said Johnson for fifty five Dollars, which
bond and watch was the amount he the said John G Bracey was
to give said Johnson for said Mare and that the said bond
was on a credit, and further said that said Johnson infor-
med & pushed the said John G Bracey for the amt of said bond
before it became due, and that he Drury Bracey the witness
Paid the Money to Thomas Johnson for his Brother John G.
Bracey for said bond before it became due and that Tho-
mas Johnson replied to him after he Paid the Money
tell your Brother John G Bracey that he should always

respect him that he was a Man of his word that he had rec^d the amt of said Note twenty one Days before it would have been due.

Question by Lewter Plaintiff what kind of money did you pay Johnson for your Brother for said Note.

Answer Fifty Dollars in Silver & five in Gold

Question by Lewter Pl^{ff} how long has it been since your Brother John G Bracey gave the said Bond to said Johnson for the Mare

Answer I dont recollect

Question by Lewter where did you live the year you paid the Bond to Johnson for your Brother

Answer at the Place Near Capt Mills Ely dec. and further this deponent saith & tol

Merima Bracey deposed and said that her husband Wm Bracey carry^d of some Money from home and said that he was a going to Thomas Johnsons to pay him for a Mare that John G Bracey had bought of said Johnson, & further this deponent said that when her husband returned he had a paper which she the Witness took to be a bond she said she heard it read

Question by Lewter the Plaintiff how long has it been since your husband carried away ^{the money} as he said to

pay of said Bond

Answer the Same year that I was Married to my husband and further this deponent saith & tol Given under our hands & seals this 15th day of November 1817

John Lawrence *JP Seal*

Ezra Ely *JP Seal*

Mr. J. Johnson
Care of
St. John's
St. John's

Came to hand under seal
St. John's 1820 — W. Young & Co.

The Clerk of the Court

The deposition of John Whitney, taken at the House of
Joseph W Ballard in the County of York Wright on Saturday the
26th Day of Feb^r 1820 - by Virtue of a Commission issuing from
the Worshipful Court of York Wright, and in conformity to a notice
~~adversely~~ John J Bracy of Manceymond by Mills Bridger; to be
read in evidence in a suit depending in said Court of York Wright in
which John P. Johnson is plaintiff & John J Bracy is defendant -

This deponent being duly sworn saith that he well recollects of hearing
John J Bracy say that he had sold Thomas Johnson his right in a certain
tract of Land then held by Mrs Nancy Bracy, for a Horse bridle &
saddle and observed that a little something was better than nothing
as Mrs Bracy was about to cut up and ruin the Land: that he
well recollects of being at said Johnsons afterwards in company with
said Bracy and said Bracy told said Johnson he would pay him
the money for the Horse, Bridle & saddle, and said Johnson told him
he did not sell them for Money, that he sold them to him for his
right in Mrs Bracy Land, that he well recollects after leaving said
Johnsons House that said Bracy observed that if said Johnson would
not take the money, he might get the Land when he could, further
this deponent saith not -

The above deposition was taken before us
in conformity to a Commission bearing date the 6th Day of
September 1819 -

Joseph W Ballard J^r

Jacob H Duck J^r

On Demand the 22th of June 1804 I promise to pay
unto the said Johnson for value recd of him the just
Sum of Sixteen pounds ten shillings Virginia money
I bind my self my heirs Executors & assigns jointly &
severally By these Presents for the parcel Sum of thirty
Three pounds of the like money In witness where
I have hereunto set my hand & seal the 22th day of
December 1803

Witness

Archiebald Powell
marks—

Arthur Fowler

Came to hand under seal

N. Young

To
Clark of Isle of Wight county