

1855-01

Southampton County Chancery. Whitney, Merit et als vs Whitney, John M.

division of real estate, preferably
that one person buy the entire
tract if the court will issue
order. If not then sell entire
tract + divide proceeds to those
entitled.

Whitney, Giles

" , Sarah

" , Virginia

" , Martha Ann

" , Mary (widow)
or

" , Joshua Jr. (decd)

Edwards, Littleton R.

(G. A. L.) to

(John M.)

Whitney

to Bill

Whitney

1852 Sept. Rides

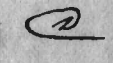
1855 Nov. Diver final

To the Honble Rich^d H. Baker, Judge of the Circuit Court of Law
for the County of So. of Southampton; in chey sitting, humbly compl^y
sheweth unto your honor, your orator Mont Whitney, Giles Whitney, Sarah
Whitney, Virginia Whitney, Martha Ann Whitney, that sometime in the year 1837 one
Joshua Whitney, the father of your orators - departed this life in the said County,
seised and possessed of a considerable real and personal estate, after having made
his last "will & Testament" which was duly admitted to probat, and (now of) record in
the Clerk's Office of the County of So. Hampton, a certified Copy of which is herewith
filed, marked it; - as a part of this Bill. Besides your orator above named, the
deceased left (a widow named Scutten Whitney, and) two other children, viz Joshua
Whitney and Jeremiah Whitney, as his only heirs and distributees at Law. ^{intestate} After
the death of the father, Jeremiah has died, unmarried, without issue, above the age
of twenty one years, and leaving as his heirs at Law, his brother, his wife & mother above named.
Subsequent to the demise of Jeremiah, Joshua has died, leaving an only child named
Mrs. M. Whitney an infant as his heir at Law. ^{your orator, Mary Whitney his widow} All the other children of Joshua Whitney are,
are above the age of twenty one years. Your honor will perceive by referring to the "will"
of Joshua Whitney dec^d that he loaned to his wife during her natural life his
estate real & personal. Your orator state the said widow Scutten - their mother has
departed this life, intestate & leaving as her heirs at Law the above named parties.
That they desire now to sell the real estate loaned to their mother by, and which has
descended to them from their father Joshua. It consists of a tract of Land
in Southampton containing about 500 acres, and worth ~~some~~ \$1400, or \$1500. property.
more. ⁱⁿ ~~It is~~ ^{are} there are the following potatoes or shares - Mont Whitney, Giles Whitney,
Sarah Whitney, Virginia Whitney, Martha Ann Whitney, and Mrs. M. Whitney the infant
heir of Joshua Whitney jr. dec^d. A partition or division of the Land itself into six parcels,
it is obvious would be a ruinous sacrifice of the interest of all parties, and no
one parcel or party is desirous of taking the whole tract under the provisions of the
Law in such cases provided. They desire a sale out and out, and division of the
proceeds among them entitled, and would effect their object, but for the difficulty
by which the infancy of the heir Mrs. M. Whitney interposes, and which therefore renders
a resort to this honorable Court necessary. Your orators are entitled to remedy seen in this
honorable Court. They pray that Mrs. M. Whitney the said infant be made a party
defendant hereto, and be compelled to answer the same, and that this honorable
Court will decree a sale of the premises and grant all other relief which may be fit & proper.

P. M. Whitfield P. 2

John ~~Mc~~ Whitney an infant of John Whitney led by
The answer of Lillston R. Edwards guardian ad litem appointed
to defend ^{him in this suit} ~~John Whitney an infant son of John Whitney Sr. of my county~~
~~and in the possession of a bill filed by Whitney his father in the Court of~~
~~Law City in City for the said property:~~

This respondent Lillston R. Edwards his said guardian ad litem
appointed as aforesaid, saving and reserving &c. for answer to the merits
of said bill as he is advised it is material for him to answer, says that
he cannot deny the facts as stated in the bill of Complaints, but as he
is an infant of tender age, he has been to submit his interests in the
premises to the protection of this honorable Court and having answered,
prays him to be dismissed &c.

L.R. Edwards for &c. 

To the Hon^{ble} Richard H. Baker Judge of the Circuit Court.

Of Southampton County, In Chancery sitting, humbly
complaining sheweth unto honor, your petitioner Mary Whitney widow
of the late Joshua Whitney deceased, respectfully represents that
some time since a suit was instituted in this honorable Court, by
Merritt Whitney, Giles Whitney, Sarah Whitney, Virginia Whitney, Martha
A. Whitney & your petitioner, with the object of selling the Land whereof
Joshua Whitney s^r (died seized which was loaned to his widow
mother Whitney during her life, and at her death to be divided
among his children,) and of dividing the proceeds of Sale
there entitled, instead of dividing the Land. That John M
Whitney the son of Joshua Whitney j^o, and the husband of your
petitioner, was also made a party in the place of his father.
A decree was pronounced directing the said Land to be sold,
and the proceeds to be divided among, Merritt, Giles, Sarah, Virginia
Martha Whitney, and John M Whitney the son of Joshua Whitney &
& of your petitioner. The commissioners appointed to sell, did sell, &
paid over to the several parties, their several portions, except
the share of John M Whitney the infant son of Joshua Whitney j^o
& which was returned to Court, that is the sum therefor being
\$202.37^{1/2}, was returned to & filed & is now in the papers of the
Cause or suit. Your petitioner alleges that owing to some mistake
of fact, viz, whether her husband Joshua Whitney died before or
after his mother - it being alleged in the bill that he died
before her, when in fact he died after his mother, by which error
your petitioner was deprived of her right of dower in the
share of her late husband, that is to have her third in
the \$202.37 assigned her son John M Whitney being his father's
portion - She further states that her son John M. Whitney has
died since the said decree, of tender years, under the age of
twenty one, unmarried & without issue, leaving as his heirs
at Law, your petitioner & his uncle & aunts, the Whitneys above named
on his father's side. Your petitioner therefore begs this honorable
Court, to grant unto her &c, her legal share of her said hus-
band's portion, in & to the said \$202.37, and whatever also may be

legally coming to her by the death of her son, John M
Whitney - and she further states that in lieu of her dower
in the said \$202.37, she is willing to take a sum in fee
simple equivalent thereto - she is 21 years of age -
and grant all other relief which may be met in the premises

Mary J. Whitney (large)

Answer of. Elda O. Sarah, Mont J, Martha & Virginia R. Whitney as follows:
The facts as stated in the above petition are correct
and we advise that the prayer of petition be granted -

Piles J Whitney
Sarah J Whitney

Mont J Whitney

Martha O. Whitney

Virginia R. Whitney

Pat. of Mary Whitney

1858 Nov 9

Whitney

John

Joshua Whitney
Hill.

Whitney
- } Exhibit.

Whitney
- et.

In the name of God. Amen. I Joshua Whitney of the County of Southampton and State of Virginia, being sick, and weak in body, but of perfect sound mind and memory, do make and ordain this to be my last Will and Testament in manner and form following:

Item: My will and desire is that all my just debts be paid -

Item: After the payment of all my just debts, I bequeath my beloved wife the residue of all my estate both personal and real during her natural life for the express purpose of giving her a chance to raise all my young children and that the negroes be not separated but kept together as they now are -

And lastly I do hereby nominate my beloved wife Sweetest Whitney and my son Meritt Whitney and my son Giles Whitney my only executor and executrix to this my last Will and Testament, hereby revoking and disannulling all other wills by me heretofore made. In Witness whereof I have hereunto set my hand this 8th day of September 1837.

Signed in presence of -

John Edwards

Joshua Whitney

Asahel Joyner

William ^{hus} Joyner

James ^{son} Holmes

Thomas S. White.

At a Court held for the County of Southampton the 16th day of October 1837.

This last Will and Testament of Joshua Whitney dec^d was proved by the oath of William Joyner and Thomas S. White two of the witnesses thereto and ordered to be recorded and on the motion of Meritt S. Whitney one of the executors named in said Will, who made oath and together with Hanning T. Smith, Bennett J. Griffin and Giles S. Whitney his Securities entered into and acknowledged a bond in the penalty of fifteen thousand dollars conditioned as the law directs. Certificate is granted him for obtaining probate of the said Will in due form liberty is reserved the other executors named in the said Will to join in the probate at a future day -

Teste. J. R. Edwards Clk

Attest

Teste. J. R. Edwards Clk

✓
Whitney's

2 } Sum. Chy.

Whitney

1852 July Rules -

John M Whitney is
a non resident of
my County.

J. Kello shff.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting;

We command you that you summon

*John M Whitney infant child
of Joshua Whitney dec^d*

to appear at the Clerk's Office of our Circuit ~~Superior Court of Law and Chancery~~ for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in *July* next, to answer a Bill in Chancery exhibited against *him* in the said Court by

*Merid Whitney. Giles Whitney. Sarah Whitney, & Virginia Whitney.
Martha Whitney*

~~And unless~~ ~~shall answer the said Bill within four months thereafter, the Court will take~~
~~the same for confessed, and decree accordingly.~~ And ~~this~~ shall in no wise omit, under
~~the penalty of \$100.~~ And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk
of our said Court, at the Court-house, the *23rd* day of *June* 1852, in the
76th year of the Commonwealth.

L.R. Edwards

[One Copy to be delivered each Defendant.]

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:
We command you that you summon *John M. Whitney* infant child of
Joshua Whitney dec^d.

to appear at the Clerk's Office of our Circuit ~~Superior Court of Law and Chancery~~ for the County
of Southampton, at the Rules to be holden for the said Court on the first Monday in *July* -
next, to answer a Bill in Chancery exhibited against *him* in the said Court by
Moist Whitney, Giles Whitney, Sarah Whitney, Virginia Whitney,
Martha A. Whitney

And unless ~~shall answer the said Bill within four months thereafter, the Court will take~~
the same for confessed, and decree accordingly. And this ~~shall in no wise omit, under~~
~~the penalty of \$100.~~ And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk
of our said Court, at the Court-house, the *20th* day of *June* 18*52*, in the
76th year of the Commonwealth.

L. R. Edwards

[One Copy to be delivered each Defendant.]

Whitney

to

}

State Parks

Whitney

Merit Whitney. Giles Whitney. Sarah Whitney. Virginia Whitney. Martha Ann
 Whitney and Mary Whitney widows of Joshua Whitney jr. dec^d. Pliffs
 - against
 John M. Whitney }
 Def^t

- 1852 June 23rd Summons issued returnable to July Rules.
 " July R. Sum^t not now resident
 " Sep. " Bill filed. J.R. Edwards assigned gov. ad litem to Def^t. Answer of
 infant by gov. H. Rep.
 " Oct. " Cause set for hearing
 1852 Nov. 5 Decree for sale
 1853 " " Decree for account.
 1854 May " Decree final
 1855 Oct 7. Report of Decree

Report of Sale
of Land under
Dicer

and filed

1853, Aug. 15

Received of the Clerk of the Circuit Court of Loudoun County the bond returned
with this report executed by John S. Mearns, Aaron S. Griffin & John S. Coley for
\$202.37 1/2 & dated 15. January 1853 payable six months after date - this
day of 1854.

In obedience to a decree pronounced by the circuit court of Southampton at the November term 1852, I proceeded to sell at public auction to the highest bidder after giving due notice by advertising the tract of land belonging to the heirs of Joshua Whitney died on the fifteenth day of January 1853, which was purchased by Siles S. Whitney for the sum of Twelve hundred and fifty Dollars, which after deducting the expenses of sale which were \$35.75, left the net proceeds \$1214.25-cts. for which I took six bonds each for the sum of \$202.37½ cts, one made payable to Sarah Whitney one to Martha A. Whitney one to Virginia R. Whitney one to Merit J. Whitney one to Siles S. Whitney and one to the heirs of Joshua M. Whitney do. with a credit of six months, all of which is respectfully submitted. All of which said bonds, to the several parties I have paid over to them, except, ~~Merit J. Whitney~~ the one payable to Mrs. M. Whitney the heir at law of Joshua M. Whitney &c, which, with the receipts of the several parties for the bonds paid over are herewith returned to, and respectfully submitted to the Court.

Merit J. Whitney

Received of Merit J. Whitney Commissioner, the bonds, each for \$202.37½, taken of the purchaser, Siles S. Whitney, for the price of the land sold by the decree of the Circuit Court of Southampton County, of the 8th November 1852, referred to in the above report of said Commissioner, & which being for our respective proportions, we share of the proceeds of said sale, as witness our hands this 6th day of August 1853.

Siles S. Whitney
 Sarah J. Whitney
 Virginia R. Whitney
 Martha A. Whitney

Know all men by these presents that we Merit Whitney
Giles S. Whitney Sarah F. Whitney Virginia B. Whitney Martha A. Whitney
are held and firmly bound in the sum of twenty five hundred dollars
which we bind ourselves and heirs to pay to the Commonwealth
of Virginia, the said sum of twenty five hundred dollars,
as witness our hand & seal the 25th day of December 1852.
The condition of this obligation is this, that whereas, the
said Merit Whitney has been appointed Commissioner, by virtue
of a decree rendered in the case of Whitney, v. Whitney, in the
Ancient Court of So. Hampshire County at the Nov. Term 1852 -
to sell a certain tract of Land in the said decree mentioned,
Now if the said Merit Whitney shall well & truly carry out & execute
the duties imposed by said decree, and in accordance with law in
such cases providing them the obligation to be void, else remain
in full force & effect.

Merit J. Whitney (w)
Giles S. Whitney (w)
Sarah F. Whitney (w)
Virginia B. Whitney (w)
Martha A. Whitney (w)

1852 July 15.

Whitney
vs Zephyr
Whitney
Rept

Whitney
vs Zephyr

1853 Aug. 15. Rept.

In Southampton Circuit Court, November, the 8th, 1852.
 Merit Whitney, Giles Whitney, Sarah Whitney, Virginia Whitney, Martha Ann
 Whitney, and Mary Whitney widows of Joshua Whitney Jr dec^d. *Plffs*
 against
 John M. Whitney *Def^t* } In Chy

This cause came on to be heard on the bill & answers & replications
 and was argued by Counsel. On consideration whereof, the Court doth order,
 adjudge and decree that Merit Whitney who is hereby appointed a commissi-
 oner for such purpose, proceed to sell at public auction to the highest
 bidder in a credit of six months, save so much as may be necessary
 to defray expenses of this suit & sale, which may be in cash,
 taking from the purchaser six bonds of equal amount for the well
 proceeds with ample security, one payable to Merit Whitney
 one to Giles Whitney, Sarah Whitney, Virginia Whitney
 Martha A Whitney, each, & one payable to John M. Whitney
 the infant son of Joshua Whitney dec^d; and pay over to
 each of the adult parties the bonds payable to them as afore-
 said, and the to John M. Whitney if there be no legal
 guardian return to Court, and report proceedings in order
 to a future decree in the premises. But this decree is to
 be suspended till the commissioner reports abroad in the Clerk's
 office in the penalty of \$2500. conditioned according to law.

A copy

Teste,

Henry S. Howard, C. C.

Clerk's Court \$5.00
 L. fee 30.75
 \$35.75

Nov 10 1852

Whitney

11-

Whitney

SECRET In the

This cause came on to be heard on the Bill
& Answer & replication, and was argued by counsel: on consider-
ation whereof the court took order, a Judge and a Justice that
elicit Whitney, whoth hereby appoints a commissioner for
such purpose, process to sell at Public auction to the highest
bidder on a credit of $\frac{1}{2}$ of six months, save so much as may
be necessary to defray expenses of this suit & sale which may
be in cash: Taking from the purchaser 6 six bonds of equal
amount, for the note process, with ample security - one payable to Ment
Whitney, one to Giles Whitney, Sarah Whitney, Virginia Whitney, Martha
A. Whitney each - & one payable to Geo. M. Whitney the infant heir of
Isabella Whitney &c - and pay over to each of the adult parties the bonds
payable to them or assigns, and the one to Geo. M. Whitney if there be
no legal guardian return to court: and report proceedings in
order to a future ^{order} in the premises. But this decree is to
be suspended till the commissioner execute a bond in the clerk
office in the penalty of \$2500. conditioned according to Law -

Whitney
Whitney

Secret In Chancery =

This cause came on again, by consent of parties,
to be heard on the papers previously read, and the Petition of Mary F. Whitney
& the answer thereto on, on consideration whereof ^{a commissioner of the court} the court
order, adjudge and decree that ~~it~~ ^{it} be certain the full single value
of the above ⁱⁿ interest of Mary F. Whitney widow of Edward Whitney,
on & to the bond of \$202.37 on the proceedings mentioned and
filed by Commissioner Ment Whitney with his report; and the
same report to the Court &c.

Whitney

~ } Co. D. and

Whitney

Southampton Circuit Court. November the 9th 1853.

Merit Whitney, Giles Whitney, Sarah Whitney, Virginia Whitney, Martha Ann Whitney & Nancy Whitney widow of Joshua Whitney Jr. dec^d Plffs.

against
John M Whitney

Deft.

This cause came on again by consent of parties to be heard on the papers formally read and the petition of Mary F. Whitney & the answer thereto &c. On consideration whereof the Court doth order, adjudge and decree that a Commissioner of this Court ascertain the fee simple value of the land or interest of Mary F. Whitney widow of Joshua Whitney in & to the bond of \$202.37 in the Proceedings mentioned and filed by Commissioner Merit Whitney with his report. And the same to this Court report &c.

Attest. J. R. Edwards lb

Whitney
vs
Whitney

Commissioner's Report

1852, Mar. 27

Whitney
vs
Whitney

Commissioner's office.
March 15th 1854

In obedience to a decree of the Circuit Court of Southampton County rendered in the above suit in chancery on the 9th day of November 1853, the undersigned one of the Commissioners of said Court has proceeded to ascertain the fee-simple value of the interest of Mary F. Whitney widow of Joshua Whitney in the bond of \$202.37 in the proceedings mentioned and filed by Commissioner Elbert Whitney with his report. The Commissioner reports that the said Mary F. Whitney is twenty one years of age, and her expectation of life is thirty four years, and that the fee-simple of her interest in the bond aforesaid is \$56.66.

The decree and notice are herewith returned.

Respectfully submitted

Wm. W. Cobb Comm.

Comer fee \$5.50
Sheriff's fee.
Charged to Mary F. Whitney

Whitney beamed

Whitney

To be entered
R & Baker

May co. 1854.

Wm
R
Baker

Whitney
✓
Whitney

3

Decree

This cause came on again to be heard on the papers formerly read, and on the report of Commissioner Merit S Whitney, and on the report of Commissioner W. W. Cobb. made in pursuance of decrees rendered in this cause at November 1852, and November 1853, to which no exceptions have been filed and was argued by counsel, on consideration whereof the Court doth hereby confirm in said Reports: and The court doth order that Merit S Whitney proceed to collect the Bond executed by Giles S. Whitney, Irwin Griffin & Eliza J. Eley for the sum of \$202.37 $\frac{1}{2}$, and out of the proceeds pay to Mary F. Whitney ~~the~~ widow of Joshua Whitney, the sum of ^{fifty six dollars and sixty six cents. (\$56.66)} ~~the hundred & eighty dollars (\$180.00)~~ and the balance after paying whatever costs may be still due & remain - arising in this suit, will divide equally between Merit S Whitney, Giles S. Whitney, Sarah Whitney, Martha Whitney & Virginia Whitney: and the Court doth further order that the said Merit S. Whitney carry the same in the proceedings mentioned, to Giles S. Whitney the purchaser - & report to this Court for future order in the premises.

Southampton Circuit Court May the 3^d 1854.

Merit Whitney, Giles Whitney, Sarah Whitney, Virginia Whitney, Martha Ann Whitney and Mary Whitney widow of Joshua Whitney for dec^r

against

John M Whitney

Plffs

Def^t

This cause came on again to be heard on the papers formerly read and on the report of Commissioner Merit J Whitney and on the report of Commissioner W^m W. Cobb made in pursuance of decrees rendered in this cause at Nov^r Term 1852 & November Term 1853. to which no exceptions have been filed and was argued by Counsel. On consideration whereof, the Court doth hereby confirm said reports, and the Court doth order that Merit J Whitney proceed to collect the bond executed by Giles J Whitney, Irvin Griffin & Elisha L Eley for the sum of \$202 57 1/2 ^d and out of the proceeds pay to Mary J. Whitney widow of Joshua Whitney the sum of fifty, six dollars and sixty six cents and the balance after paying whatever costs may be still due arising in this suit will divide equally between Merit J Whitney, Giles J Whitney, Sarah Whitney, Martha Whitney, & Virginia Whitney - And the Court doth further order that the said Merit J Whitney convey the land in the proceedings mentioned to Giles J Whitney the purchaser and report to this Court for future order in the premises

clks costs

\$3.73

Comm. Costs

5.00

\$8.73.

Attest

Teste.

L. R. Edwards Clk

Received this 7th day of ^{November} ~~October~~ 1855 of Meritt J Whitney the sum of $\$27.30$ ^{$\$27.30$} each being
our respective proportions of the amount due to be paid by us by the within deed.

Giles S. Whitney
Elijah S. Williams for his wife Sarah
Virginia R. Whitney
Martha A. Whitney

Nov. 7. 1844.

I have rec^d of Meritt J. Whitney the sum of $\$4.54$ amt
of Mary J. Whitney widow of John Whitney and portion of
the bond in the annexed deed referred to.

R. H. Whitfield

Whitney

& } Copy Deed

Whitney

in R. Receipt

Received of Giles S. Whitney for Mary F.
Whitney \$5.00 Commissioners fee in suit
of Whitney v Whitney Cir Court

W. W. Cobb Aug

Received Oct 11/1855 of Mr. M J Whitney fourteen 44/100 in full of books fees in suit
Whitney v. Whitney &c for sale & division of land of Joshua Whitney dec.

L R Edwards

Whitney & Co
of
Whitney
Report of
Whitney. Menis

1855 Nov 7th

To the Hon. D^{rs} H. B. Allen Judge of the Circuit Ct. of Southwestern
County:

The undersigned by virtue of a decree of the Circuit Court of Southwestern
County pronounced at the May term 1853, in the case of Mont Whitney
vs. John M. Whitney, Thence depending, proceed to collect the bond of \$202.37
then, and the proceeds he has distributed as follows:

Bond. Due 15 th July 1853.	\$202.37
Int. till 1 st Nov. 1853. 2 ^{ys} . 3 mos. 22 days.	28.07
Widow's share with Int. is: \$64.49.	\$230.44
Port. of Comp. Lays. for. & Chk. for Accts: 29.44	paid
Portion of Mont J. Whitney is 27.30	retained
" " Giles J. Whitney " 27.30	retained
Elyah Williams & Sarah ^{his wife} Whitney. " 27.30	paid to Elyah Williams her husband
Virginia R. Whitney " 27.20	paid as per l st
Maria A. Whitney " 27.20	do do.
	<u>\$230.43</u>

The portions due to the several parties, have been paid to them according
to the above statement, except the sum due to Giles & Mont Whitney, which
was retained by the receiver & the bill of costs: &c, as the accept has with
filed with them. The undersigned further states, that as Mary F. Whitney
the widow of Joshua Whitney resides in North Carolina, he has not been
able to pay her portion to her. he therefore returns the amt. thereof. viz \$64.49
to R. H. Whitfield her counsel
& prays the same be allowed, to be disposed of at the may order. all of
which is most respectfully submitted.

Mont J. Whitney

Whitney's.

1st

Secree.

Whitney

This Cause came on again to be heard on the papers formerly read, and the Report of Messrs J. Whitney, made in pursuance of the Order of May 3. 1853, to which no exceptions have been filed and was argued by Counsel: On consideration whereof the Court doth confirm the said Report; and doth adjudge Order and Secree that the proceedings heretofore had in this Cause be, and the same are hereby established and made final -

Whitneys.

V. Secme

Whitney

Oct Nov. 1855

To be entered

R. H. Baker

1855 November Term