

1855-08

SOUTHAMPTON COUNTY
CHANCERY PAPERS

LAWRENCE'S, PETITION OF

8/1855

Plat

other surnames: Jones
Corbett, Whitty, Whitney

Lawrence

or 3 Notice
Whitney

July 16th 1855

Executed on
Giles S. Whitney
July 16th by deliver-
ing him a copy of
the within

J. B. Edwards
Dept. for State
Stiff.

To Giles S. Whitney;

Commissioner's office,
July 2nd 1855.

You are hereby notified that I shall, on the 16th day of July next, at my office, in the Town of Jerusalem, proceed, upon the petition of Sedlow Lawrence, setting forth that he is desirous of perpetuating the testimony of witnesses as to ascertaining the run, called "the Cat-Tail Run" which empties into the "Black Water River", and which forms a portion of the boundary line between the lands of Giles S. Whitney and the said Sedlow Lawrence and which lie in the County of Southampton, and also as to whom belongs the disputed parcel of land involved in the true location of said Cat-Tail Run, as understood and contended for by the said parties, who fix different runs, or locations, as the real Cat-Tail Run constituting the true boundary between the said Whitney & Lawrence; in respect to which there is no suit, and that you are the person that may be affected by such testimony, to take in writing the evidence of any witnesses adduced in respect to the said petitioner or by yourself: at which time and place you are required to attend.

Given under my hand as Commissioner of the said County Court of Southampton County
This the 2nd day of July 1855:

Wm. W. Cobb Comm

July 16th 1855: The parties appeared
before the Commissioner, and the
taking of the said depositions was adjourned
by consent of parties to the 30th day of
July 1855 at the residence of James Jones
Wm. H. Leach Com.

The depositions of James Jones and others, witnesses of lawful age, taken before Wm. W. Cobb, one of the Commissioners of the County Court of Southampton County, on the 30th day of July 1855, at the residence of James Jones, (pursuant to the annexed notice to Giles S. Whitney, and adjournment of the taking of said depositions) upon the petition of Ludlow Lawrence filed with the said Commissioner setting forth that he is desirous of perpetuating the testimony of witnesses as to ascertaining the run called "the Cat-Tail Run" which empties into the Blackwater River, and which forms a portion of the boundary line between the lands of the said Ludlow Lawrence and one Giles S. Whitney, and which lie in the County of Southampton; and also as to whom belongs the disputed parcel of land involved in the true location of said Cat-Tail Run, as understood and contended for by the said parties, who fix different runs, or locations, as the real Cat-Tail Run, constituting the true boundary between them as aforesaid, in respect to which there is no suit, and that the said Giles S. Whitney is the person that may be affected by such testimony.

The said James Jones being first duly sworn, deposes and says.

Sometime in the lifetime, (during the latter part of it) of Joshua Whitney Senr. decd., he divided his land among his four sons. And the dividing line between his two sons Joshua and Jeremiah Whitney after striking the run of the Cat-tail Swamp, that run was made the dividing line between them to Blackwater River; and that run has become the subject of dispute between

Sudlow Lawrence and Giles S. Whitney who are the present owners of the land. I concluded if I could find the original plat that the land was divided by, I could settle the question very easily. But so it was I could not find it, lying so long, it by some means become destroyed. But while in searching my old papers over I came across a plat of the land of Joshua Whitney jr. dec? which is a plat of the land his father gave him, and also the land lying on the north side of the Cat-tail swamp which his brother Jeremiah gave him inclusive; all included in that plat. I know it to be the plat of Joshua Whitney's first land because his name is written on it, and the name of the boundaries written around are in my handwriting. And it is I am fully convinced also, the shape of the land, although it is in an unfinished state. The fence looks to the plat I cannot find, I remember about ten or twelve years ago in looking over my plats I came across the same plat, in the same unfinished state that it is now, and laid it away again, not expecting it ever would be wanted. But that run is the one that Joshua Whitney Senr. intended as the dividing line between his two sons Joshua and Jeremiah Whitney, I have no doubt in my mind, for the run was at the time of the division of the land considerably deeper than it is now, the overflow of the river during the long period of time having filled it up very much. And Mrs. Nancy Whitney the widow of David Whitney dec? told me that there was a place there somewhere on that island that her husband insisted on his brother Joshua going with him and make a line; that there would probably be a dispute someday between their children; and his brother Joshua consented to it, but it was by some means never done, and

I do not know of any other place on the island that would need a chopped line but that. Other reasons induce me to believe that all the island on the west of that run was David Whitney's land. He used to get a great deal of timber off of that island, and I went to him once on the island and he was getting a large tree up I think not far from that run. David Whitney also used to call it his island, and it was called so by the neighbors, and I am convinced that the run at the fork of it is changed somewhat, owing to the filling up of the one, and the opening of the other from the overflowing of the River and Mill-tail water.

The plat that I have before referred to, (and which is herewith filed with my deposition) was made during the lifetime of Joshua and David Whitney, and at the request and direction of Joshua Whitney.

As far as my knowledge extends the said plat contains an accurate survey of the land of Joshua Whitney jr. given to him by his father Joshua Whitney Sr., and also the land given to him by his brother Jeremiah Whitney. And further this deponent saith not.

James Jones

Sworn to and subscribed before me the 30th day of July 1855. —

Wm. W. Cobb Commissioner

Nancy Whitney being first duly sworn, deposed and says.

I am the widow of David Whitney dec?. I know that my husband David Whitney for many years previous to his death and in the lifetime of Joshua Whitney jr. cut a good deal of timber on the lowgrounds of Blackwater River — I do not know what particular portion of the lowgrounds he cut it from. I heard my husband frequently say that he desired that he and his brother Joshua Whitney should chop a

between their
line in the low grounds of Blackwater River, for the pur-
-pose of preventing any dispute arising between their
children with regard to it. I do not know what
portion of the low grounds he referred to.

And further this deponent saith not.

Hardy Whitney
Sworn to and subscribed before me the 30th day of July
1855.

Wm. W. Cobb Comm.

The deposition of Hardy Lawrence taken on behalf of Giles
S. Whitney at the same time and place as the foregoing.

The deponent being first duly sworn, deposes and
says.

Sometime during the lifetime of Joshua and David Whitney
I got staves for both of them, on the lands of each, on the North
side of the Cat-tail Run was the land of Joshua Whitney, and
on the South side was the land of David Whitney. At that time
David Whitney and Joshua Whitney told me that the Cat-tail
Swamp emptied into the Blackwater River about one hundred
and fifty or two hundred yards above "Bob's Hole".

Question by Andrew Lawrence. Do you recollect whether David
Whitney got any lumber on the low grounds of the River for
several years previous to his death?

Answer. I do not know whether he did. I know nothing
of the division of this land, nor the gift of the said
land to Joshua Whitney and David Whitney by Lemuel
Whitney.

Question by Same. Do you know any thing about the
running or course of the Cat-tail Run through the
low grounds of the River.

Answer. I do not.

Question by Same. How long has it been since you
got staves on the lands of Joshua and David Whitney
referred to above?

Answer. I know of thirty years.

And further this deponent saith not.

Hardy Lawrence
Sworn to and subscribed before me the 30th day of July 1855.

Wm. W. Cobb Comm.

The deposition of Samuel Corbett taken at the same time and
place as the foregoing on behalf of Giles S. Whitney.

The deponent being first duly sworn, deposes and
says.

I know nothing about the course or running of the Cat-tail
Run. All that I know about it is that my father and
John Whitney told me that the Cat-tail Run emptied into
Blackwater River about one hundred and fifty or two hun-
-dred yards above "Bob's Hole". This was about forty years ago.

There was a stream running into the River at that time.

I never saw any part of the Cat-tail Run except when
I was told it emptied into the River. I know nothing
about its direction or bearing through the low-grounds.

And further this deponent saith not.

Samuel Corbett

Sworn to and subscribed before me the 30th day of
July 1855.

Wm. W. Cobb

The petition of Suelow
Lawrence to Wm. W. Cobb
Commr to perpetuate the
evidence of witnesses.

To Walter W. Cobb, or any other Commissioner of Chancery & of
the County of Southampton, State of Virginia.

Respectfully represents, that your petitioner, Ludlow Lawrence,
that he is desirous of perpetuating the testimony of James Jones
& other witnesses, in respect to a certain matter hereafter mentioned,
about which there is now no suit, and in which one Giles Whitley is
equally interested with your petitioner. The matter aforesaid is, the
ascertaining the run, called "the Cat-tail Run" which empties in
to the "Black Water River" & which forms a portion of the boundary
line between the lands of the said Lawrence & Whitley & which lie
in the said County; and also as to whom belongs the disputed parcel
of land involved in the true location of said Cat-tail Run, as
understood & contended for by the said parties, who fix different runs, or
locations, as the real Cat-tail Run constituting the true boundary between
them as aforesaid - In reference to which matters your petitioner prays that
the testimony may be taken & ascertained according to the provisions of
the Code of Virginia, Chap. 176. Sect 34 - Pages 586-7. & the laws in connection therewith
&c. and your petitioner will ever pray.

Southampton June 19. 1855-

Ludlow Lawrence

Summons James Jones Gent

Commissioner's Report
and evidence of James
Jones and others, taken on
the petition of ~~Sealed~~
Lawrence to perpetuate the
testimony of witnesses as to
a matter in which ~~file~~
S. Whitney is interested.

1855 Aug. 20th Returned Filed in the
Clerks Office of Southampton County
E. R. Edwards c.

Commissioner's office.

August 1st 1855-

Upon the petition of Ludlow Lawrence filed with your commissioner, setting forth that he is desirous of perpetuating the testimony of witnesses as to the ascertaining the run called "the Cat-tail Run" which empties into the 'Black Water River', and which forms a portion of the boundary line between the lands of the said Lawrence and Giles S. Whitney, and which lie in the County of Southampton; and also as to whom belongs the disputed parcel of land involved in the true location of said Cat-tail Run, as understood and contended for by the said parties, who fix different runs, or locations, as the real Cat-tail run constituting the true boundary between them as aforesaid - in respect to which there is no suit, and that Giles S. Whitney is the person that may be affected by such testimony, the undersigned commissioner reports, that on the 2nd day of July last, he issued a notice against the said Giles S. Whitney notifying ~~him~~, that on the 16th day of July 1855, at his office in the Town of Jerusalem, he should proceed to take in writing the evidence of any witnesses adduced in respect to the said matter, by the said Ludlow Lawrence the petitioner aforesaid, or himself, at which time and place they were required to attend. That the said notice was returned by the Sheriff of the said County, duly executed upon the said Giles S. Whitney, and that in obedience thereto, he appeared before the said Commissioner at his said office. That in consequence of the absence of witnesses the commissioner adjourned the taking of the said testimony to the 30th day of July 1855, at the residence of James Jones

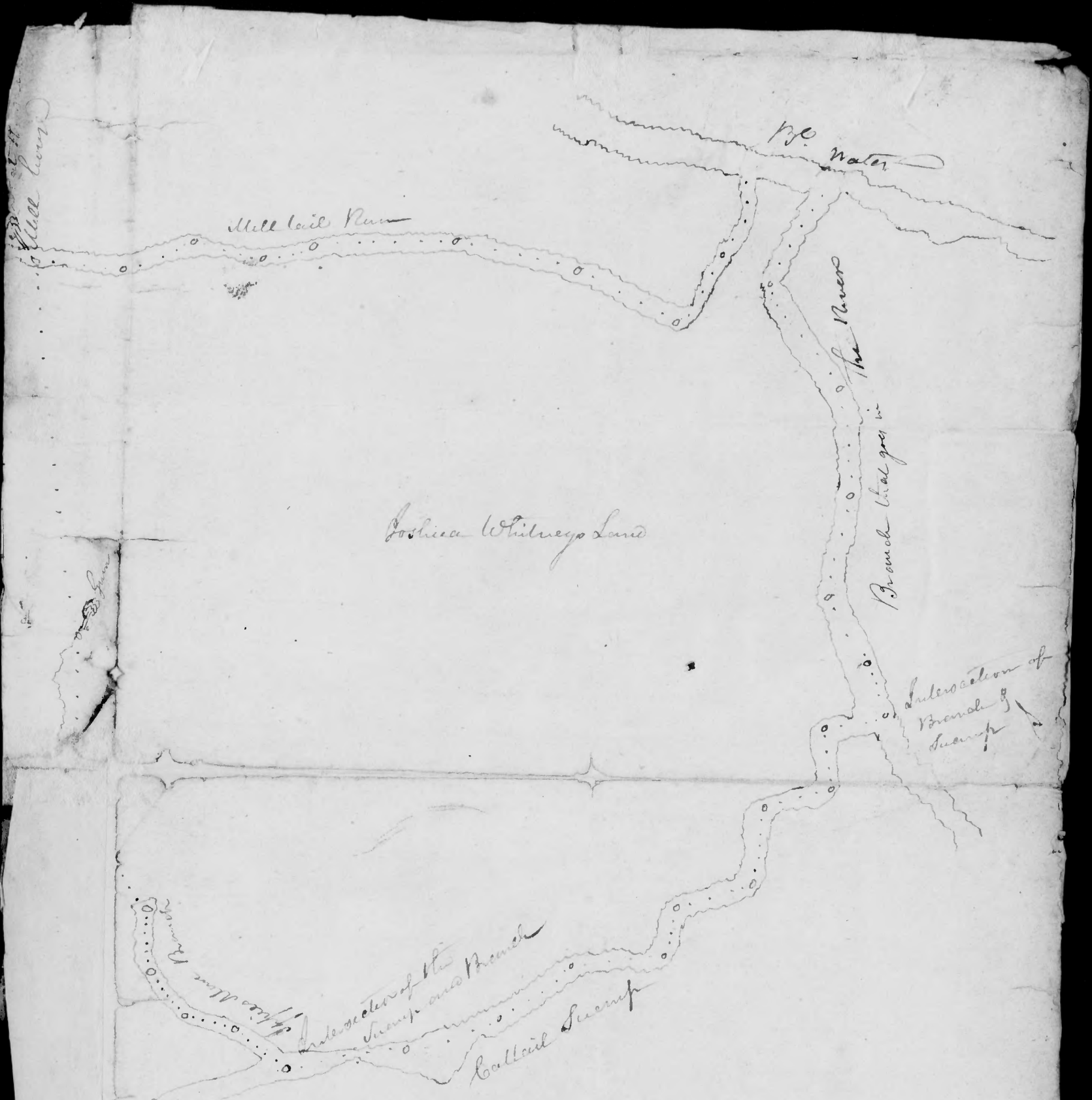
in the said County. This was done by consent of
the parties. At which time and place the Commissioner
proceeded to take in writing the evidence of James Jones
and Stanley Whitney, the witness adduced in respect to
the said matter, by the said petitioner, and the evidence
of Hardy Lawrence and Samuel Corbett the witnesses
adduced by the said Giles S. Whitney, which with
the petition and notice aforesaid, are herewith returned
to the Clerk's office of Southampton County.

Given under my hand as Commissioner of the
County Court of Southampton the day and year
first aforesaid.

Respectfully Submitted
Wm. W. Cobb Comm.

Comms fee \$15.00
charged to Lucian
Lawrence.

Comm



This is the plat referred to by James Jones in his deposition, and which is filed with it.

Wm. W. Cobb Comr.
July 30th 1855.