

1855-016 Chancery Causes. Petition of John T Bunkley

Isle of Wight County

other surnames: Whitehead,  
Smelly, Hines, Norworthy,  
Channel, Minyard, Bagnall

Repat of C B Hayden  
of ~~his~~ proceedings under  
Petition of John T Bantley  
to perpetuate testimony  
as to boundary between him  
and Norman Hires —  

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March 5<sup>th</sup> returned to my  
office & filed.  
N. P. George. c. r. c. r.

1

The Deposition of Joseph Sorensen, a witness of  
lawful age, taken on this 30<sup>th</sup> day of October, 1834, before  
C B Hayden, one of the commissioners in chancery of  
Sole of Weight Circuit Court, at his office ~~in the town~~  
of Smithfield in said county, pursuant to an ad-  
journment under the annexed notice, <sup>to Norman</sup> ~~upon the~~  
<sup>Stines</sup>  
Petition of John T Buckley filed with said com-  
missioner, setting forth that he is desirous of perfecting  
the testimony of witnesses as to the boundary line  
between the lands of the said Petitioner, conveyed to  
him by a deed from Joseph B Whitehead as commis-  
sioner under a decree of the county court of said county  
in the cause of Smalley's infants vs Smalley & others, which  
deed bears date the 26<sup>th</sup> of January 1849, & duly admitted to  
record in the clerk's office of the county court aforesaid,  
~~which~~ the land of Norman Stines, conveyed to him  
by a deed from William Stines, Jane his wife & R H  
Whitfield bearing date January 15 1834, & duly recorded  
in the clerk's office of the county court of said county,  
which last named land is ~~mentioned~~ in the  
aforesaid deed to ~~the~~ petitioner from Joseph  
B Whitehead as commissioner aforesaid, as bounding  
the land thereby conveyed on the "north", - in re-  
spect to which there is no suit, & that the said  
Norman Stines is a person that may be affected  
by such testimony -

3  
The deponent being first duly sworn, deposes & says -  
Question by John T Bunkley - Are you acquainted with  
the land on which I (the said John T Bunkley) now re-  
side, adjoining the lands of Norman Shines? - Ans. Yes  
I am acquainted with the lands of both & have been  
ever since 1795. Question by same - Are you acquainted  
with the boundary line between the two said tracts, if  
so describe it? - Yes I am acquainted with the bound-  
ary or division line between the lands of John T Bunkley  
& Norman Shines - The boundary line between the two tracts  
is a swamp which formerly run into James River in a nearly  
straight north course, but now by the washing up of the  
sand on the shore of James River, the course of said di-  
viding swamp has been altered, so that it now runs in  
a south east course & makes into a little creek emptying  
into the Balance Marsh - This change in the direction  
of the swamp, takes place some forty or fifty yards, before  
it reaches the James River, to this point the swamp  
runs in the same direction it has always done since I have  
known it - From the point where this dividing swamp  
now turns in a south east course & makes into the creek  
it formerly run in a straight northern course direct to  
James River. In 1795, 1796 & 1797, I lived in Smith's Neck  
& the swamp went directly into the river as I have described  
it, from 1797, to 1844, I did not go to the place, at the  
latter date, the ~~dividing~~ swamp had changed  
so as to run in a south east direction into the Balance  
Marsh Creek - I don't know when the change took  
place, I presume it was gradual - The land now  
owned by Norman Shines above mentioned, adjoins the  
lands of John T Bunkley on the north & the swamp above  
described as running into the River, I always understood  
to be the boundary line between the lands now owned by  
Norman Shines & John T Bunkley - I mean the swamp was

3  
considered the boundary before the change I have mention-  
ed when it run directly to the river - The lands I have  
mentioned as ~~formerly~~ belonging to Norman Shines, formerly  
belonged to his mother's father Wm Rand Smith - The lands  
of John T Bunkley before mentioned by me belonged to Rich-  
ard Smalley at the time of his death. When I lived in the  
Neck in the years before mentioned, the land now  
owned by John T Bunkley, was then in the possession of  
a Mrs Smith widow of Joseph Smith, ~~she claimed~~  
at that time the swamp then running directly in a  
straight course to the river was the boundary - I don't  
think the said Joseph Smith was any relation to the  
aforesaid Wm Rand Smith - I never heard he was - he  
was called same Joseph Smith - I suppose there was  
another Joseph Smith, but I never knew him. The said  
line I never knew to be disputed, until it was dis-  
puted by Wm Shines, the father of Norman - it was  
disputed by the said Shines in the lifetime of Richard  
Smalley - And further this deponent saith not -

Signed - Joseph Kearsworth

Sworn to & subscribed before me as commissioner of said Oct. 30<sup>th</sup> 1834  
and the proceedings adjourned to Nov 4<sup>th</sup> 1834  
The deposition of John Bunkley, a witness of lawful  
age, taken on Nov 4<sup>th</sup> 1834, before the aforesaid commis-  
sioner on behalf of the aforesaid John T Bunkley, under  
his aforesaid Petition pursuant to adjournment -  
The deponent being first duly sworn deposes & says;  
Question by John T Bunkley - Say whether you are acquainted  
with the land of John T Bunkley in the county of Isle of  
Wight, whereon said Bunkley now resides, purchased by  
him of So<sup>d</sup> B Whitehead as commissioner under decree  
in suit of Smalley's infants as Smalley & others, & the lands  
of Norman Shines in said county & further states  
what you may know of the boundary between the lands  
of said John T Bunkley & Norman Shines. Ans - I have been

well acquainted with the lands of said Buckley & those of said Shines for fifty years. I once owned the lands of said John T Buckley & sold them to Richard Smalley about twenty five years ago - At the time I owned the said land I claimed & used to James River, the land now owned by John T Buckley was considered as coming to the River - the boundary or division line, between the lands ~~of~~ owned by said Buckley & those of said Norman Shines is a swamp line, which swamps I always understood emptied directly into the river, formerly but this swamp now just before reaching the river (I should think some fifty or sixty yards) changes its direction - the division line I always understood was the said swamps to the point where the said change of direction takes place & thence straight northward to the river - after the swamp turns I did not consider the swamp the line, nor was the said swamp after the said change of direction ever claimed to be the line by any one until Mrs Shines claimed it about twelve or fifteen years ago - I knew the said lands when Mr Rand Smith the grandfather of Norman Shines, owned the lands now owned by Norman Shines, & said Smith only claimed straight to the river & did not claim any land on James River in front of the house on the lands now owned by John T Buckley. I have ~~frequently~~ procured said lands twice, at ~~each of~~ the first time I do not remember whether the line was disputed or not, & it was the last time by said Mrs Shines - John Bagnall lived & owned the lands now owned by John T Buckley before I owned them he John Bagnall ~~occupied~~ & used to James River, & said Bagnall run his fence to the river to prevent persons from crossing his land to get to the Balance Marsh, which fence Thomas Holladay a tenant of the lands now owned by Norman Shines threatened to pull down but did not - I understood that said

Holladay did not claim that the Smith land  
 run between the Pat River & ~~John~~ Bagnall's land  
 but that he had a right to drive across John Bag-  
 nall's land to get to the Balance Marsh, but John  
 Bagnall stopped him from doing so, though former-  
 ly before they had a falling out he permitted him  
 to do so. And further this deponent saith not.

Signed — John Bunkley

The deposition of Arthur Charnell, taken at the  
 same time & place before the same commissioner on  
 behalf of the same ~~under~~ the same Petition

The said witness being first duly sworn answered  
 as follows

Question by John T Bunkley — State what you may know  
 of the division line between the lands of John T Bunk-  
 ley & those of Norman Hines —

Ans — I have known the said lands since 1806, I al-  
 ways understood the Swamp to divide said lands  
 to the point where the Swamp turns & makes into a  
 spring of the Balance Marsh Creek, & from the  
 point where the said Swamp turns, the division  
 line runs straight to James River — I have so re-  
 spected it as a possession — The former owners  
 of the land where John T Bunkley now lives, claim-  
 ed land to James River — there was a cart way  
 from the House where John T Bunkley now lives  
 to James River straight from the House — the oc-  
 cupants of said land always had a landing on the  
 river. The Flagg Swamp never within my time  
 run parallel to James River & emptied into the  
 Balance Marsh Creek, but has always when  
 there was a flow of water emptied straight into  
 the River. — And further deponent saith not

Signed — Arthur Charnell

The foregoing depositions of John Bunkley and Arthur Channel were respectively sworn to & subscribed before me as Commissioner of said the 4<sup>th</sup> day of Nov. 1834

C. B. Hayden  
Commissioner's Office.  
Smithfield Nov-4<sup>th</sup> 1834

The witnesses on behalf of Hines failing to appear the proceedings under the aforesaid petition were adjourned to the 30<sup>th</sup> inst

C. B. Hayden  
Commissioner's Office Smithfield Dec 30<sup>th</sup> 1834  
The witnesses on behalf of Norman Hines still failing to appear at his recent subpoenas were issued against them to appear here on the 29<sup>th</sup> day of <sup>January</sup> next & the proceedings adjourned to that day -

C. B. Hayden  
Commissioner's Office Smithfield Jan 29<sup>th</sup> 1835  
The depositions of George Maynard, William Hines & Henry Bagnall, taken at the time & place mentioned in the caption, pursuant to adjournment, before C. B. Hayden one of the Commissioners in chancery of the Circuit Court of Isle of Wight, upon the aforesaid petition of John T Bunkley, setting forth that he is desirous of perpetuating the testimony of witnesses as to the boundary line between the lands of said John T Bunkley & Norman Hines described in said petition, in respect to which there is no suit, and that the said Norman Hines is a person that may be affected by such testimony, of the filing of which petition the said Norman Hines has had due notice served on him, and subpoenaed the witnesses aforesaid on his behalf -

George Maynard  
The deponent being first duly sworn answers & says -  
Question 1<sup>st</sup> by Norman Hines - Are you acquainted with the lands of John T Bunkley & Norman Hines described in the petition of said John T Bunkley, under which these proceedings are held which Petitioner has just been read to you? -

Ans - I am acquainted with the said lands referred to in said petition, I now live in the vicinity of both tracts & formerly lived on the said lands of Norman Hines, my father ~~now~~ there in 1807 - at which time I was a member of his family & I continued to reside there some twenty years - I also lived on the said land of John T Bunkley before it was purchased by Richard Smelly -

Quest 2<sup>nd</sup> by same - do you recollect how the boundary line between the lands of Norman Hines & John T Bunkley run at the time you lived at the former place, if so describe it? -

Ans - The boundary line was the swamp between the two places, this swamp runs about a north east course I think to the sands on James River shore, it then turns about an east course empties into Balance Marsh Creek - this is the course of the swamp now & was its course when I lived there as far as I recollect, I don't know that the said swamp ever run direct to the river, I don't doubt but that it has run to the river formerly - I don't know of any one knowledge how the line run - I understood the line to run straight to James River, I mean that from the point where the swamp turns to make into Balance Marsh Creek the line leaves the swamp & goes straight to the River -

Quest 3<sup>rd</sup> by same - Have you ever known any papers relating to these lands or lines designating the boundaries? -

Ans - I do not know & have never known any? -

Quest 4<sup>th</sup> by same - Is not the Balance of Marsh the boundary between the land of John T Bunkley & the River & did you not see a line from the point where the swamp comes to the sand & turns to the

Balance of Marsh Creek - Ans - I don't know whether the Balance of Marsh is the boundary between Mrs T Bankley & the River, all that ever lived on the land of Mrs T Bankley claimed to the River - I did not run a line as described in the question, but I did run one from about high water mark on James River to a crook in the Balance of Marsh Creek  
 Quest 5<sup>th</sup> By same - In the answer to the last question, you have stated that you run a line from about high water on James River to a crook in the Balance of Marsh Creek, say at what point on high water mark this line commenced - Ans - About opposite the Swamp where the line runs down to the River & on or near said line -

Quest 6<sup>th</sup> By same - Is not the land on one side of this line the land of Mrs T Bankley & on the other the Balance Marsh? - Ans - I expect it is

Quest 7<sup>th</sup> By same -

Cross Examination by John T Bankley

Quest 1<sup>st</sup> by John T Bankley - State whether you have ever known any person who owned the land I now mention who did not use or claim to the River & on undisputed up to the time of the dispute between Richard Melley & W<sup>m</sup> Hines? - Ans - Every body who ever lived there claimed & used to the River - it was never disputed as I recollect until it was disputed between Rich<sup>d</sup> Melley & W<sup>m</sup> Hines -

Quest 2<sup>d</sup> By same - Describe a fence run by you & John Bagwell when you were occupying the land now owned by Norman Hines which you were required to take down by Mr. Holte - man the Guardian of the wife of Mr William Hines; for what purpose was the said fence put up & why was it taken down? - Ans - It run from the north side of a pond on the land now belonging to said Norman Hines to the River & was wholly on the <sup>said</sup> land; it was put up to enclose the Balance of Marsh & to have water in the pasture for John

John Bagnall & myself - John Bagnall then occupied the lands owned by John T Bankley & I was a tenant of the aforesaid Holleman as Leicardian of Miss Smith now Mrs W<sup>m</sup> Hines - the fence was put up by Mr Bagnall & myself - Tom Holladay who lived on the Smith lands adjoining those on which I lived complained to Mr Holleman because his stock was shut out from the March & Mr Holleman required ~~me~~ to take down this fence & I did so - Mr Holleman said if Mr Bagnall wanted to fence in the March he must do it on his own land & Mr John Bagnall fenced in the March by a fence commencing at his enclosure in front of his dwelling (where Mr T Bankley now lives) down to James River -

Quest 3 - By same. Did the fence run by Mr John Bagnall as described in your last answer cut off all persons except John Bagnall from access to the Balance March & whether this fence was pulled down or objected to by any of the owners of the land now owned by Norman Hines & did not Thomas Holladay one of the tenants of the Smith land offer to pay John Bagnall to let his (Holladay's) stock have access to the Balance of March through said fence? - The said fence cut off all persons but Mr Bagnall from the Balance March - It was not pulled down or objected to by the owners or occupants of the land now owned by Norman Hines - Thomas Holladay complained of the fence & he offered to pay John Bagnall to permit his stock to go to the Balance of March & John Bagnall refused to permit his stock to go there. At the time I occupied the land now owned by Norman Hines I by the permission of John Bagnall passed through said fence to get to the Balance March; this place was on the March in front of his house & was claimed by John Bagnall - whose right to this March was never disputed that I know of until it was disputed by W<sup>m</sup> Hines & Richard Smalley - John Bagnall claimed

the marsh in front of his house as part of the now John T  
Bunkley tract -

Reconfirmation by Norman Stines -

Quest<sup>1<sup>st</sup></sup> - Was the fence alluded to in your last answer object-  
ed to or pulled down by Thomas Holladay? Ans Not as I know  
of.

Signed - George Hayward

The deposition of William Stines, taken at the time & place  
before the commissioner & on behalf of the party as mentioned  
in Caption -

The deponent being first duly sworn answers & says -  
Quest<sup>1<sup>st</sup></sup> by Norman Stines - State all you may know as to the  
boundary line between the lands owned by Norman Stines &  
John T Bunkley described in the Petition of the latter  
under which these proceedings are held which petition  
has just been read to you? Ans - I think I ought to know  
more about <sup>it</sup> than all & every other person as all that they  
know is hearsay evidence, without any written instruments  
to prove any thing they have asserted, ~~relative~~ <sup>relative</sup> to the lines or  
boundaries of aforesaid, ~~that it is disputed~~ the line was dis-  
puted between Richard Smalley & myself. At which time I  
sought for all the evidence both oral & written that I could  
obtain. I could find no written evidence in this county &  
I could find no person who knew any thing more than  
that they supposed such & such things without knowing  
them. From what written evidence I have seen or that I have  
heard <sup>nearly the whole of</sup> ~~the whole of~~ the lands in Smith's Neck, ~~part of~~  
along the ~~of~~ lands of John T Bunkley, & George Hayward  
belonged to the father of my wife, & these two tracts were  
given to cousins of my wife's father, without any instu-

ment of writing having been found for them & therefore with-  
out any boundaries. The line that runs between Norman Stines  
& John T Bunkley is as described in the deed to Norman  
Stines from R H Whitfield, Jane Stines my wife & myself -  
The Balance Marsh which joins said Norman Stines & John  
T Bunkley was originally taken up by ~~my wife's father~~ my wife's  
ancestors & has been ever since in the possession of the family.  
The said Marsh originally extended out at least a half  
a mile further into the river; the line of said marsh <sup>was</sup> originally  
<sup>a small creek or ditch</sup> commenced at the mouth of a deep swamp between Nor-  
man & myself, running thence close to the highland of John  
T Bunkley & emptying into Hughes Creek (which creek is  
sometimes called the Balance of Marsh Creek) ~~a part of~~  
<sup>the present part</sup> of this line is the line in dispute between Norman Stines  
& John T Bunkley. I have read the deposition of Joseph  
Kareworthy taken for John T Bunkley in these proceedings  
& find he is altogether under a mistake respecting the  
swamp running straight into the River, which he alludes  
to as the boundary between Norman Stines & John T Bunkley,  
~~as~~ there were many other ponds or swamps which run  
formerly into the river. As the lands of John T Bunkley  
were formerly given away by my wife's father, without any  
line or boundaries described in any deed, the original  
line or boundary of the Balance of Marsh, between the  
Balance of Marsh & John T Bunkley must be the same line  
that is now in dispute. I have read the deposition  
of John Bunkley taken on behalf of John T Bunkley in  
these proceedings & am satisfied that he is altogether wrong  
about John Bagnall claiming land to the river, for this  
reason when the line ~~cutting off~~ was run separating him  
from the Balance of Marsh it also separated him from  
the River. I don't know whether the fence mentioned by  
John Bunkley in his deposition as run by John Bagnall was  
ever run to or subsequent to my marriage, but as soon as

that this fence had been seen  
I heard ~~of it~~ <sup>from Thomas Holladay</sup> I directed  
him to pull it down & not permit it to stay up - he told me  
that he had pulled it down & would not permit it to stay  
up - the fence has never been up since.

And further this deponent saith not -  
Signed - *M<sup>rs</sup> J. J. J. J.*

The deposition of Henry Bagnall, taken at the time & place  
before the said commissioner on behalf of Norman Shiers as  
mentioned in caption -

This deponent being first duly sworn answered & says -  
Questioned by Norman Shiers. State generally what you  
may know of the boundary line between John T. Bankley  
& Norman Shiers in dispute between them & mentioned  
in the Petition of the former under which this proceed-  
ing is taken? Ans. - I have been acquainted with these  
lands for some 33 or 34 years, about which time I was  
called upon by my brother John Bagnall, who then  
owned the land now owned by John T. Bankley, to carry  
the chain in surveying the Balance of Marsh - Mr  
Joseph Goodwin was sent for to tell us how the line runs -  
Mr Goodwin was then living in Smith's Neck & was the  
oldest man there & hence was supposed to know more  
about the lines than any one else - This survey was made  
for the purpose of taking up the Balance of Marsh, it  
was to be taken up by S<sup>rs</sup> B. Whitehead for the benefit of John  
Bagnall provided the latter paid the expenses - Mr  
Goodwin told us the line of the Balance Marsh com-  
menced on the James River shore, at the point where  
it was supposed the line between the Balance of Marsh  
& the lands of Mr Shiers commenced opposite the head  
of a cove <sup>or gap</sup> leading in from the main creek to the for as it  
is called the Balance of Marsh Creek, which headed.

near the line, which said cave <sup>or cut</sup> was then large enough to float a boat with two or three men <sup>on</sup> it & from this point to the head of said cave <sup>or cut</sup> down said cave <sup>or cut</sup> to the Balance of March Creek, down the meanderings of the latter Creek to James River & then up the said River to the commencement. I did not understand from Mr. Lovelorn that the line between John Bagwell & Mr. Hines run to the River. At that time there was no public passway or any private cartway from John Bagwells House to the River, except some polls for stock to get over the cave to the Balance of March. I never knew that my brother claimed any further than to the said cave <sup>or cut</sup>, if he claimed on the River side of the cave <sup>or cut</sup> I never knew it & if he claimed beyond the cave <sup>or cut</sup> I should suppose he would have made it known when we run the line, as in the manner in which we run the boundary of the Balance March, a piece of the march between the cave & the River was included in the Boundaries of the Balance March, if he owned to the River, he would thus have thrown into the Balance March some of his own land. I never heard that the Swamp now making into the said cave went into the River, until I heard it in Mr. Kewenawthys deposition - I am in my fifty ninth year.

~~Given & sworn~~ By ~~him~~ <sup>him</sup>

And further this deponent saith not.

Signed Henry Bagwell

The foregoing depositions of George Munday, Mr. Hines & Henry Bagwell were respectively sworn to & subscribed before me as commissioner of said the 29<sup>th</sup> day of January, 1833 -

C. B. Hayden

## Commissioner's Office

Smithfield - January 29<sup>th</sup> 1835

Upon the petition of John T Buckley filed with your commissioner setting forth that he is desirous of perpetuating the testimony of witnesses as to the boundary line between the lands conveyed to said Buckley by a deed from Joseph B Whithead as commissioner under a decree of the county court of Isle of Wight in the cause of Smelly's Infants, v. Smelly & others, bearing date the 26<sup>th</sup> day of January 1834 a copy of which deed was filed with said petition, & the lands belonging to Norman Slimes, conveyed to him by a deed from William Slimes, Jane his wife & R H Whitfield bearing date January 1<sup>st</sup> 1834, & mentioned in said deed from Joseph B Whithead as bounding the land therein conveyed on the north, in respect to which there is no suit, and that Norman Slimes is a person that may be affected by such testimony, the undersigned commissioner reports that on the 5<sup>th</sup> day of October 1834, he issued notices against the said Norman Slimes, notifying him that on the 23<sup>rd</sup> day of Oct. 1834 at his said office at the place aforesaid, he should proceed to take in writing the evidence of any witnesses adduced in reference to said matter by the said John T Buckley the petitioner aforesaid, or by the said Norman Slimes, at which time & place he was required to attend. That the said notice was returned by the sheriff of the said county, duly executed upon the said Norman Slimes - That no witnesses appearing on behalf of either party on the day last aforesaid, the proceedings under the said petition were adjourned to the 30<sup>th</sup> of October 1834, at the place aforesaid when the commissioner proceeded to take in writing the evidence of Joseph Kneenbury a witness adduced in respect to the said matter by the said petitioner, at which time no other witnesses appearing, the proceedings were at the request of the petitioner adjourned to the 4<sup>th</sup> day of Nov. 1834, at the same place, when your commissioner took in writing the evidence of Arthur Channel & John Buckley, witnesses adduced in respect to the said matter by the said petitioner, and

the witnesses on behalf of the said Norman Slimes, ~~and the proceedings~~ ~~the proceedings~~, were adjourned to December 30<sup>th</sup> 1834, at the same place, when they still failing to appear, the witnesses on behalf of said Slimes were at his request subpoenaed to the same place on the 29<sup>th</sup> of January 1835 & the proceedings further adjourned to that time. That on the last mentioned date, the commissioner proceeded to take in writing the evidence of George Minyard, William Slimes & Henry Bagnall witnesses then adduced in respect to said matter by the said Norman Slimes, all of which evidence aforesaid, with the petition, notices & subpoenas aforesaid are herewith returned to the clerk's office of the Circuit Court of Isle of Wight.

Given under my hand as commissioner of the said court, at my said office, the day & year first aforesaid -

C. B. Hayden

## 1834 Statement of Commissioners Fees -

Oct - 5<sup>th</sup> - Writing 2 notices - .75 -" 23<sup>rd</sup> - Adjournment - .75 -" 30<sup>th</sup> - Taking deposition - 3/4<sup>th</sup> - 2.44 -Nov - 4<sup>th</sup> - do - 4<sup>th</sup> - 3.00 -Dec - 30<sup>th</sup> - Ex parte of Rpt - 3/4<sup>th</sup> - 56 -

7.50 - Charged to Petitioner

Dec 30<sup>th</sup> - Adjournment - .75 -

1835 - Writing 4 - Summons - 1.13 -

Jan 29<sup>th</sup> - Taking deposition & ex. h. 00 -

Ex parte of Report - 56 -

8.44 - Charged to Norman Slimes

50¢ Sheriff's Fees for serving subpoenas on three witnesses for Norman Slimes -

Jan'y 17<sup>th</sup> 1833. Executed the within this day  
by serving a true copy thereof on William Hines  
George Maynard & Henry Bagwell -

James E. Moody  
Is For Thomas Hall Sheriff

The Commonwealth of Virginia

To the Sheriff of Isle of Wight County, Greeting;

You are hereby commanded to summon George Maynard, Henry Bagwell & William Hines personally to appear before the undersigned, one of the commissioners in chancery of the Circuit Court of Isle of Wight County at his office in Smithfield in said County on the 29<sup>th</sup> day of January next to testify & the truth to say in behalf of Norman Hines in a certain matter of boundary between the lands of the said Norman Hines & the lands of John T Bunkley, referred to said commissioner under the petition of said John T Bunkley to perpetuate the testimony of witnesses in reference to said boundary. And this they shall in no wise omit, under the penalty of £100. And have then there this writ. Witness C B Hayden commissioner of the said court at his said office the 30<sup>th</sup> day of December 1834 in the 79<sup>th</sup> year of the commonwealth.

C. B. Hayden

Isle of Wight County, to wit;

I Thos H P Cooper a justice of the peace for the  
County aforesaid, do hereby certify that J. L. Worry  
personally appeared before me in my said County &  
made oath that on the 10 day of Oct, 1834, he deliv-  
ered a true copy of the within notice on the within  
named Norman Stines.

Given under my hand & seal this 10 day of Oct 1834

Thos H P Cooper JP Seal

To be returned  
to C. B. Hayden

Commissioner's Office  
Smithfield Oct 5<sup>th</sup> 1854

To Norman Hines

You are hereby notified that I shall on the 28<sup>th</sup> day of October instant, at my said office in the town of Smithfield proceed upon the Petition of John T Bunkley setting forth that he is desirous of perpetuating the testimony of witnesses as to the boundary line between the lands conveyed to said Bunkley by a deed from Joseph B Whitehead as commissioner under a decree of the county court of Isle of Wight in the case of Smalley's Infants, as Smalley & others, bearing date the 26<sup>th</sup> of January 1849, duly recorded in the Clerk's office of the county court of said county, & the lands now belonging to you, conveyed to you by a deed from William Hines, Jane his wife, & R S Whitfield by a deed bearing date January 1<sup>st</sup> 1854, duly recorded in the Clerk's office of the county court of said county, & mentioned in said deed from J B Whitehead as bounding the land therein conveyed on the "North", in respect to which there is no suit, & that you are a person who may be affected by such testimony, to take in writing the evidence of any witnesses adduced in respect to the said matter by the said Petitioner, or by you, at which time & place you are required to attend.

Given under my hand as Commissioner in Chancery of the Circuit Court of Isle of Wight County, at my said office the day & year first aforesaid.

C B Hayden

Petition of Geo T Bunkley  
to Commissioner C B  
Hayden, to perpetuate  
testimony -

Filed Oct. Oct. 4<sup>th</sup> 1854

To C B Hayden, Commissioner in Chancery  
of the Circuit Court of Isle of Wight County;  
Your Petitioner, John T Bunkley of the said  
County, is the owner of a tract of land in said  
County, bounded & described in a deed conveying  
the same to him from Joseph B Whitehead as com-  
missioner under a decree of the County Court of the  
said County in the cause of Smellings infants as Smelly  
& others, which deed bears date the 26<sup>th</sup> of January  
1849, & duly admitted to record in the Clerk's office of the  
County Court aforesaid, as will appear from an office  
copy of the same marked A & herewith filed as a part  
of this Petition; that the said deed describes the tract  
of land thereby conveyed to your Petitioner, as bounded  
on the north by the land of William & Jane Hines who  
with R H Whitfield by a deed bearing date January 1<sup>st</sup> 1834 & duly  
have since conveyed the land constituting the said north  
recd in the Clerk's office of the County Court of said County  
even boundary to Norman Hines of said County who  
still owns the same - that the petitioner is desirous  
of perpetuating <sup>the</sup> testimony of witnesses as to the bounda-  
ry ~~line~~, between the land purchased as aforesaid  
by the Petitioner & the land now belonging to the said  
Norman Hines, purchased by him as aforesaid of  
the said William & Jane Hines, & <sup>& R H Whitfield</sup> mentioned in said  
deed as bounding the land therein conveyed on  
the "north" - that there is no suit respecting the same  
that the said Norman Hines is the only person that  
may be affected by the said testimony. To this end  
the Petitioner asks that the said Commissioner will  
appoint a time & place for proceeding on this Petition  
& give proper notice thereof to the said Norman Hines.

Oct. 4<sup>th</sup> 1834

Signed - John T. Bunkley

Bankey  
Hines -

Order of Oct Term 1855

To be entered

R. H. Baller

Octo. 1855. Acpt. Confir  
& Recorded.

Encls.

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Lada-667 -

Bunkley }  
as  
Hines }

The Report of C B Hayden as one of the Commissioners of this court, in a proceeding to perpetuate testimony on the petition of Geo T Bunkley, in a matter affecting ~~Norman~~ Hines, having been returned to the clerk's office of this court, with the testimony taken by said commissioner in said proceeding, whereupon it is ordered by the court that the said Geo T Bunkley, pay to the said commissioner \$7.50 & the said Norman Hines pay to the same \$8.44, the amounts respectively charged to them in said report. That the said Norman Hines pay "the sheriff" of. & that the <sup>said</sup> other parties contribute equally to the other costs of this proceeding -

Remainder & remainders yearly & other rents issues & profits  
 thereof and of every part & parcel thereof. To have (and  
 to hold the said tract of land with the tenements hereina-  
 -ments and all and singular other the premises here-  
 in before mentioned. or intended to be bargained and sold  
 and every part and parcel thereof, with every of their rights  
 members and appurtenances unto the said John T.  
 Brunkley his heirs and assigns forever. to & for the only  
 proper use and behoof of him the said John T. Brunkley  
 his heirs and assigns forever - and the said J. B. Whitehead  
 Com<sup>r</sup> for himself his heirs the said tract of land with  
 all and singular the premises and appurtenances before  
 mentioned unto the said John T. Brunkley his heirs and  
 assigns forever free from the claim of him & of his heirs  
 and every person claiming by through or under and no  
 other person whatsoever, shall will and do warrant and  
 forever defend by these presents. In witness whereof the said  
 Joseph B. Whitehead has hereunto set his hand and seal  
 this 26<sup>th</sup> day of January in the year 1849.

Signed Sealed and delivered  
 in the presence of  
 William S. Gwaltney  
 John R. Gwaltney  
 J. B. Southall

J. B. Whitehead Com<sup>r</sup> Seal

In the Clerk's Office of Isle of Wight County Court  
 May 16<sup>th</sup> 1849. This Deed was acknowledged by J. B.  
 Whitehead to be his act and deed - and was admitted  
 to record.

Teste. N. J. Young ex.

A Copy  
 Teste.

J. C. Latimer D.C.

Whitehead Com<sup>r</sup>

Do.  
 D.C.

Brunkley

Whereas by virtue of a decree of the County Court of Isle  
of Wight County rendered at \_\_\_\_\_ in the year 1848  
in Case of Smelley's infants vs. Smelley & others Jo<sup>s</sup>. B. Whitehead  
who was appointed a Commissioner therein and directed  
to sell the tract of land in the bill named whereof Richard  
Smelley did seized and proposed off and the said Jo<sup>s</sup>. B. Whitehead  
Com<sup>r</sup>. after having advertised the time & place of the sale accor-  
ding to the requirements of the decree did on the 31<sup>st</sup>  
day of August 1848 sell the said tract of land to the  
highest bidder at public auction at which sale John  
T. Bunkley became the purchaser for the sum of twelve  
hundred and fifty dollars being the highest bid made  
and the said Commissioner having reported the sale and  
the proceedings thereon to the Court of Isle of Wight County  
and the said Court on the 4<sup>th</sup> day of December 1848 having  
confirmed the said report further decreed that the said  
Commissioner should make a deed to the purchaser (John  
T. Bunkley) for the said land. Now This Indenture  
Witnesseth; That for and in consideration of the premises  
and for the further consideration of the sum of twelve  
hundred and fifty dollars paid and secured to be paid  
according to the directions of the decree, the said  
Joseph B. Whitehead Com<sup>r</sup>. has bargained & sold by  
these presents doth bargain & sell unto the said John  
T. Bunkley his heirs and assigns, the tract or parcel  
of land above named, Containing seventy five acres  
be the same more or less, bounded as follows  
On the East by James River and the land of Jos. B.  
Whitehead. On the South by the Shipyard Creek, On  
the West by the land of George Mainyard and Lindley B.  
Murray and On the North by the land of William  
& Jane Hines together with all and singular the  
appurtenances whatsoever to the said tract of land belonging  
or appertaining and the reversion and reversions