

Brunswick County, Virginia Chancery Court record #1796-017
Thomas Poythress

Below are the nine documents contained in record #1796-017, transcribed in 2002 by Barbara Poythress Neal, who invites any clarification of the reading of the handwriting from anyone else who has occasion to examine this record. [Notations in square brackets, such as these, are those of the transcriber.] Please note that, while the listing of the many months of continuation notes on the outside of the documents gets to be tedious reading, these are the most sure way of ascertaining the years through which this case continued. The abbreviation "do" or "Do" seen after the months, means "ditto."

In this Chancery Court record #1796-017, William Warwick was plaintiff & Thomas Poythress was defendant. This record's nine un-numbered documents are numbered here by the transcriber after being placed in logical order. All documents except for Documents #4 & #8 are completely handwritten.]

[Document #1:]

To the Worshipful Court of Brunswick County Sitting in Chancery:

Humbly complaining Sheweth to your worships, your orator William Warwick, that on the 2nd day of December 1782, he bought of a certain Thomas Poythress (whom your orator Prays to be made defendant hereto) a certain tract of land lying in this county, containing 214 acres, adjoining the land called Randal's Ordinary, that is adjoining the lands of your orator & of John Taylor & Richard Heartwill [Bpn note: or possibly Heartsvill] -- that your orator paid him for the said land & another tract to wit the said place called Randal's Ordinary [Bpn note: a word is marked out here, possibly "income"] & the said defendant executed on the same day to your orator a bond in the Sum of one Thousand pounds conditioned to make complete title in fee simple to your orator in the said lands, which bond or obligation is herewith filed & prayed to be considered as part of this bill. That the said Defendant has only made such title in part of the said lands, that is the Place called Randal's Ordinary, but has constantly refused to make such title sought to your orator of and to the said 214 acres of land which is contrary to equity, & oppressive to your orator. In tender consideration whereof & for as much as your orator is only relievable in the premises in a court of Equity where contracts are decreed to be specifically performed & to the end that the said Defendant may on his oath full true & perfect [illegible; possibly "answer"] make to all & singular the foregoing allegations as amply & completely as if he were herein thereto[?] particularly interrogated & to the end that your worships ~~may~~ decree that the Said defendant shall convey in fee simple the said land consisting of 214 acres to your orator - That the said defendant, his heirs & all claiming under him be precluded forever from having or claiming any right or title thereto & that the same be ~~fore~~ vested in your orator, his heirs & assigns forever & that your ~~ora~~ Worships may grant your orator such other & further relief in the premises as may be deemed consistent with Equity & justice, may it please yr [Bpn note: some few letters of a word are crossed out here] Worships to grant your orator the Commonwealth's writ of Subpoena to be delivered[?] to the said defendant & commanding him &c by your orator shall be

[signed] Robertson for
Complnt

[Document #1 outside is labeled:]

R [possibly an abbreviation to indicate it was Recorded]
Wm. Warwick

v.

Thos Poythress

Bill

[two words on separate lines below this are crossed out & are illegible]

[Document #2, which has worn away at fold marks and on some of the edges:]

Know all men ["by these" seems to have been in the worn away fold] Presents th[at]
Thomas Poythress of the county of Brunswick & state of Virginia am am[sic] [worn
away fold]do & firmly bound unto Wm. Warwick of said county & state in the Just &
full Sum of one thousand pounds [illegible word] to be paid unto the said William
Warwick his certain Attorney his heirs Ex'tr or assigns to which payment will & truly to
be made, I bind myself my heirs Ex'tr adm'rs firmly by these presents Seald with hand &
seal this 2nd day of Dec'r 1782 The condition of the above obligation is such that
whereas the said Thomas Poythress has sold two certain Tracts or Parcels of land in
Brunswick County the one whereon he now lives known by the name of Randle's
Ordinary containing three hundred Acres, the other in [illegible; possibly "aycres"]
Known by the Name of Williams' containing two hundred & fourteen acres now if the
[above?] Thomas Poythress [do so?] or Shall Make a good & lawfull Title in said lands &
give Possession by or before Christmass[sic] next then the above obligation to void or
else to Remain in full force & virtue.

[signed] Thomas Poythress, Seal

Witness

[first name of first witness is partly obliterated by fold & worn away portion, but
appears to be:] Hinshia Mabry

[first part of the first name or initial of second witness is covered by folded corner] G
Williamson

[Document #2 outside is labeled:]

Bond

T.Poythress

Subp'a [illeg]

Bk.

being Subp'a in

Ch'cy for T'l 214

acres

out of the [worn away or folded back at the fold]
Bk [illeg; possibly "trd"]

[Document #3 is a small piece of paper:]

Memo for W David Robertson to bring a a[sic] Suit in Chancery against Tho. Poythress for a title to a tract of land in Brunswick County C[next several words illegible due to crease in paper] and called Randles ordinary, the said Poythress is long ago removed to [the beginning letter of something crossed out here, possibly "G"] the place called Tom.Bigby, now under the Spanish Government.

[signed] Wm Warwick

[*Bpn note: The Tombigbee River is in the area that later, in 1832, became the state of Alabama. This same area was indeed much earlier part of Spanish land. Even after becoming part of the Mississippi Territory purchased by the United States of America, this area was Indian land for some years.]

[Document #3 outside is labeled:]

Wm. Warwick

ag't

Thomas Poythress, 214

&

John Mason & Wm.

Harrison, Surviving

Ex'rs of James Mason

Dec'd. Sub'a in ch'y

[Document #4 is a pre-printed form, with handwriting filling the blanks. The handwritten portions will be contained between double asterisks "***" here. The pre-printed form's letter "s" is the old-style of print-font that looks like a lowercase "f" without the crossbar.]

The Commonwealth of VIRGINIA to the sheriff of ****Brunswick**** county, greeting. We command you, that you summon ****Thomas Poythress, and John Mason, & William Harrison, Surviving Executors of James Mason dec'd**** to appear before our Justices of our county court of ****Brunswick**** at their courthouse of said county, on the ****4th** Monday in March [note a handwritten word is crossed out here]****** next, then and there to answer a bill in Chancery against ****them**** exhibited by ****William Warwick**** And this ****they**** shall no wise omit under the penalty of 100£ ****each**** And have then there also this writ. WITNESS ****Charles B. Jones**** clerk of our said court at the office, the ****6th**** day of ****December**** 17****93**** [Bpn note: the form had been printed to say 178_ but the clerk had written a "9" over the preprinted "8" to make the year now read "1793"] and in the ****18th**** year of the commonwealth.

[signed] C B Jones

[Document #4 outside is completely in handwriting. Document had been folded into three panels:]

[First panel of Document #4 outside:]

January 1794 James Harrison [just below the end of Harrison's name is a squiggle, possibly 2 letters of someone's initials written together]

[Second panel of Document #4 outside:]

Sp'a in Ch'y

Warwick

vs

Poythress & Masons Ex'ers

=

1794 April abates to Masons ex'or & cont for Bill

May Court for Bill

June do July Do Aug't Do

Sept'r Do Oct'r Do Nov'r Do

Dec'r Do

1795 Jan'y Feb'y Mar Do April Dism'd for Want of Bill

May reinstated & ord to the [calls?]

[Third panel of Document #4 outside:]

June Bill filed & Cont'd for ans'r.

July Cont for ans'r

Aug't Do Sep'r Do Oct'o Do

Nov'r Do Dec'r Do

=

1796 Jan'y Do ~~February Do~~

February abates by the

Plf's death

=

[Document #5: Note "Poythress" is spelled "Poythess" throughout this one document:]

Jno Walton & Mary his wife late widow of Wm Warwick, dec'd

vs

Thos Poythess Senr

This suit was formerly brought in the name of Wm Warwick but by the Death of Warwick abated. The Land is will'd by Warwick to Mary Walton late Mary Warwick in fee. The case is as follows (to wit) Richard Randle & Mary his wife made a Deed to Jas Mason bearing date the 10th April 1780. James Mason sold the Land to Thos Poythess Senr [note a date is crossed out here] and on the 1st Sept 1782 [note, this date is very difficult to read] upon giving Poythess a Receipt in full for the amount The sd Mason

bound himself in an obligation to make a good and lawfull Title for the premises afr'd [aforesaid] to the sd Poythess which written obligation was afterwards assignd to William Warwick, who never recievd[sic] a Deed for the sd Land of the sd Poythess or did the sd Poythess ever recieve[sic] a Deed from James Mason who is now dead & insolvent. Poythess resides in the State of Georgia.

[Document #5 on the back appears to be a continuation from the front side:]

The Deed from Randal & wife to Mason is herewith enclosd, No.1

The Recpt [illeg initials or short word] from Mason to Poythess with the assignment on the Back is also herewith enclosd, No.2

[Document #6:]

To the worshipful Court of Brunswick Co Sitting in Chancery. Humbly complaining Then to your worships, your orator, John Walton and your oratrix Mary Walton his wife, who was late Mary Warwick widow & relict of William Warwick decd, that the Said William Warwick purchased and fully paid for in his life time a certain tract of land situate and being in this County [blank space is left here] containing [blank space is left here] acres [blank space is left here] of a certain Thomas Poythress, from whom he took a bond in the penalty of [blank space is left here] pounds conditioned to make or cause to be made & secured to the Said William Warwick an indefensible right & title in fee Simple of, in & to the Said tract of Land which bond is herewith filed & prayed to be considered as part of this bill - That the Said Poythress had long ago left this commonwealth & that his particular place of residence is not known to your orator & oratrix - that the said Poythress had not the legal, but had certainly an equitable, title to the Said land & bought it of a certain James Mason who has since departed this life, who put him in possession thereof & who received full Satisfaction for it from the Said Poythress, who was in possession of it when the Said William Warwick purchased it. - That the Said William Warwick by his last will & testament which is duly recorded in this worshipful court & prayed to be considered a part of this bill of complaint, Devised all his right & title to the Said Land to your oratrix: that the Said Warwick was in possession of and enjoyed the Said Land for several years & your orator & oratrix in her right now are in possession of it - but that the legal title is in the heirs of the Said James Mason, who are as follow, to wit: ~~Edmund Mason~~, George Mason & Jane Mason, children & coheirs of the Said James Mason decd, William Thompson Mason, James Mason & Edmund Mason children & coheirs of Edmund Mason who was son & coheir of the said first mentioned James Mason, Robert Mabry & Rebecca his wife who was late Rebecca Mason, Ira Ellis & Polly his wife who was late Polly Mason also daughter of the said deceased James Mason, all of whom as well as the said Poythress your orator prays to be made defendants hereto, the infants hereafter mentioned to be made defts by Robertson[?] [this name is followed by a torn portion. This tear is followed by some words that had been darkly marked out. Above the dark marking is inserted:] their guardian - That the said children of Edmund Mason are infants under lawful age ~~are infants~~ and by law incompetent & unable to convey the legal right remaining in them as representing

their said ancestor James Mason, to your orator & oratrix, which in injurious to them & repugnant to equity - which Said infants are prayed to be made defendants hereto by their guardian to be appointed by this court.

Your orator & oratrix State further that the Said Land was conveyed in fee simple by a certain Richard Randle to the Said Mason by deed of Indenture, which is duly recorded in this worshipful court & prayed to be considered as part of this bill - That the Said Mason granted a receipt in full to the Said Poythress for the consideration money for the sale of the said Land & thereby promised & obliged himself, his heirs &c [note: "&c" is an abbreviation for "etc"] to make a sufficient & absolute right in fee Simple in & to the said Land to the Said Poythress, & which receipt the said Poythress assigned by an indorsement thereon in his own hand writing to the Said Warwick when he Sold & delivered him possession of the Said Land: which receipt is herewith also filed and prayed to be considered as part of this bill - That though your orator & oratrix in her right use in justice & equity enter [note: possibly "entertain" but the edge of the paper is worn away here] the legal right in fee simple of the said land as well as to the perception & enjoyment of its rents, issues & profits, yet from the infancy of the said Mason defendants & other causes before recited, they are deprived of such right & title; & may by possibility & accident be deprived hereafter of the means of establishing the Same altogether without the aid of a court of equity: In tender consideration whereof & because [note: probably "your orator" but paper is worn away at fold here] oratrix can only be released in the presence[?] [note: a word is missing where paper is worn away here] court of equity, and to the end that all the [note: probably "said" but partially missing where paper is worn away here] defendants & pray fully & unequivocally answer all the foregoing allegations on oath & that they shall be decreed by this wor: court to be forever bound & precluded from all right title to the Said land & be decreed & ordered to convey their respective rights to the Said Land to your orator & oratrix for the benefit of your oratrix and that your orator & oratrix be adjudged & decreed to have & enjoy the Same land in fee simple; and that the infant defendants be precluded also from all right & title to the same & decreed to convey their rights & titles therein to your oratrix [a few words are crossed out here] according to the usual principles of courts of equity in similar cases: or that such other & further relief may be decreed to your oratrix & orator in the premises as may be deemed equitable & their case may justly require. May it please You Worships to grant your orator & oratrix the Commonwealth's writ of Subpoena to be directed to the Said Defendants commanding them &c & your orator & oratrix shall &c

[signed] Robertson for Complts

[Document #6 outside, first of two panels:]

John Walton & wife

late Mary Warwick

vs

Jas. Mason's heirs & others

Bill & voucher included

= = =

1799 April Bill filed & Cont for Ansrs

May Cont for ansrs
June do & July Do Aug 1 Do
Sept do; Octr Do; Novr do
December do
=
1800 Jany Do Feby Do
March do April do
May do
May Ct ordered[?] & Decree [possibly "issued"]
June Cont
July Contd Augt do
Septr Do Octr do Novr
Do Decr Do

[Document #6 outside, second of two panels:]

1801 Jany Contd Feby Do March Do April do May do June Do July Do Augt Do Septr
Do Octr Do Novr Do Decr Do

=

1802 Jany Do Feby Do March Do April Do May Do June Do July Do Augt Do
Septr Spa iss & Cont for ansrs [subpoenas issued & continued for answers]
Octr cont for ansr
Novr Do Decr Do

=

1803 Jany Do Feby Do March Do April Do May Do June Do July Do Augt Do Septr do
Octr do Novr Do Decr Do

=

1804 Jany Do Feby Do Feby Do Mar Do Apl Dismsd[?]

[Document #7:]

In the name of God Amen. I John Mason of Greensville County being of sound Mind do ordain my last Will and Testament making void all other will or wills heretofore made. I lend my wife Mary Mason the parcel of Land held by Peter Wyche by purchase from William Harrison, but in case her pregnancy should prove abortive or the child should not arive[sic] to a lawful age Then I give and bequeath the above mentioned Land to my said wife to her and her heirs forever. I give and bequeath to my expected Child all the Land I had of Edward Smith with the Land Peter Wyche had of William Waller and I had of Peter Wyche to the said Child and its heirs and assigns forever. I give and bequeath to my wife all my personal Estate of whatsoever kind after paying all my just Debts. I likewise give unto my said wife all the Rents arising from the above mentioned Lands for to assist her in the raising and Educating of my expected Child: I give the Lands which I exchanged with my Brother Edmund Mason to Arthur, Bolling, Little James & John their heirs &c when Arthur is of Age as I have limited in the Deed of Emancipation and the Rent until then to be given my said wife for to assist her in the raising and Educating of my expected Child. I give and bequeath unto little Nanny and all other Slaves now claimed by me in whole or in part all that liberty and freedom which I might on the footing of law lay claim to with their offsprings forever. It is my

Will & desire that my above mentioned Lands should not be cleared nor cut to make any waste more than is necessary for the support of the same. It is my Will and desire that if my expected Child should arive[sic] to a lawful age - that it shall have the Land lent to my wife at her death, to that and its heirs and assigns forever. I further desire that Negro Anthony should live where he has lately built him a House uninterrupted allowing him fire wood, Ground for a Garden, Cotton patch & Potatoes rent free during life provided he behaves well as I believe he will - and likewise that Anne Jefferson should enjoy the same privilege where she now lives if she chooses it upon the same Terms. It is my will and desire that my Uncle William Harrison, my friends Ingram Blanks and Robert Rivers together with my Brother in law Irwin Maclin when of age should act as my Executors and my wife Executrix to this my last will & Testament. I desire to be buried in a plain manner without any Spirits at all by that person my wife shall make choice of. I ordain this to be my last will & Testament as Witness I have hereunto set my hand and seal this ninth Day of April One Thousand Seven Hundred and Ninety Three.

John Mason (L.S.)

Signed sealed & acknowledged
in the presence of
Hubbard Hobbs, Frederich Hobbs, Nath'l. Mabry.

[Outside of Document #7 bears following at the top of the sheet:]

Duly proved and admitted to record At Greensville County Court
August 1793, and Mary Mason the Executrix therein named qualified
thereto according to Law. Teste P. Pelham, Cl. Cur
Extract from the Records Testa P. Pelham, C.of C.

[Outside of Document #7 bears following label in one folded panel:]

Copy
John[sic] Mason's Will
For John Walton
Brunsw'k

[Document #8 is a pre-printed form, with handwriting filling the blanks. The handwritten portions will be contained between double asterisks "***" here. The pre-printed form's letter "s" is the old-style of print-font that looks like a lowercase "f" without the crossbar.]

The Commonwealth of VIRGINIA to the sheriff of **Brunswick** county, greeting. We command you, that you summon **Thomas Poythress and Robert Mabry and Rebecca his wife who was late Rebecca Mason, widow and Extrix of James Mason decd and William Harrison, John Mason & Benja Jones suv'd exers of the said James Mason decd, Edmunds & George Mason sons of the sd Jas Mason decd, and Jane Mason daughter of

the sd James Mason decd** to appear before our Justices of our county court of
Brunswick at their courthouse of said county, on the **4th Monday in March** next,
then and there to answer a bill in Chancery against **them** exhibited by **John
Walton & Mary his wife late Mary Warwick widow & Devisee of William Warwick
dec'd** And this **they** shall in no wise omit under the penalty of 100l. [100£]
each And have then there also this writ.

WITNESS **Herbert Hill** clerk of our said court at the office, the **26th** day of
February 17**98** [Bpn note: the form had been printed to say 178_ but the clerk
had written a "9" over the preprinted "8" to make the year now read "1798"] and in the
22nd year of the commonwealth.

[signed] H.Hill

[Outside of Document #8 bears following handwritten label at the top of the sheet:]
1798 March 13th Ec'd [sic: apparently meant as an abbreviation to show the subpoena
had been "executed"] on Benja Jones and those Pres't on Inhabitints[sic]

[signed] Freid'h [appears to probably be an abbreviation for Frederich] Greene

[signed] D?ty [appears to possibly be an abbreviation for Deputy] of Joh[a or n] Stith,
Shff

[Outside of Document #8 bears following label in one folded panel:]

R [possibly an abbreviation to indicate it was Recorded]

Spa in chy [apparently an abbreviation for Subpoena in Chancery suit]

Walton

Vs

Poythress Sr

=

1798 April Cont for Bill

May Cont for Bill

June Ditto July Do

Augt Do Sepbr Do

Ocbr Do Novr Do

December Do

=

1799 Jany Feby & March

Do

[Document #9]

Brunswick County May Court 18hundred

John Walton & Mary his wife late Mary Warwick widow and Devisee of William

Warwick Dec'd, Complts

against

Thomas Poythress & Robert Mabry and Rebecca his wife formerly Rebecca Mason widow & e'trix of James Mason dec'd and William Harrison, Benjamin Jones and John Mason exers of James Mason dec'd and Edmunds[,] George and Jane Mason sons & daughter of the aforesaid James Mason, Defts In chancery It appearing to the court that the subpoena which issued in this cause have been regularly served on the Deft Benjamin Jones and the Bill filed in this cause more than three months past and the said defendant have failed to appear and put in his answer thereto agreeable to the rules of this court.

On the motion of the Complainants by their counsel it is ordered and decreed that the complts Bill be taken for confessed[?] and the matters thereof decreed accordingly and that the Defts pay the cost of this suit but this decree shall be null & void if the sd Deft shall appear and file his answer on or before August term next.

A Copy Teste

[signed] Herbert Hill Cl SC
(2) [this number is either in parentheses or is circled]

[Outside of Document #9, at top]
10th July 1800 Executed
Jas Harrison Dep for
Richd Fletcher Shff

[Outside of Document #9, in one panel of folded document]
Walton & wife
vs
Poythress & al
[illegible abbreviation, possibly Cpy ordered] 4 [this number is circled] answer

[Outside of Document #9, in another panel, computations done apparently in pounds and shillings to come up with the costs of the suit. Ink blotches make this difficult to read.]