1869-002 Chancery Causes: Joseph H. Duck v James Barnes et al vs Irwin W. Duck v
Isle of Wight County Nancy B. Duck

other surnames: Vaughan, Butler, Whitehead, Councill, Rawls, Parker, White, Beaman

Oct. 1867
Final decree

Rougdon Pg.

Buck dals:

v.

Clay: Ha/pn.

Buck dals.

1866.

Defl. rules - Bill &c. for Injunct. ord. & decree nisi &c. duffs:

Interrogs. Bill taken for confessed & set for hearing.

May 17, 1866. Leave to defs. to file their ans. in sixty days & ans. of J. W. Buck filed &c.

Oct. 1866 - Decree for dals.

1867 - Cond.

1868 - Cond.

All Available Text Successfully Captured

To the Honorable Richard A Burton Judge of the
Circuit Court of Law & Chancery for the County
& City aforesaid sitting in Chancery. Humbly com-
plaining sheweth to this Court your Orators
Joseph H Peck, James Barnes & Martha his
wife (formerly Peck), that on or about the day of
1844, Jacob Peck departed this life intes-
tate in the County aforesaid seized & possessed
of real & personal estate amongst which were
the following real estate - the "Home Place" containing about 400
acres, lying in said County adjacent to the lands
of Geo: M Cowles & Alfred R Burton, the "Cow
Place" of about 200 acres in said County adjacent
to the "Home Tract" the "Bradshaw & Cole's or
"Foster & Bradshaw tract of about 150 acres in said
County adjacent to the lands of
- the Pegg tract of about 200 acres in said
County adjacent to lands of Thos Barnes, Wm Beaty &
Jacob Carr - the "Johnson Tract" of about 500 acres
adjacent to the lands of Augustin Ballard deceased
Barden in said County & Nansemond County & the town
of Suffolk in Nansemond County - that said
lands descended in coparcenary upon the said
A Peck aforesaid & said intestate, subject to the
debts of dower & curtesy of his said widow

Exhibit A -

who has had her dower assigned to her out of said lands as will be seen from the annexed report of commissioners appointed for that purpose & the confirmation of said report marked No 2 herewith filed as a part of this bill - that said intestate made in his lifetime advancements to his aforesaid children at different times, consisting in part of negroes Phillis (an old woman) Bay Will & Peil Lea advanced about 1849 to the aforesaid Joseph H Tuck; negroes Caroline & Patsy (small children) advanced the aforesaid Martha A, & a valuable tract of land advanced the said Jennie H Tuck, who was further advanced by the said intestate in the profits of the Sheriffalty in the years 18 & 18 which profits were intended by the said intestate as an offset & equivalent to the aforesaid advancements of negroes to your complainants - that the said Jennie H Tuck has cut & sold from said lands large quantities of timber from the aforesaid lands of the intestate received the proceeds thereof to his own use & that other advancements were made by said intestate to said Jennie H Tuck - that said advancements were not brought into hotchpot in the distribution of the personal estate of said intestate which has been fully distributed among the aforesaid children of said intestate who were his distributees at law - - - - - -

your complainants are informed & so charge that
they & each of the heirs aforesaid as may bring
their respective advancements in to such Hotchpot
are entitled to share in the partition of the
intestates estate — that your complainants
are willing to bring their advancements into
hotchpot in the partition of said lands
but they are desirous of having partition of
said lands among the aforesaid heirs
at law according to their respective rights
that your complainants on bringing their
advancements into hotchpot are entitled
to the whole of said lands to the exclusion of
said Jonn W Buck unless he will bring his
said advancements into hotchpot — that your
complainants are without remedy at law & can
only be relieved by the aid of this honorable
Court of Chancery where matters of this kind
are cognizable, to this end your complainants
pray that the said Jonn W Buck & Nancy Buck may be
made a party defendant to this bill & be required
to answer the same, that he be required to
disclose the advancements made heretofore by said
intestate & render an account of the timber cut
from said land as hereinbefore charged —
that he be required to elect whether he will
bring said advancements into hotchpot
& share in the partition of said land or be

enduded Thereupon that by the decree of this Honorable Court accounts may be taken of the advancements made to such of the parties as may be willing to bring them into hotchpot & of the timber cut by said Innis such as aforesaid from said lands & of the real estate left by said intestate & that partition may be made of the same among the heirs at law aforesaid of said intestate according to their respective rights - & that such other & further relief may be granted your complainants in the premises as the nature of the case may require & to the Court may seem meet & your complainants will ever pray &c

Hayden & C

Hayden & C.

Rucker et al.
vs.
Rucker et al.

Bill & Complaint

1866.
April rules filed & ordered.

May " Bill taken for confd. & set for hearing

May T. ans. filed by Gen Lot.

Dec. 3rd. Dec. 3rd.
1867.

Oct. 1st. Final decree.

To the Hon: Rich: H Cobbs judge of the Circuit Court of Isle of Wight County: in Chy Sitting:

The Answer of Irvin W. Duck one of the defendants, to the Bill of Complaint of Joseph H. Duck, James Barnes & Martha his wife (formerly Duck) filed in this Hon: Court: This defendant reserving to himself all right of exception to the said Bill of Complaint, for answer thereto saith, that as is alleged in said Bill, his father the late Jacob H. Duck departed this life intestate leaving his Widow Nancy Duck, and the said plaintiffs and this defendant his heirs at Law; and that he was seized of certain parcels of Land in the said Bill mentioned, save the tract of land advanced to this defendant in the lifetime of his father containing 315 acres:- Valued at £1500-

This defendant positively denies that any profits of the Shereffalty, as is alleged in said Bill received by him, was intended as an advancement by his father, for as he did almost, if not all the labour that he received therefrom was only a compensation & so intended for his services. This defendant further states that when the Commissioners met to appoint dower to the said Nancy Duck the widow of the intestate in his lands, and after the same was set apart to her accordingly, it was agreed by all the heirs the said plaintiffs and this respondent, that to save further costs, that the said Commissioners should proceed to divide the intestate's real estate between them - The Commissioners thus authorized did so divide the same, and each one of said heirs took possession of the portion of the Real estate thus allotted, seemed perfectly satisfied, and has continued in the possession, control and enjoyment of the same respectively under the present time. This defendant will further observe that at the time of the said partition, he offered to bring in Hotchpot,

- the land advanced to him by his father, if the other heirs would bring in the negroes & other property advanced to them severally - this they declined. He will further state that after the division of the said Real Estate had been made as aforesaid, he gave to each of the other heirs the privilege of taking such lot or portion as they might prefer: or that he would exchange the land thus or then designated as his with either of the parties - But these offers were declined, each preferring the portions assigned to them severally to his defendants'. Each of the parties took such share as it pleased them, and this respondent took that which had been thus passed over by the other heirs. And according to the division made as above mentioned, the several heirs respectively entered upon & have ever since enjoyed their portion, and used the same as they pleased. Your respondent will further state, that his father several times before his death, and not long before, stated in the presence of his family, and doubtless in the hearing of the plaintiffs, and of others, that in the advancements (those referred to in the Bill) made to his children he had made them equal, as was his desire. Unfortunately for plaintiffs, & for defendants, (& indeed thousands of others), the advancements made to them consisted in part of negroes which by the operations of the late war, have been lost to them. While this defendant regrets this, as well for them, himself & thousands of others, yet it can furnish no just cause for disturbing the division of the intestate's lands made and acquiesced in as aforementioned. This defendant denies having but any mod or limited claim from his own portion, or share allotted to him as aforesaid. Your respondent denies that, from the above facts, the plaintiffs have any right to call upon him to bring his advancement of land into hotchpot: and cannot do so. And he insists that this honble

court will confirm the division of the estate effected as aforesaid, and cause titles to the several shares be made to the parties respectively, and having answered prays hence to be dismissed with his costs &c in this behalf expended —

[signature]

State of Virginia Co. to wit

Irwin W. Sands personally appeared before me a justice of the peace for the county aforesaid & made oath the facts as set forth in his answer are true to the best of his knowledge & belief. Given under my hand this [illegible] day of May 1866.

R. D. Randolph J. P.

Buck et als

vs

Buck et als.

Answer of

Ann W. Buck

3

May 17. 1866. filed

by leave of Court.

To the Hon. Richd. H. Roper Judge of the Circuit Court of Isle of Wights County in Chancery sitting

The answer of Nancy Duck one of the defendants to a Bill filed against her, by Joseph Duck, James Barnes & Martha his wife. filed in this Honorable Court

This defendant reserving to herself all right of exception to the said Bill of Complaint, for answer thereto, saith, that her late husband, Jacob H. Duck the heirs at law and died intestate, and leaving a large real estate as the said Bill alleges. That her dower was allotted to her by Commissioners as in said Bill is stated, appointed by the County Court of said County, in the said intestates real estate.

That she has no further interest in the premises, and is unable to conceive why she was made a party. Her late husband in his lifetime made advancements to his several children, and as to the said Irvin Duck gave land; and to the plaintiffs as stated in their Bill. That she has often heard her husband say that the advancements made to each he believed and regarded to be equal in point of value. Furthermore that at the allotment of her dower to her as aforesaid, the Commissioners were requested by the parties (all of the heirs) to proceed to divide the lands of the intestate among them - which was done as she was informed to their satisfaction, and each one of the heirs took possession of the share or parcels thus allotted to them severally, and have had the same ever since (- this occurred in the fall of 1863).

This respondent having answered prays hence to be dismissed with her reasonable costs in this behalf expended.

Nancy B Duck (L.S.)

Isle of Wights County to wit:

Nancy Duck personally appeared before me, a justice of the peace for the County aforesaid and made oath that the facts as stated in her answer above are true to the best of her belief. Given under my hand as justice for the said County, this ___ day of May 1866

(J.P.)

Duck vals

&c —

Nancy Duckers

annuo of

Nancy Duck.

To the Hon. Rich. H Baker Judge of the Circuit Court of the of eight County in Chancery sitting.

The Amended answer of Lewis N. Beck, the defendant to a Bill of Complaint filed of Joseph Beck & James Barnes and Martha his wife — This Respondant now and at all times reserving to himself all manner of benefit of exception to the many errors, imperfections &c. of said Bill, for answer by way amendment to so much of said Bill he is advised it is material for him to answer, says that in his former answer he stated, "That at the time of the said partition he offered to bring into Hotchpot the Land advanced to him by his father, provided all the other heirs would bring in the negroes & other property advanced to them severally — this they declined:" and thereupon this Respondent further stated, "that from the above facts, the plaintiffs had no right to call upon him to bring his Land in to Hotchpot &c. Apprehending that the above Language might be construed as a refusal to bring his advancement into Hotchpot, he desires to explain more fully the intention of the Language, though he believes it cannot be construed into a refusal to ~~bring the Land~~ do so, yet he therefore intended to state, and does now state that he never refused to bring his Land into Hotchpot, and does not now refuse. Notwithstanding he does not waive his right of disclaiming the statements that their father regarded all such advancement as a gift, and not to be afterwards considered in the distribution of his estate — And having answered prays to be dismissed &c

(2)

State of Virginia County to wit

Irwin M. Smith personally appeared before me a justice of the peace for the said County, and made oath that the facts contained in the Annexed account are true. Given under my hand this 1867

(JP)

Account vs.
Irwin M. Smith

The Commonwealth of Virginia,

To the Sheriff of the County of Isle of Wight—Greeting:

We command you to summon Isom W. Duck and Nancy B. Duck

to appear on the first Monday in April *next, being Rule day, at the Clerk's office, of the* Circuit *Court for the county of Isle of Wight, directed to be holden at the Courthouse thereof, to answer*

The Bill in chancery of Joseph N. Duck and James Barnes and Martha A. his wife.

and have then there this writ.

Witness Nathaniel P. Young, Clerk of our said Court, this 15th *day of* March *1866, and in the* 90th *year of the Commonwealth.*

N. P. Young Clk

[A copy to be delivered to each defendant.]

Joseph H. Duck Dals.

vs. Z. Snead &c.

Irwin W. Duck Dals.

Fo Appl. Aules 1866 Cir. Ct.
Hayden Sq.

Executed by delivering a true copy of
the within Writ to the within named
Irwin W. Duck in person in the
City of Dals. March 16th 1866
Ed. Lyon D.S.

EGE & ELLYSON, Printers and Binders, Petersburg, Va.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Isle of Wight County—Greeting.

WE COMMAND YOU to summon Alfred R. Butler, John Parker, George W. Connell, Edward Rawls & Jesse Whitehead

to appear before ~~the~~ N. P. Young Comd. of the Circuit Court of the County of Isle of Wight, at the Court-house, on the 15th day of February 1867, to testify and the truth to say in behalf of Irvin W. Duck

in a certain matter of accounts befor ~~in~~ said Court Comd. pending and undetermined, between Joseph A. Duck &c. Pltfs.

and Irvin W. Duck defendant, and this them shall in no wise omit under the penalty of £100. And have then there this writ.

Witness, NATHANIEL P YOUNG, ~~Clerk~~ Comd. of our said Court, this 4th day of July A. D. 1867, in the 91st year of the Commonwealth.

N. P. Young Clk.

Executed by delivering a true copy of the within Writ to Council A R Butler Edward Rawls & Joseph Whitehead on the 13th July 1867

W. E. Powell
Dep't

J. H. Rucker
vs.
Saml. Fowler &
Joseph Council
In Sd. Rucker's

Do 16th July 1867.

The Commonwealth of Virginia,

TO THE SHERIFF OF THE COUNTY OF ISLE OF WIGHT,—GREETING:

We command you to summon Edward Rawls

N. P. Young a commissioner

to appear before the ~~C~~ of the circuit Court of the County of Isle of Wight, at the Courthouse, on the 24th day of January 1868, to testify and the truth to say in behalf of Irvin W. Duck

before Commr.

in a certain matter of controversy in said Court pending and undetermined, between Joseph W. Duck & others Plaintiff,

and said I. W. Duck Defendant,

and this he shall in no wise omit under the penalty of the law. And have then there this writ.

Witness, NATHANIEL P. YOUNG, Clerk of our said Court, this 15. day of January A. D., 1868, in the 92nd year of the Commonwealth.

N. P. Young c.

Executed Jany. 21st 1868. by delivering a true copy of the within Notice to Edward S. Sands

Thos. P. Chandler

S. Dist. Ala.

Sam'l. Fox
ex.

In U. S. District Court

Filed Jany. 24, 1868

The Commonwealth of Virginia,

TO THE SHERIFF OF THE COUNTY OF ISLE OF WIGHT,—GREETING:

We command you to summon Joseph H. Duck, William H. Vaughan, Alfred R. Butler and William E. Barnes to appear before N. P. Young a Commissioner of the Circuit Court of Isle of Wight county at his office at the courthouse of said county ~~to appear before the~~ of the Court of the ~~County of Isle of Wight, at the Courthouse~~, on the 8th day of January 1868, to testify and the truth to say in behalf of Jos. H. Duck & Jas. Barnes Wife accounts before said Commissioner in a certain matter of ~~controversy in said Court~~ pending and undetermined, between said Duck & Barnes . . . . Plaintiffs, and L. W. Duck . . . . Defendant, and this they shall in no wise omit under the penalty of the law. And have then there this writ.

Witness, NATHANIEL P. YOUNG, Clerk of our said Court, this 7th day of December A. D., 1867, in the 92nd year of the Commonwealth.

N. P. Young Clerk.

Execution on Joseph Dench Wm H
H Vanphan A. C. Butler &
Wm Barney ... The 20th Day
1867

Miller & Powell Pls
for E. L. Eley Shff

J. M. Buck & Sons.

3 Subpoenas for
witnesses before
Comr.

vs.

J. W. Dench

Do 8 Pt. of Issue. 1868.

Executed Jany. 21st 1808. by delivering a true Copy of the Within Notice to Wm. Williams & Barnes

Thos. Clements

Clerk to Sol.

Sol. 21st Jany. 1808.

The Commonwealth of Virginia,

TO THE SHERIFF OF THE COUNTY OF ISLE OF WIGHT,—GREETING:

We command you to summon Wm. E. Barnes

N. P. Young Commissioner
to appear before ~~the~~ ^ of the Circuit Court of the County of Isle of Wight, at the Courthouse, on the 24th day of January 1868, to testify and the truth to say in behalf of Jos. N. Duck & others
before Comm'r.
in a certain matter of controversy ~~in~~ said ~~Court~~ ^ pending and undetermined, between Jos. N. Duck & others Plaintiff,
and L. W. Duck Defendant,
and this he shall in no wise omit under the penalty of the law. And have then there this writ.

Witness, NATHANIEL P. YOUNG, Clerk of our said Court, this 15 day of January A. D., 1868, in the 92 nd year of the Commonwealth.

N. P. Young Clk Cir. Ct.

Duck et al.
v.
Duck

Deposition of
R. L. Beaman

April 1. 1867 filed

Suffolk, Va. March 6th 1867

The evidence of R. H. Beamon & others proposed to be taken pursuant to the annexed notice, was not taken, and the taking of the same was adjourned & continued until the 28th day of March, 1867.

W. L. Riddick N. P.

Suffolk, Va. March 28th 1867

The deposition of R. H. Beamon taken pursuant to the annexed Notice and the above adjournment and continuance, this 28th day of March, 1867, between the hours of 6 A. M. & 6. P. M. of that day, at the office of John R. Kilby, in the town of Suffolk, Va. to be used as evidence in a certain suit in Chancery pending in the Circuit Court of ~~Isle of~~ Wight County, on behalf of Joseph H. Duck & others, and wherein the said Joseph H. Duck and others are plaintiffs and Irvin W. Duck &c. are defendants.

R. H. Beamon being first duly sworn, deposeth and saith as follows:

1st Question by Plaintiffs' Counsel:
Where do you reside? How old are

you? And what relation are you to Lysander Beamon, former husband of Martha Barnes, one of the Plaintiffs?

Answer: I reside in Nansemond County; am fifty years old, and am brother to Lysander Beamon.

2nd Question by same.

Were you acquainted with Jacob R. Duck the father of said Martha Barnes, and do you know of any advancements made to her by him during the lifetime of her former husband?

Answer: I was acquainted with Jacob R. Duck; I have no knowledge of any advancements made to Mrs. Martha Barnes, or her former husband Lysander Beamon, except two small negroes - My brother was married to the said Martha, a daughter of the said Jacob R. Duck about 1841, and settled on a farm belonging to Nathaniel Beamon, my father, near Bennett's mill, in Nansemond County. Within a year or two thereafter, the said Jacob R. Duck gave to his daughter Martha, one of these small negroes a girl named Caroline - and about two years afterwards another named Parma. At the time they were so sent these negroes were badly grown - dwarfish - and grew up to be inefficient and stupid, never hiring out after my brother's death

for more than half the amount negroes of their age and appearance otherwise commanded.
From my knowledge of these negroes I think both of these negroes, at the time they were so advanced, were not worth more than three hundred dollars. or One hundred & fifty dollars a piece. and I would not have given that price for them for my own use.
3rd Question by same.
State all you may know as to any moneys paid as security by said Jacob H. Duck for said Lysander Beamon, or advanced to him by said Duck, if any, & if not, state what aid was furnished by said Duck to said Lysander Beamon & all you know of it?
Answer: I know of no money paid by said Duck as such security, or of any money advanced by him to said Lysander Beamon, and I don't believe any such money was advanced: but on the 20th December 1843 Jacob H. Duck with L. H. Kelly became security for said Lysander Beamon to A. W. Wilson, for three Hundred dollars, which bond was all paid by Lysander Beamon, except One Hundred and ~~fifty~~ seven dollars & sixty seven Cents. which was paid by his father, Nathaniel Beamon, before the death of the said Lysander, (which will appear by said bond & endorsements thereon, filed with & annexed to

this deposition marked F.)

4th Question by same:

Were you intimately acquainted with your brother Lysander Beamon's affairs before his death & afterwards, and if any other advancements had been made to him or his said wife, would you not have known it: -

Answer: I was intimately acquainted with all of my brother Lysander's affairs during his lifetime and afterwards - being his executor, and I think I should have known the fact if any other advancements had been made by said Duck either to him or his wife. My brother Lysander died in July, 1853.

And further this deponent saith not.

Rich'd D. Beamon

State of Virginia.

Nansemond County, to wit:

I, W. L. Riddick, a Notary Public for the County of Nansemond & State of Virginia, do hereby certify that the foregoing deposition were duly taken, sworn to and subscribed before me at the times & place mentioned therein.

Given under my hand this 28th day of March 1867.

W. L. Riddick
N. P.

Notary's fee $3.00

I accept the legal service of the within notice.

J. H. Duck

To Irvin W. Duck

Sir. Take notice that I shall on the 6th day of March 1867 at the office of John R. Kelly in Suffolk, Va between the hours of 8 a.m. & 5 p.m. of that day, proceed to take the depositions of R. H. Beamon and others, to be read as evidence in our behalf in a certain suit in Chancery pending in the Circuit Court of ~~Nansemond~~ Isle of Wight County, wherein we are plaintiffs and you are defendants, and if from any cause the taking of the said depositions should be commenced & not finished or not commenced, the same will be adjourned from day to day or time to time as may be convenient.

Respectfully
Joseph H. Duck
James Barnes
Martha Barnes

To the Sheriff
of Isle of Wight
County to execute

thing else, if so how much?

Ans. In 1862, after the evacuation of Norfolk, Jos. H. Duck brought to Blk. water near 1400 lbs. of bacon & 4 kegs of lard & sold he wished me to take charge of it and sell it. I sent it to Petersburg by W. Suter. A few days after Suter returned from Petersburg, Jos. Duck came to W. Suters & I saw Suter pay him about $500.00 or the proceeds of the sale of said bacon & lard. I do not know who the bacon & lard belonged to. I think this was in the fall of 1862

Quest. Do you know whether Jos. Duck was in the habit of receiving money belonging to his father & failing to account to him for it?

Ans. I do not know that I can answer in the affirmative. I have heard Maj. Duck say that he could not trust Joseph.

And further this deponent saith not.

Thomas S. White

The foregoing depositions were taken and subscribed before me in my office, on the day and year mentioned the caption.

And the further consideration of the case is continued until the 7th. March 1867.

A. P. Jones Com'r.

Duck Sale.

v. } Defts.

Duck

the land amongst them and assigned to them the lands as described by W. A. K. Butler in his description which I have heard read. We ascertained that many had to be paid by Jas. H. Duck to equalize the division - W. Jas. H. Duck seemed to think that the land assigned him was valued higher in proportion than the other lands - I. W. Duck & Wm & Ben. Barnes, proposed that they, or either of them would exchange with him if he was not satisfied, which he did not assent to - He thought that it was not right to value the home place at so much to him, as his mother had dower therein & had the house which he might not be permitted to occupy. It was in his raising this his objection that they proposed to exchange with him. He made no reply to their propositions. In this division we did not take into consideration the Cavanaugh tract on which I. W. Duck lives. Jas. H. Duck also said that he thought the value of the said Cavanaugh tract ought to be estimated in the division. ~~I. W. Duck said let them bring into the division what they stand on it is and we can settle as to that place afterwards~~ I. W. Duck agreed that if the other parties would bring into the division what had been advanced to them, that he would do so himself. This examination in regard to advancements took place after we had divided

the said lands & ascertained what had to be paid by Jos. H. Duck. The matter of advancements was entirely outside of our connection with the division aforesaid & we left the parties discussing that subject. & I suppose that matter would be settled by them thereafter.

Quest. Did you ever hear Maj. Duck say that Jos. H. Duck had collected money for him refused to pay it over to him, if so how long before his death?

Ans. No. I have heard him say that he was afraid to get him to collect money for him. I do not think he gave his reason.

Quest. Did you & Mr. Whitehead buy timber from L. W. Duck on the land assigned to him from his father's estate? Did you get the timber or not, if not why & what was the loss to L.W. Duck in consequence thereof?

Ans. We did buy the timber on that land, we commenced getting it but were stopped by Jos. H. Duck & Mr. Bowers, we stopped operations & I suppose the loss of L.W. Duck then by not less than $500. by the depreciation in the value of the timber.

Cross examined by Counsel for Plff.

Quest. At the time of the division of the land by yourself aforesaid, did Jos. H. Duck pay any amount of money or execute

1 1 1

his bond to the other parties to equalize said division, or agree so to do?

Ans. She did neither. while we were there & I know nothing of the matter since.

Qust in Chief Did you not expect after you had made the division, that Jos. H. Duck would pay the amt. you required him to pay to equalize?

Ans. Of course we expected him to do so as the division was made at the request of parties.

Cross exm?

Qust. by plf. Did not Jos. H. Duck, or you hear before plaint, when you were ascertaining the amount he was to pay, object to the exception & reservation of the home place and require the value of the land advanced to I. W. Duck to be taken into the division?

Ans: No sir he did not. She made the objection after we had made the division & were talking about what he had to pay. She then said that he thought his land was valued too high in proportion to the other land as his mother had the houses &c. And afterwards, in a conversation with I. W. Duck he said that he thought the Cornwell land which he I. W. Duck had, ought to be brought into the division, so that W. I. W. Duck said that he would bring his accounts if the others would do so - This I regarded as out side of the division that we had made.

And further deponent saith not.

Edwd Rainey

John Parker being sworn deposeth & says

Quest. Did you know Jack H. Duck, how long did you know him, Did you ever hear him say any thing of advancements made by him to his son Joseph H. Duck?

Ans. I knew Jack H. Duck for 30 years, I once heard him say that Jr. had not paid him his money for bacon which he carried away. I also heard him say that Jr. had collected money for him of Bonnell & had not paid it to him & other accounts. The statements in reference to the bacon & money from Bonnell, occured a short time before his death. I do not know what amount he so collected.

Quest. Did not Maj. Duck, a short time before his death refuse to trust Jr. H. Duck with his business and send for D. W. Duck to attend to it for him?

Ans. I do not know. He seemed to prefer to trust Irvin.

And further the deponent saith not.

John his X mark Parker

Thomas S. White being duly sworn deposes & says

Quest. Do you know of any money paid to Joseph H. Duck for his father, for bacon or any

Cross examined by C. B. Hayden Counsel for Jno. H. Duck & Jonas Barnes sworn & saith.

Quest. In the valuation of the lands mentioned by you, were they valued in reference to the price paid for them by Jacob H. Duck or in reference to their market value? At the time of the division among the parties as mentioned by you, was any money paid or bonds executed to equalize the division aforesaid between the parties? After leaving the parties disputing about the value of the negroes advanced, did you and the other Commissioners meet the parties about such division?

Ans. We valued the lands at the prices paid for them by Maj. Duck, as represented to us by the parties, deeming the said prices a fair valuation for the lands at that time. In consequence of the rail roads being then down or out of use, the land was not considered of more value than when bought, but since then, the rail road has been put in operation and consequently the Elijah Johnson land, the home place & the Daffodil lot are all now worth, in my estimation, more than when valued by us. At the time of division aforesaid by us, no money was paid or bonds executed to equalize the division between the parties. We, the said Commissioners, never met the parties upon the subject again. In

stating in a former answer, that he left the parties disagreeing about the value of negros, I did not intend to be understood that the parties were disputing, but that they had not settled upon the true value of the negros so aforesaid.

Quest. Do you know whether or not the matters mentioned by Maj. Duck, or unsettled between himself & his son Joseph, were settled before Maj. Ducks death?

Ans. I do not know whether they were or not.

And further this deponent saith not.

A. R. Butler

Jesse Whitehead being first duly sworn deposes and says.

Quest. Who has occupied the home place belonging to the late Maj. J. W. Duck from the time of the allotment of dower to Mrs. Duck to the present time - and how the account cultivated the same? Did Jos. W. Duck propose to you, ~~to rent~~ and you & he should buy ~~to you~~, the timber on the land assigned to L. W. Duck by A. R. Butler & others, as alluded to by Butler in his deposition? Did you ever hear Maj. Duck complain of Joseph's selling timber for him & not accounting for it, if so how long before his death and how often?

Ans. Since that time the said Home place has been

occupied & cultivated by Jas. H. Duck.
Jas. H. Duck did propose that we should buy the timber on said land, he son W. I. W. Duck but they made no bargain - afterwards W. Rowe & myself bought the timber & were to pay therefor $1500. or so much a piece for the rail road ties or so much $. 100 for the lumber - We were notified by Jas. H. Duck & Mr. Boone not to cut any of the timber & we did not do so, except to a small extent, in consequence of which I think I. W. Duck has sustained a loss of $500.
I cannot say that I ever heard Maj. Duck complain of Joseph's collecting for him & not accounting for his collections.
Cross exd. by Counsel for Complts:

Q. Has Jas. H. Duck exclusive possession of the home place, or has not his mother dower therein?

A. He occupies it with his mother, who has dower therein - Her dower includes the dwelling & most out houses - They cultivate the land but I do not know upon what terms he cultivates her portion.

And further the deponent saith not.

Jesse Whitehead

George W. Connell being first duly sworn deposes and says.

Quest. Did you rent any of the allond allotted to Jos. H. Deck from his fathers est:, if so of whom did you rent it and what did you pay for it & to whom did you pay?

Ans: I did rent a portion of said land ~~in 1865 of Jos. H. Deck~~, it was part of the home tract, I rented it of Jos. H. for one third of the crop made thereon, which portion was taken from the field by Jos. H. Deck, I suppose it was worth about $150. There was about 25 bbl.

And further the deponent saith not.

George W Connelly

Edward Rauch being first duly sworn deposes says:

Quest. Were you acquainted with Jacob H. Deck, if so how long?, were you a comm.r to assign dower to Mrs. Nancy Deck in his land?, if so what took place on the occasion of setting apart said dower? was any thing said then about advancements made by Jacob H. Deck to his children, if so by whom & what was said?

Ans. I knew Jacob H. Deck from the time I knew anybody up to the time of his death. I was one of the comm.rs to assign dower to Mrs. N. Deck & acted as such. After we had assigned the dower, the parties requested us to divide the balance of the land between them as the heirs, we proceed to divide

The Deposition of Alfred R. Butler, Jesse Whitehead, George W. Councill, Edward Rawls, John Parker and Thomas S. White taken before N. P. Young one of the Commissioners in Chancery for the Circuit Court of Isle of Wight County, at his office, on the 15th day of February 1867. in pursuance of notice, to be read as evidence in behalf of Jno W. Duck defendant in a suit pending between Jno. H. Duck Adm. &c. Plff. and said W. Duck Defts. touching certain matters of account before the said Commissioner.

Alfred R. Butler being first duly sworn, deposes and says.

Quest. Were you acquainted with Jacob H. Duck if so how long? Were you a commissioner appointed to set aside the dower of Mrs. Nancy Duck in the real estate of Jacob H. Duck, if so what took place on the occasion of setting apart such dower? Was any thing said at that time about advancements made by Jacob H. Duck to his children, if so by whom and what was said?

Answ. I was acquainted with Jacob H. Duck. I knew him for forty years. I was one of the commissioners appointed by Isle of Wight County Court to set apart Mrs. Ducks dower. Wm. E. Bevan, Edw. Rawls, Wm. H. Vaughan & myself were the four comm. who acted. We met at Mr. Ducks and the parties requested that we should after setting

apart the dower, then divide the balance of the lands between the heirs. I stated that we were not directed by the order to do so, and asked if it was the desire of all the parties (they being all of age & present) that we should do so, they all assented that we should do so and expressed it as their desire. We then proceeded to set apart Mrs. Duck's dower. And we valued all the lands at the prices paid for it by decedent, the land all being well known to us, amounting in the aggregate to $7000:00. We allotted to Jno. H. Duck the home place at $4500:00. W. L. W. Duck expressed his willingness that the other parties might have such of the lands as they chose. We then assigned to said L. W. Duck the Elijah Johnson tract at $600. The Bradshaw M. place at $200. the Peggy place at $300. making $1100:00. Unanimously desire of the parties we assigned to Mrs. Barnes (a daughter) the Suffolk lot at $1200. and the Abby place at $200. making him $1400:00. and required Jno. H. Duck to pay to the other two parties each a sufficient sum to equalize their shares with him. Thereupon, he expressed dissatisfaction. And L. W. Duck and Mrs. Barnes & wife each proposed that if he was not satisfied, either would exchange with him, which he did not assent to in my presence.

Joseph H. Duck in expressing his dissatisfaction, said that the place where I. W. Duck lived ought to have been brought into the valuation or estimate of the land. After talking over the matter some time between J. H. Duck & I. W. Duck. Isaac W. Duck said to Jos. that if he, Jos, would bring in what his father ~~could~~ had given him & the others ~~would do so too~~, that he, I. W. Duck, would throw in his land. This land, being the place on which said I. W. Duck resides, was not estimated by us in the division aforesaid.

Quest. Do you know whether the said parties took possession of the lands so allotted to them & occupied them?

Ans. They did take possession thereof and used ~~it~~ or rented the lands out.

Quest. When did the division above referred to, by you, take place?

Ans. This division was in Dec. 1864. On this occasion, of the division of land, some misunderstanding took place between the parties as to the values of certain negros which had been received advancements by Jos. H. Duck & Mc Bosse, and when we left the matter was still unsettled.

Quest. Did you ever hear Jacob H. Duck in his lifetime, say that the advancements he had made to his children, had made them equal

Ans. I do not think I ever heard him make use of such an expression, but I heard him say that he had half of a bond due by him on in bank to J. M. Connell

Quest. Do you know whether or not Jos. H. Duck received of Mr. White some money belonging to his father which he never accounted for? Or of any other money so received and not accounted for?

Ans. I do not know of money rec'd by him from Mr. White, but I heard W. Jr. H. Duck say that Joseph carried off a lot of sheep say 25 or 30 ~~head them~~, and that he had not accounted for them. He also said that Jos. carried away across the river some 2000 lb. of bacon which he had ~~sold and~~ never accounted to him for. and that he had called on him for payment and he would not pay him. I do not know nor did W. Jacob H. Duck say, whether the said sheep & bacon were sold. He only said that Jos. carried them away & had not accounted for or paid for them.

Quest. Did you ever ~~say~~ hear W. Jacob H Duck say that Jo. had collected money from Mr. Bonsall, or any one else, for and had not paid it over to him?

Ans. I do not recollect positively as to Mr. Bonsall, but he has spoken to me of Jos. having collected money for him and never accounted for it.

Joseph H. Duck being first duly sworn deposes as follows.

Ques.

State what you may know of any advancements made by your father in his lifetime to him W. Duck, and the value of such advancements, & what you may have heard your father say as to the same.

(Excepted to by Counsel for Defts.)

Ans.

I heard my father say he had given him the sheriffalty and the Wiley Johnson tract of land. When I became of age my father said I have given your brother the sheriffalty & I now give you these two little negros & this will about make you equal to him for the sheriffalty. I don't know that he ever said what he valued the sheriffalty at, — He valued the two negros given me at $900. He also gave me an old negro woman for which he paid $70. at Mr. L Eley's sale. This advancement was made me in 1849 or 1850. The woman was included in the $900. but was not considered of any value. I think her not worth negro at $10. pr. year. I would give for her now or a cook $2. pr. month. because I can't get any other woman.

I never heard my father say what he
valued the Johnson land at. I heard
my father say that the land aforesaid
was under deed of trust to him & he
gave the land to my brother by his paying
the trustees expenses. W. Thos: Hall was the
trustee in the deed for said land, and
after it was sold he came to my father
& asked him to whom he should make
the deed for the land which he had
sold, my father told him he might
make the deed to Irvin & he would only
charge him to pay the costs of the suit
sold. Mr. Hall asked my father who he
should make the deed to My father said
make it to me, W. Hall said, let me make it
to Irvin as the land lies along side of
his & as you are going to give him the
land, your brother let me make
him the deed now to save costs, My
father then said you may make it to
him but you must make Irvin
pay you the expenses.

Quest.:
How did your brother acquire title
to the Commonwealth tract of land?

Ans.
My father gave it to him. I have heard
all the parties, mother & father say so.

What do you consider the value of the Cow brought that at the time upon [illegible] you it to leave.

Ans.

I think it was worth $2000: 00

Qus.

At the time of the division of the land, after your father's death did allended to in the preceding depositions of Mr. Butler & Mr. Vaughan, did you agree to the said division or did you object to it?

Ans.

I neither agreed nor objected to it.

The foregoing depositions was taken & subscribed the day & year mentioned in the caption of Jas. H. Duck &c. and the further taking of depositions in the case is continued till the 24th. Jany. 1868.

A. S. Jones Com.

In consequence of the absence of counsel for pltffs. the further taking of the depositions in this cause is continued to the 7th. Feby. at the residence of Mr. Nancy Duck.

A. S. Jones Com.

reference to the widows dower, to which it was subject.

Ans.

I consider the land was worth in fee simple $1,500. And that the widows dower estate therein, considering her age, was worth but little

Quest.

Are you acquainted with the Commonwealth & Johnson Bank advanced to L. W. Duke by his father, if so say what you consider the value of the same at the time of said advancement?

Ans.

I was not sufficiently so to form an estimate of their value.

Cross examined

Did you regard all parties as consenting that the Commr. who assigned Mr. Duke dower, should divide the land between the heirs

Ans.

Certainly, I did, I asked the question and all parties consented, or we should not have done so. All the parties were present I considered that all consented to have the division made.

Quest.

Co. gave or furnished you with the
Values of the lands.
Ans.
We concluded to divide them accord=
ing to the prices paid for them by
the old mon, & those prices were
furnished us by the parties, we, the
commissioners deeming this to be the
fairest way.
Quest.
Did not Jos. H. Duck know that the
Comm.rs would the information, as to the
prices paid for the lands, to enable them
to be governed thereby in the division?
Ans.
Certainly, I suppose he did, as we
could not want them for any other
purpose.
Quest.
Do you not regard the division as made
by the Comrs as fair & equal between all
the parties?
Ans.
I did think so & I now think so. I
would have taken & would now take Jos.
Ducks portion in preference to any
of the others

Quest.
Did you understand Mr. Vaughan as agreeing with the other commissioners?
Ans.
I did, I thought there was a general concurrence with us all.
Quest.
Did Mr. Jos. Dusk, when the division was made or reported, did Jos. H. Dusk object to the report or division, or did he complain of it in what respect.
Ans.
He did not object, but he remonstrated at the amount he had to pay to equalize the division.
Quest.
Before the action of the Com. was it not told to them by the parties, that Mr. Bowers would have the town lot & Jos. Dusk the home place & did not I. W. Dusk assent to this saying he would take the balance
Ans.
It was stated the Com. by the parties & I. W. Dusk did assent & consent to take his share of the balance.
Quest.
Do you not regard the division made them, as having been made substantially between themselves?

Ans:
I did so understand it & supposed
we had only to make the valuation,
which we did, & I think fair.
Ques.
Did you understand that at the death
of the widow, Mr. Duck was to take all
the home place at the valuation made
by Cent. at the division, or was he to be
required to pay any additional sum ~~for~~
said dower.
Ans:
I did understand that he was to take
the whole place at her death, but that
he would not be required to pay any
additional sum ~~thereon~~ for the dower.
Respondt.
Did you understand on the day of the
assignt that the whole plantation
was assigned to Mr. Duck without
paying any thing to the other parties.
Ans.
I did not understand any such
thing. I understood that he was to
pay the amt. decided upon on that
day by Cent. to equalize the division.
And further deponent saith not.
A. R. Butler

your former deposition, if so, state what you considered their value at the time of said division & what they are worth.

Ans.

I am acquainted with said lands.
At the time the assignment was made, I think the Elijah Johnson tract was worth $600. The Woodward & M. places were worth $300. The Peg place was worth $200. as these places are very poor.
At this time I think ~~they are worth about the same~~ the Johnson place worth about ~~as~~ the same, but the other places how ~~what~~ depreciated about one third in value.

2nd.

Do you know the Abby place referred to if so what was its value when the division was made & what its value now?

Ans.

I know the place & think it was worth $200.00, but ~~do not~~ now think it worth ~~more~~ one third less.

3rd.

What do you consider the value, at the time of the assignment, of the land assigned to Jas. A. Dunn, having

to go to Jas. H. Duck at her death, without his paying any thing additional?

Ans.

It was to go to Jas. H. Duck at her death upon his paying thereafter the additional sum required, but I do not recollect the amt. as I before said.

2nd.

Did the portion so assigned to Jas. Duck, was there not a valuable orchard?

Ans.

The orchard on it has been valuable but, I did not think it valuable at that time. It was in a state of decay. Their father had been replacing the decayed trees by new ones.

2nd.

Did you deem the valuation put upon the real estate, other than the home place, as fair or otherwise?

Ans.

I can't say it was, or valued the other land at what the father paid for it as it was said.

3rd.

At the time the said valuations were made, was Jas. H. Duck present, if so did he raise any objection to the

valuations fixed by the Comm?
Ans?
He was present, & made objections all the time & said he should not agree to the valuations
Ques?
Did not Jos. Duck give you the value of the lands or the values placed on them?
Ans.
Jos. Duck told us what the old man gave for the lands, except the home place. & we valued them accordingly.
Ques?
At the time Jos. Duck gave the value of the lands, did he express any opinion as to whether they were fair values or not?
Ans?
I did not hear him express any opinion, we asked him what the old man paid for them & he told us. Did not Jos. Duck know at the time he gave you the values, that it would effect the division.
Ans.
I do not know whether he knew anything about it or not - He did not say. I didn't ~~think~~ consider there was any

worth $600.
Qest.
State whether Mr. ~~Barron~~ Barnes & Jas. H. Duck at the time of the division & valuation referred to, did not express their dissatisfaction at the same?
Ans.
Mrs. Barnes was in the house, but I never heard her say any thing about it. Jas. H. Duck said he was not satisfied.
Qest.
Did you not tell Mr. I. W. Duck at that time, that Jas. H. Duck was dissatisfied with the valuation & division
Ans.
I told I. W. Duck that evening going home, that Jas. Duck was not satisfied & that the division would be upset.
Cross Exam?
Qest.
What induced you to fix the value of the house plow at $10. per acre.
Ans.
We valued the whole plow including buildings at $10. per acre for the purpose of assigning dower.
Qest.
Was not the dower assigned the widow

Joseph H. Duck and James Barnes Pltfs.
against In Chancery
Wm W. Duck Dft.

The Deposition of Wm. H. Vaughan, Alfred R. Butler & Joseph H. Duck taken before N. P. Young a commissioner in chancery of the circuit Court of Isle of Wight county, to be read as evidence in certain matters of accounts before the said commissioner under decree in this cause rendered on day of Oct. 1866. on this 8th day of Jany. 1868 at the office of the said commissioner

Wm. H. Vaughan being duly sworn deposes as follows.

Quest. by Pltfs. counsel.

What was the value of the different tracts of land & lot assigned to the different parties, in the division referred to in your former deposition taken at Coms=ville?

Answer.

We valued the land assigned to Joseph H. Duck at $10 per acre without buildings - There was no building on the land so assigned. I do not know how many acres were assigned him.

I do not recollect the aggregate amount
at which Jos. Duck's land was valued.
Cust. by same.
In saying in your last ans. that you valued
the land assigned to Jos. H. Duck at $10. p. acre
did you include in such valuation the
portion assigned to the widow as dower, or
was he to pay an additional sum for the
dower building, on the death of the widow
& if so how much?
Ans.
The land assigned Jos. Duck was, as I have said,
valued at $10. per acre, but he was to pay
at the death of the widow an additional
sum for the building if he took them. I
cannot recollect the additional amount he
was to pay.
The portion of land assigned to I. W. Duck
was valued at $2. per acre. I do not
now recollect the quantity of land assigned
to him or the aggregate amount.
The tract called the "Abby place" and a
lot in Suffolk were assigned to W. Barnes
now W. Barnes, I think it was all valued
at about $2. per acre or what Jacob H. Duck
paid for it, except the part assigned to Jos. Duck
I do not remember what the lot was valued.
Cust.

In valuing the land assigned to the parties other than Jas. H. Duck, did you have any reference to the value at the time of assignment?

We had no reference to its then value, but referred to what the father paid for it.

Ques.

Say whether or not the land assigned to Jas. H. Duck was better timbered or of more value than that assigned the other parties?

I do not think it was.

Ques.

In this division did you take into consideration, the land advanced to I. W. Duck by his father, or any other advancements to the parties?

Ans.

Not as I understood.

Ques.

Are you acquainted with the land advanced to I. W. Duck by his father, if so, state its value at the time it was advanced by his father?

Ans.

I am acquainted with the said land. I think the "Comanche place" was worth $1500. I think the Johnson place was

Exhibit X

Filed with R. H.
Beamer's deposition

X

$300

On demand We or either of us promise to pay to A. W. Addison his heirs or assigns the Sum of Three hundred dollars Lawful money of Virginia for value received We bind ourselves our heirs and Administrators jointly severally firmly by these presents Witness our hands this 20th Dec. 1843

Note $800

Frederic Hall

Paid

181.20

T.B.

October 3

1844.

Alexander Bedwell

H. Kelly Jr. Co

Jacob A. Duckett Co

I have, paid one hundred and fifty seven dollars 67 cents on the above Note

Rec'd Interest thirty seven Dollars and fifty cents up to the 20th of January 1846

A. W. Wilson

Rec'd of the within note fifty two dollars, Feb 15th 1848.

Mrs. H. Brewer

Rec'd on the within ~~note~~ forty eight dollars & fifty three cts. Feb 16th 1850

Jesse B Brewer

Lysander B Brewer

~~Lysander B Brewer~~

No Note $300.00

Rec'd on the within note one hundred and thirty two dollars and thirty three cents. Feb. 9th 1852

Jesse B. Brewer

Rec'd of Nathaniel Deamon one hundred & thirty three dollars

on the within note. March 9th 1852

Jesse B Brewer

Rec'd of N. Deamon twenty four dollars & fifty seven cts.

Jesse B Brewer

Jan 1st 1857

276 and interest

$2467

193

$157-67

To Irwin W. Duck

Take notice that we shall on the 30th day of September 1867, next, at the store house of Edw.d Rawls, at Carrollton in Isle of Wight County Va. between the hours of 8 a. m. and 6 p. m. of that day, proceed to take the Depositions of Martha Barnes, _____ and others, to be read as evidence in our behalf, in a certain Chancery suit _____, depending in the Circuit Court of Isle of Wight County, wherein we _____ are plaintiffs, and Wm &c _____ are defendants; and if from any cause the taking of the said Depositions be not commenced on that day, or if commenced be not concluded on that day, the taking of the same will be adjourned and continued from day to day or from time to time, at the same place and between the same hours, until the same shall be completed.

Respectfully,

To the Sheriff of Isle of Wight. }
County to execute. }

Wm. H. Duck
Martha Barnes,
per atty

Executed by delivering a True
copy of the within to J. W. Buck
on monday Septr 16th 1867

Mills & Powell DS
for E. L. Eley Shff. Co

Buck & Hutchison
vs
Eley Shff
Sept 16th 1867

Commissioners Office, Isle of Wight
Courthouse, December 7th 1867.

To Irvin W. Duck Esq.

You are hereby notified, that I have appointed the 8th. day of January next, at my office aforesaid, for taking further testimony, in the matter of accounts referred to me as a commissioner in chancery of the Circuit Court of Isle of Wight County, by decree of the day of 1866, in the suit therein pending, between Joseph S. Duck & Jamm Barnes & Martha A. Barnes, his wife, plaintiffs and you, the said I. W. Duck, defendant. At which time and place you are required to attend and have present, before the said commissioner, your witnesses.

Given under my hand as a commissioner of the said Circuit Court, the day & year first aforesaid.

N. P. Young Com.

~~Dec the 13th 1867 Executed by the delivering a true to J W Dyche~~

Executed by delivering a true copy of the within to J W Dyche on the 17th Dec 1867

Mills E Powell DS
for E L Eley Shff

Sh. St. Rock Sup.

vs.

Ben. Pond et al.

J. W. Dyche

No 8. Jany. 1868.

Commissioner's Office, Isle of Wight Court House,

January 26th. 1867

To Joseph H. Duck, James Barnes & Martha his wife and Irvin W. Duck.

You are hereby notified that I have fixed upon the 15th day of February next, if fair, if not, the next fair day thereafter, (Sunday excepted), to take and settle, at my office, the following accounts:

"The value of all advancements made by Jacob N. Duck, in his life time, to his children, or any one of them, as refered to in the bill, showing the value of such advancements, and the lands refered to in the bill, and such amounts as should be assessed to equalize the respective shares of the parties"

required to be taken by decree of Isle of Wight Circuit Court, rendered on the 19th. day of October 1866, in a suit in Chancery depending in said Court, between

Joseph H. Duck and James Barnes & Martha his wife Complainants, and Irvin W. Duck defendant.

at which time and place you are required to attend.

Given under my hand as a Commissioner of the said Court, the day and year first aforesaid.

N. F. Young Com'r.

Executed Wm S. H. Duck & S. W. Duck.
Feby. 2. 1867.

Jos. H. Duck Sals:

v. Z Cond. Notice

Irvin W. Duck

To 15th Feby. 1867.

Pursuant to an Order of the County Court of Isle of wight bearing date the 5th day of September, 1864. We the undersigned Commissioners, after being duly Sworn have proceeded to View the lands of Jacob A. Duck dec'd and after carefully examination, have set apart to the Widow Nancy Duck One equal third part of said lands, having regard to quality and quantity, Bounded as follows: Commencing at a large branch and running up a cross fence to the Young Orchard, and thence along the fence to the garden, and thence along the Yard Railing to the lane fence, and thence along the lane fence on the North side to the Road, and Straight to the branch, and thence down the Branch to Beaverdam Swamp, and thence down said Swamp to a large branch, and up the branch to the begining— With the privilege of the entire use of the barns & Stables— Given under our hands this 7th day of December 1864.

A. R. Butler
Wm C Barnes
W. H. Vaughn
Edward Rawls

In the County Court of Isle of Wight County March 6th 1865. the foregoing Report of dower in land, having been filed One Month and no exceptions Made thereto, was Confirmed and Ordered to be recorded.

Teste N. P. Young Clk.

A Copy Teste N. P. Young Clk by.
H. H. Womble D.C.

Deed Bk &c.

4, 3 Coby.
V.

Deed Bk &c.

Report of assignment of
dower to Nancy Dark.

Exhibit A

April rules 1866 filed with
Complts. Bill.

Mr Young

You are required in Duck & Duck to ascertain value of advancements &c and it is important to close the case, I must ask you to do so early as you can —

Dine a day after Court — say Jan 28th, and summon Mr H. Duck — W. H Vaughan Alfred R. Butler, Wm E. Barnes, for Plts: and I suppose you had better notify S. W Duck to have his witnesses — These witnesses are to prove values, so as to enable you to make us report — Your attention is desired to the above

Yr. Ob. Svt
Wm R Kirk
5 Dec 1867

Nothing has been proved as to value of parcels each one has

Duck Sals.

Attos. Memo.

v.

Duck

Notice of 7. Dec 67
to 8. Jany. 1868.
ales Sps. for witnesses.

Duck &c. v. Duck &c.

This cause came on this day to be again heard by consent of parties on the papers formerly read & on Examination of partnerships and on agreement marked (X) this day filed by consent of parties & was argued by Counsel: On consideration whereof the Court, by consent of parties, doth confirm the agreement, and doth adjudge order and decree that Wm. H. Duck pay to Martha A. Barnes the sum of £155.67 and to Irwin W. Duck the sum of £455.67, with Interest thereon from the 1st July 1865 till paid; And the Court, by authority of said agreement doth adjudge, order & decree that Irwin W. Duck pay to the said Martha A. Barnes the sum of £184.34 with Interest from this day: and that the said Wm. H. Duck pay to the said Martha A. Barnes the sum of £82.66 with Interest from this day; and that said of said Irwin W. Duck, Wm H Duck & Martha Barnes pay one third of the Costs of this suit; and nothing more remaining to be done in this cause it is ordered that the same be removed from the Docket.

being difference in the division of the Lands of Jacob H. Duck dec'd

and it is ordered that the said agreement (X) be recorded in the order Book of this County

Duch & (No 23
vs
Duch L

1869
Cct. Ct. Decree
To be entered
E. P. Pitts

In the Circuit Court held for the County of Isle of Wight
October the 19th 1866.

Joseph H. Duck, & James Barnes & Martha his wife — Compltts

Against — In Chancery

Irvin W. Duck and Nancy Duck — Defts.

This Cause Came on this day to be heard on the bill of the Complainants, and on the answer of the Defendant Nancy Duck this day filed by leave of the Court and on the answers of the defendant Irvin W Duck and exhibits filed with said Bill a Genral Replication to said answers and was Argued by Counsel: On Consideration whereof the Court doth dismiss the pltts. bill as to Nancy Duck and doth Adjudge Order and decree that a Commissioner of this Court Ascertain and Report the Value of all advancements Made by Jacob H Duck in his life time, to his Children, Or any one of them, as refered to in said bill and make Report Shewing the Value of such Advancements and of the lands refered to in said bill and such Amounts as Shall be Agreed to equalize the respective Shares of the parties, and make Report of any Matters Specially Stated deemed pertinant by him or that any one of the parties, may require to be so Stated: and On Motion of the Deft. Irvin W Duck, Leave is given him to Amend his answer in Sixty days, And an account of all real estate left by the Intestate at his death, and in whose possession the same is and under what Authority the same is held, and the Value thereof.

Teste N. P. Young Clk

Deck & als.

Copy Decree
for accounts

vs

Deck & als

Notice ifp. 26. Jany. 1867
to 15th Feby. 1867.

Feby. 15. 1867 depon. Cotton
& cond. to 7. March 1867
Time 7 hours.

Jany. 8. 1868 further depon. Cotton
& cond. to 24 Jany. Time 6 Hs.

Jany. 24 - 6 Hours

Duck Sal: v. Duck Sal:

This cause came on this Day to be heard on the Bill of the Complainants, and on the answer of the defendant Nancy Duck, this day filed by leave of the Court & the answer of the defendant Irvin W. Duck, & exhibit filed with said Bill & general Replication to said answer, and now argued by Counsel. On Consideration whereof the Court doth adjudge, order and decree that a Com'r. of this Court ascertain and Report the value of all advancements made by Jacob Duck, in his lifetime to his children, or any one of them, as referred to in said Bill* ~~in making such report, that he include the Lands referred to in said Bill~~, and make a Report shewing the values of such advancements, and of ~~any~~ all the Lands referred to in said Bill, and such amounts as should be assessed to equalize the respective shares of the parties, And make report of any matters specially stated deemed pertinent by him or that any one of the parties may require to be so stated: and on motion of the def't Irvin W. Duck leave is given him to amend his answer in sixty days

+ and that a Com'r. of this Court ascertain all the personal estate left by the Intestate at his death, and in whose possession the same is, & under what authority the same is held, and the value thereof.

Duck Sal.

(1)

Duck Sal.

1866

Col. Ct. Decree

To be entered

R. H. Baker

The Heirs of Jacob H. Duck have agreed to a division of the Land of said deceased as follows & set out & made in 1863 & now confirmed —

The House & Lot in Suffolk valued at $1200.00

The Homeplace at. 1500.00

The abby place " 200.00

The Bradham & Emm " 200.00

The Peg place " 300.00

The Elijah place " 600.00

$4000.00

The value of the Dower right he agrees to be — 2333.00

Actual value $4667.00

assigned to Mrs Martha A. Barnes

The House & Lot in Suffolk valued at $1200.00

& The abby place at. 200.00

$1400.00

and to receive of

H. H. Duck, cash 155.67

Cer's on $1555.67 $4667.00

Brt. on $1555.67 $4667.00

assigned to Jno W.
Ouch as follows.
The Bradshaw Emm place
valued at $200.00
The Peg place at 300.00
The Elijah place 600.00
$1100.00
To recvd of Jn.
D. Ouch Cash 455.67 $1555.67

assigned to Jn. H. Ouch
The Homeplace at $4500.00
Deduct value of Dower 2333.00
$2167.00

To pay Mr Mathes
a Barn $155.67
and to pay
Jno W Ouch 455.67 $ 611.34 $1555.66
$4667.00 $4667.00

It further agreed that the account
of advancements made to each
by our father Jacob H. Ouch
shall be as follows —

To Irwin W. Duck $1600.
" Jr. H. Duck $1500
" Martha A. Barnes $1100
Total $4250
each share $1416.66

To be paid to Martha A. Barnes
to equalize shares as follows
By Irwin W. Duck $182.34
" Jr. H. Duck $82.66
$266.00

And we agree that a decree
may be entered according to the
foregoing statements in the cause
now pending in the Circuit Court
of Pike County wherein
Jr. H. Duck & Martha A. Barnes
are complts and Irwin W.
Duck defendant.

Given under our hands Oct
15th 1869.

Martha A. Barnes.
Jr H Duck

Oct. 15th 1869 J W Duck

Duck &
vs
Duck } Sapsea.

Agreement
filed 18th Oct 1869
marked X

Recorded in Dep
Order Book
No. 5. p 625

At a Quarterly Court held for the County of Isle of Wight on Monday the 5th day of March 1866.

The report of the Commissioners who assigned to Mrs. Nancy Duck, widow of Jacob H. Duck dec'd; dower in his land, having been filed for one month and no exceptions filed thereto, is confirmed by the Court and ordered to be recorded.

A Copy.

Teste, N. P. Youngblood

At a County Court held for the County of Isle of Wight, on monday, the 2nd. day of January 1865.

The Commissioners appointed by order of a former term of this Court, to set apart to Mrs. Nancy Duck dower in the lands of her late husband, Jacob H. Duck dec'd, made their report, which is ordered to be filed.

A Copy.

Test.

N. B. Young Clk.

The following depositions were taken at the store house of Edw'd Rawls at Carrsville in Isle of Wight County on the 30th day of September 1867 between the hours of 8 a. m. and 6 p. m. of that day to be read as Evidence in a certain suit in Chancery pending in the Circuit Court of said County, wherein Jacob H. Duck &c. are plaintiff and Irvin W. Duke defendant. Taken pursuant to the annexed notice

Martha A. Barnes One of the plaintiffs being duly sworn answers and says as is set forth in her answers following —

Ques. 1st by John R. Kilby, Pltfs. Atty. What relation are you of the late Jacob H. Duck, and of said Irvin W. Duck?

Answ. I am the daughter of Jacob H. Duke & sister of Irvin W. Duck.

Ques. 2d. Examine, State all you may know or may have heard your father, the said Jacob H. Duck say as to any advancements to any of his children and all you may know about it?

Ans. I heard my father Jacob H. Duck in

his life time often say that he had let from have the Sheriffty of Dale of Wright County & which he was entitled, to enable him to buy him some negroes as he had none to give him then, and that he considered the Sheriffty about equal to what negroes he had advanced me & my Brother Joseph.— I heard my father say that the Sheriffty was worth about Twelve hundred dollars—

My father advanced to me two small negroes, named Parma & Caroline —They were given to me at different times and were each about 7 or 8 years old— one (Caroline) was given to me in 1843 & Parma in 1847.—

My father also gave to Joseph, two negroes William & Leah, one good large negro, & also old woman Phillis

The Johnson tract of land was under a Deed of Trust to my father, was sold under the Deed & purchased by Irvin & the Deed made to him, the proceeds being given by my father to Brother Irvin the amount I do not recollect— also my father aforesaid gave to Brother Irvin, the land that Irvin now lives on

called Carraway's tract, I don't recollect the value; I heard him say that it was better Land than the one he (father) lived on & had better timber.

My father also gave me his beds & Bureau costing $14. & a single cult. &c. &c. also to Jim & Jo: each a bed & spring, ~~a case~~ ~~some~~

Ques 3 by same. Do you know any thing about your father's paying any security money for your former husband (Wm Lysander Beamon).

Ans. My former husband had to borrow some money to pay off a debt & applied to my father to borrow it, but he would not lend it to him, whereupon he borrowed it of his father Wm Nathl Beamon & my father became security, and after my former husband's death his Exor. (D. R. L. Beamon) paid the debt to Wm Nathl. Beamon out of my husband's estate.

Ques 4. When the late division of your father's land took place, but without any decree of Court what was your understanding as to the same.

Ans: I only understood it to apply to the Lands named in the Report of the parties who acted as Comrs. and as

no one had anything to do with advancements made by my father in his lifetime —

Ques. Question by Wm W Duck

Did I not propose to bring in all advancements of the other parties named.

Ans. Yes he did at the Sale, but I said to him that if he owed bring all the Land he had received, I was willing to bring all I received. but I have not heard any thing of it since —

Cross Examination Defendants Atty not.

Martha A. Barnes

Wm E. Barnes being duly sworn says as set forth Below

Ques. Question by Jno R Kelly of Pltfs Counsel

Did you act as one of the Com. to divide the Lands of the late Jacob H. Duck dec'd and by what authority, and what did you divide.

Answer. I acted as one of the Com. to set apart the Dower of Mrs. Duck as the widow of Jacob H. Duck, which was our

only having under the decree, - after getting through with that, as near as I recollect the proposition was made by Wm Irwin & Duck to divide the Lands of W. Jacob H. Duck among the heirs, tho. the Decree said nothing about it after talking over the matter but Wm. H. Duck said something against it, & I observed that if there was any objection we (the Comm.) had no power to do it. - after considerable conversation between the parties & the Comm. & the seeming acquiesence, tho. grumbling at the time about it, of W. Jr. H. Duck, we proceeded & made the division; we made no written report, but simply estimated the values and were governed very much by what the Lands cost W. Jacob H. Duck except the homeplace and were not governed by the then real value; the war was going on and matters very uncertain as to value - The Home Place was not valued at what it cost, but what we considered it's then value - we did not take into consideration any advancement made by said Jacob H. Duck to any other children, but simply confined ourselves to the parcels of land referred to. - after we got through & made known our conclusion, the parties

left – in the matter Mr. seemed rather dissatisfied

Cr. Examd. by Irwin W. Duck

1st Ques. Excuse did I not offer to the Comrs. to let them assign the home place to Jno. & the Iron Lot to Mrs Barnes.

Ans. This may have been so but I do not recollect.

And further this Deponent saith not.

Wm H. Barnes

Wm H. Vaughan being duly sworn says as below

1st Question by John R Kelly of pltfs. Counsel did you act as one of the Comrs to divide the lands of the late Jacob H. Duck dec'd and by what authority & and what did you divide.

Ans – I was one of the Comrs. appointed by order of Court to say all the Dower of Mrs Duck as widow of Jacob H. Duck dec'd – which was done – after we got through with that, Mr Irwin W. Duck proposed to us to divide the Lands among the heirs of Mr Jacob H. Duck, and as well as I recollect he

to him we had nothing to do with it but by Consent of parties we could do it. There was then Considerable talking about it, but I say that there was Consent I cant say it, for Mr Bamy was in the house & Jno. H Duck, so far as I recollect did not consent, but yet after much talk we did proceed to make a division — we value the Land, except the home place, according to what Mr Jacob H. Duck had paid for them, such by their then value — The Home place we valued at what we then thought it worth — the war was going on Values unsettled — we valued the Land, with reference to good money — after we got through, I spoke & said that I didn't think the value right because we valued part of the Home place at Ten dollars per acre & the rest then mostly at about Two dollars per acre & just as soon. The matter was left so & we separated.

There was no consideration by us of any previous advancements made by Jacob H. Duck to any of his Children, but the attempted division was confined to the Land referred to —

(over)

when we were about the division W. Vaughan
W. Duck said that he wanted the
homeplace and his sister wanted the
Iron Lot, and in the division these parcels
were so assigned—

And further Deponent saith not.

W. H. Vaughan

Joseph H. Duck being duly sworn
says as set forth below.

Q. Ques. by Geo. R. Kilby of plts. Counsel.
State what your understanding of the
division of your father's lands was, &
all the circumstances about it.

Ans.— After the Dower was set apart to my
mother, my Brother Wm said that
the Comrs. had better divide the Lands
which they proceeded to do after much
conversation, I raised some objection to
the division before the Comrs acted, but I did
not make any obstinate opposition, I
said no more against it, and the Comrs.
probably considered that I consented
but I gave no consent, further than not
to oppose it longer. after the division
was made I spoke of the value of
the Land assigned to me as being too

high, in proportion to the value of the other Lands but no change was made during our time, and late in the afternoon, we dispersed.

The Lands (except the homeplace) were valued at what my father gave for them and the Homeplace according to the then value, whereas a portion of the home Lands are no more valuable than some of the others —

And further Deponent says not.

Joseph H Dunk

Isle of Wight County to wit:

I, Alfred R. Butler a Justice of the peace, in and for said County, do certify that the foregoing Depositions were taken at the place on the day and between the hours set forth in the caption hereto pursuant to the annexed notice. — Given under my hand 30th Sept 1867.

A. R. Butler J.P.

Acts. 2nd. 1867. Comm to
Land under sale &
filed. N. P. Hovey Com'r.