1888-015
Nansemond Co. (Suffolk) Chancery Causes: Edwin J. Matthews et al vs Elizabeth Ann Holland

Richards, Bartlett, Prentis

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

Elizabeth Ann Holland

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held for the said Court, on the first Monday in December *next, to answer the Bill in Chancery, exhibited against* her *in the said Court by* Edwin J. Matthews, Elijah Richards and Louisa his wife.

and have then and there this Summons. Witness, PETER B. PRENTIS, *Clerk of our said Court, at his office, this* 5th *day of* November *1880, in the* 105th *year of the Commonwealth.*

Teste: Peter B. Prentis *Clerk.*

All Available Text Successfully Captured

Wmo: To enjoin, restrain and prohibit Elizabeth Ann Hollands and her agents from committing any further waste or damage upon the real estate upon which she resides lying in Chuckatuck District Nansemond County adjoining the lands of E J Matthews, John T Phillips, Scotts Creek and the County road leading to Millwood by cutting or selling the timber thereon for manufacture into piles or by any other ways or means whatsoever until the further order of the Circuit Court of Nansemond. —

Teste,

Peter B. Prentis. Clerk

Executed by delivering a copy of the within Injunction to Mrs Matthews

Nov 6th/80

A Hollands Sh'ff

Edwin J. Matthews Vs.

Sum'ns in Ch: Injn

Elizabeth Ann Hollands

In Chan: Rules. 1880

Pro: 13. Ac: 1. Sumps. 150

Cir: C.

WILLIAM MANN,
Stationer,
Philadelphia.

Know all men by these presents, that we Edwin J Mathews and Elijah Richards are held and firmly bound unto the Commonwealth of Virginia in the sum of Two hundred and fifty dollars, to the payment whereof well and truly to be made to the said Commonwealth, we bind ourselves and each of us, our and each of our heirs, Executors and administrators, jointly and severally firmly by these presents, sealed with our seals and dated this 5th day of November AD 1880. and in the 105th year of the Commonwealth and we hereby waive our Homestead Exemption, as to this Obligation.

The Condition of the above obligation is such that Whereas, Edwin J Mathews, Elijah Richards and Louisa his wife, on their Bill in Chancery against Elizabeth Ann Holland, addressed to the Honorable George Blow, Judge of the Circuit Court of Nansemond County have obtained an injunction from the Honorable Nathaniel Riddick judge of the County Court of Nansemond County to enjoin ~~and~~ restrain, and prohibit Elizabeth Ann Holland and her agents from Committing any further waste or damage upon the real estate upon which she resides lying in Chuckatuck District Nansemond County adjoining the lands of E J Mathews John S Phillips Scotts Creek and the County Road leading to Millners, by Cutting or selling the timber thereon for manufacture into sales or by any other ways or means whatsoever until the further order of the Circuit Court of Nansemond.

And whereas it is provided by the order of the

said Judge of the County Court who awarded the said injunction that the plaintiffs or some one of them shall enter into and acknowledge a bond with good security before the Clerk of the Circuit Court of Nansemond in the penalty of Two hundred and fifty dollars Now therefore if the said Edwin J Matthews and Others shall pay all costs as may be awarded against them and all damages which may be incurred in case the said injunction be dissolved then this obligation to be void otherwise to remain in full force and virtue.

E. J. Matthews Seal

Elijah his X Richards mark Seal

Witness
Robt R Prentis

Edwin J. Mathews Dal
vs } Injn: Bond
Elizabeth Ann Holland

Nov: 5th: 1880
Executed, acknowledged
& filed

10 11 1250

Betsy Ann Holland :- = Life
Lucia Richards :- 2c -
Catherine Barby -, 2c - Century.
Benedetta Holland :- 2c -
Joseph Marbury :=

Willie Wells
Pete Burtie
Edmund Randall
Henry Holland

To Clerk Circuit Court of Nansemond -

Edwin J. Matthews, Elijah Richards and Louisa his wife -

v.

Elizabeth Ann Hollands -

Summons in Chancery -

Memo: To enjoin restrain and prohibit ~~the within~~ Elizabeth Ann Hollands and her agents from committing any further waste or damage upon the real estate upon which she resides lying in Chuckatuck District Nansemond County, adjoining the lands of E. J. Matthews, John T. Phillips, Scotts Creek and the County road leading to Millers by cutting or selling the timber thereon for manufacture into piles or by any other ways or means whatsoever until the further order of the Circuit Court of Nansemond. -

Withers Brent p.q. -

5 November 1850.

Memo: for Process

Edwin J. Matthews, Elijah Richards
and Louisa his wife

v.

Elizabeth Ann Holland.

By consent of parties here
entered of record it is ordered
that this cause be submitted to
the Judge of this Court for
decree to be entered herein, in
vacation. —

E. J. Matthews

vs

Order

Eliz. Ann Holland

Entered 18. April 1888

Paper in hands of Judge

Entered City order Book
No. 2 P. 106

The depositions of Mrs Elizabeth A Halland and others taken before me M T Pinner a Notary Public in and for the County of Nansemond State of Virginia at the office of Merritt Briggs in Suffolk Va (notice being waived) on the 1st day of April 1881 between the hours of 6 am and 6 pm to be read as evidence in behalf of the defendant in a certain suit in Equity depending in the Circuit Court for Nansemond County between ~~Dabb~~ E J Matthews and others Plaintiffs and the said Elizabeth A Halland Defendant

Present: Merritt Briggs atty for the defendant

R R Prentis of Counsel for plaintiff

Mrs Elizabeth A Halland being duly sworn on the holy evangelist of Almighty God deposes and says as follows—

2nd Q. What is your age, where do you reside and do you know the parties to this suit?

Ans. 65 yrs of age, resides in Nansemond County. Yes sir I know the parties to this suit

2nd Q Did you ever see the will of Saml Matthews dcd and if so state what disposition was made in the said will of the tract of land in the bill in this suit described?

Ans I have seen it once but it has been a long time since
It was given to me ~~for~~ my home support and I was never to be interrupted in it.

3rd Q Are you related to E J Matthews? ~~If~~ if so state the relationship

Ans I am his own sister.

4th Q Did your father leave him any property in his will

Exception by plaintiffs Council because immaterial irrelevant and immaterial

Yes sir he left him his home farm where he resides, horses, bridle and saddle still and apple mill, gun, Coat and wheels,

5th Q Did not yr father give you in his will the said title to this tract of land upon which you live that he gave E J Matthews his son to his farm?

Exceptd to by plaintiffs atty because leading in form

Ans Yes sir he gave it to me in his pocket and told me to hold it and do as I choose with it

6th Q What is the condition of the house on this tract of land in question in which you now reside?

Ans It is not fit for any one to live in if they can do any better

7th Q Did you go to see Mrs Richards to try to persuade her to withdraw her name from this suit?

Ans Yes sir I did

8th Q Did you or Brother E J Matthews ever offer build you a Kitchen?

Ans No sir he never offered to build me a Kitchen I did not have any Kitchen for over a year after I commenced the Kitchen and it was finished I did'nt have enough lumber to finish it and my sons brought enough lumber to finish it, and I told him some of the lumber was owing for and he got mad with me. And said if I wanted a

Ketchum it was my place to come to him he would put me up a Ketchum if I had come to him, I had no more right to go to Mrs Richards to put me up a Ketchum than I had to go to my brother not a bit

9th to 2 — How long have you lived on this place?

Ans — ~~I have~~ thirty five years

10th Q — was your father will living at the time you went to live on this place?

Ans — Yes Sir and years & years before.

11th — Cross Examined by Plaintiffs Attorney

1. Q — When and where did you see the Will of Samuel Mathews Deceased? —

Ans — I saw it in his own house when I married Mr Holland I moved down to Dr Briggs and stayed there one years then I went to where I now stay. My father married me there gave me the place and had it fixed up and have been there ever since off an on. I had to move away once and go to Millners, I had my sisters to take care of ~~her~~ ~~of~~ ~~of~~ ~~of

the oldest he cept my self) she
staid with me until the day
she was maried. they all had
to leave their fathers house after Jos
got maried

12 Ques. Did you ever see this Will at any other
time? —

Ans my father showed me this will in my
house where I live and said he
had altered it and said it was
my house and home and no one could
ever interrupt me

3rd Did you ever see this will at any other
time?

Ans Not as I recollect of I know
he gave me the place

4. Ques. Then according to your present recollection
you never saw this Will after your
father's death? —

Ans No sir I dont think I ever did

5. Ques To whom was the property to go after
your deaths?

Ans To my Children in comn, who has
property but my Children

6 Ques Did you see admit in the office of
Wilkes Phelps in Suffolk on the day the
Sheriff stopped you from cutting the timber
that your Fathers Will only gave the property
to you for life? —

No Sir I never spoke a word to
Mr Mathews in my life

7 Ques: Did you not admit this fact to Mr. ? ?
Prentis at the office alluded to, on the
occasion alluded to? -

Mr Prentis now asked me a question
about it, not as I recollect
he talked to me about the
spilings that were cut

8. Ques. Did you not say to Mr Prentis on the occasion
alluded to of your own accord, and not in
response to a question that your father
will gave the property to you for life
but that you thought you had a right
to cut the timber on it? -

Ans No Sir I never mentioned the will to
Mr Prentis but he did to me.

9 Ques Give the conversation that occurred as
near as you can recollect it? -

I dont know much about it he said
that Mr Mathews said cutting those
spilings was a great waist, I dont
recollect any thing else

10. Ques. You say in answer to 8. Question that Mr
Prentis mentioned the Will to you. What
did he say? -

He said Mr Mathews & Mr Richards
had him there and had the will
copied I understood him to say

so I am not sure, for I was very much bothered,

11 Rules. Q. to length the interview you & Mr Prentis?
I did not not come to Mr Prentis
Mr Withers wrote me a letter, to be here at 10 o clock he wanted to see me he gave the letter to Mr James Hall and he sent it to me by my son Jas Holland

12 Q. What was the purport of the letter, Why was it written, and was it not a letter in answer to and inquiry and request of your son asking me as a firm to appear for you in this case

Question objected to as irrelevant

I dont recollect to some my life I recollect some words of it - Joe Came over and said there should be no more splevings out, he came over on Sunday morning he said I had no right to cut the lumber and I mean to show you madam that you shant do it. you offer to sell lumber and I dont get rail timber on my farm you shant do it. on Sunday morning met my son Joe in the road and quarreled with him, said he had no

right to cut, and I shouldnt cut.
he had a warrant in his pocket
to issue on me

Ans Yes it was such a letter.

13. Ques What was the language of the will of your father in regard to the land on which you reside? -

ans I dont Recollect the language of the will It has been so long ago

14. Ques How many times have you moved off the place since you first went to me?

I moved to Millnors and before the war and the first or second year of the war Mrs Briggs came and got to my house, me and my husband Mr Holland to move on her land we moved there and stayed about two year as well as I recollect

15. Ques. How long did you live at Millnor's.

ans One Year

16. Ques Are you sure that you have never moved from the place at any other time? -

Objected to as Irrelevant

I am not sure

17. Ques. Why did you abandon a place that you considered your own to live on other people's land? -

ans Because it was so poor that I could not

make a living on it
Have you said in effect that it was because you only had a life estate it and had no interest in keeping it up? -

No never in my life

18 Ques You have stated that Mr Joe Matthews quarrelled with your son in the road. State how you know that he did, and that he said he had a warrant in his pocket for you? -

Because my son told me so himself

19. Ques. Did not your brother Mr E. J. Matthews offer to shingle your house? -

He said if it wanted repairing he would do it himself) he quarrelled with my son and said they would not work and improve the land because they thought that he would get it and after he said that the boys said that they never should repair the house

20th question When you came into the office of Withers & Prentis in conversation with Mr Prentis did you not ask whether or not you had the right to cut and remove the timber from the said land, upon which you now live?

No sir I never asked Mr Prentis

I asked him if Joe stopped the lumber what would become of it, he said they did not know.

21st q

When you say that "Joe stopped the lumber and what would become of it" what do you understand you to mean by what would become of it? ~~I asked Mr Brooks if Joe~~

Become he said I should never have it. I have sold it to one man and I shall not sell it to another.

22nd q

Do you mean to say then that you came to Suffolk to consult Counsel as to whether you had the right to ~~obtain~~ sell your own lumber from your own land) which you state you already knew that ~~you had a right~~ you had a right to sell

ans

No I never came for that purpose at all. I should not have come that day if I had not received a note from Mr Withers

23rd q

Have the note that you alledged to have been written to you by Mr Withers. or do you know where the said note is, or what is become

were If so you will please state
to whom the said note was addressed
and where you last saw it and
its contents if last

Ans I think I have the note,
dont know exactly but think I have
it at home.
the contents of the note were if the
said word or would I dont know
the contents of it unless I could
look over it

24th Q You have stated in your answer
to question No 12 that you did not
recollect some of the words
of it, as to the inquiry of the
letter or note do I understand
you to say now that you dont
remember and cannot recall
either the purport or contents of
the said note

Ans Not all of it I could not recall
all of it he told me he wanted
me to be in town at ten oclock
in the morning

25th Q You have stated in your answer
to questions 12 that it was a
letter in answer to and enquiry
and request of your son asking
us as a firm to appear for you

in this case is this true or not?

Ans He told me he saw Mr Mathews and asked him to appear for me in the case

26th Q Did you or did you not in the interview referred to with Mr Prentiss say that Saml Matthews left the property on which you now live to you for life with remainder in fee to Rebecca Catherine and Louisa Matthews your three grandchildren sisters

And ans I never ~~stated~~ made any such statement I never called my sisters Grand to Mr Prentiss in my life

27th Q Have you ever sold and cut timber from the said property before and if so was there any objection made by Jas Matthews or any one for him?

Ans Yes he objected I had some cut to build me a Kitchen

28th Q Where objection was made by Mr Matthews to the former cutting just above referred to do you remember the ground of his objection and did you stop cutting by reason of said objection?

I know the reason, he said I was not getting enough for the

1

lumber, not altogether I thought
before I would have any fuss
I had to submit to it he drove
Mr Bartlett out of the woods

29th Q You state there had been frequent fusses
about the cutting of the timber from
the property upon which you now live
State whether or not this is true, and
who made the fuss and contentions
about the timber and what reason
if any was assigned for the objections

Ans It is certainly true he never wanted
me to have a tree cut Joe wants
the timber himself and says that
none of it shall ever be cut
Says I have no rights to it what
ever and for all that he comes
to me every year to buy ~~timber~~
Joe Matthews & Lawsie
because they didn't want the lumber cut they
wanted it to stand there until I
was dead

30th Q Why did they want it to stand there
until you were dead

Ans I dont Know

31st Q You had Children to inherit your
Estate after your death did you
not

Ans I have Children

32nd Q Then if you have Children 14 etc as you state would they or Joe Matthews & Louisa Richards inherit your property after your death

Ans To be sure my Children would inherit my property

33rd Then why do you say that Joe Matthews and Louisa Richards wanted the timber to stand until after your death

Ans Because they ~~say~~ never wanted me to have any of it in my lifetime not even to have a Kitchen built

34th Q Did any other persons ever cut any timber from the said property at any other time than that referred to in your preceding answer and if so state who it was and for what purpose the said timber was used

Ans Only once in my fathers lifetime he gave my husband ten cords of Pine wood He cut it and sold it to buy him some corn

35th Q To whom was the ten cords of wood referred to sold

Ans I dont Know who bought it it was sent to Norfolk on Mr Briggs's ~~they~~ Grandfathers boat

36th Q Was this before or after your fathers death,

ans It was during my fathers lifetime

37th q Did any one make any objection to your husband cutting the said wood and if so state who?

ans No sir who could make any objection it was his and he did as he pleased with it

38th q Did Mr Little ever cut any wood or lumber from the said land and if so state when and what disposition was made of the same

A He cut some lumber to help build the Kitchen, about three years ago

39th q Did he use all the lumber he cut for building a Kitchen for you

Ans All the logs were hauled to the wharf but he never sawed them but he said they should be his logs. He paid me in lumber already sawed and measured

40th q Then he did not use all the lumber he cut in building your Kitchen did he?

The Lumber was all used in building the Kitchen & Smoke house

41st q Did any one object to Mr Little's cutting timber for the purpose of

to paving and making comfortable
your out buildings Above referred
to, if so state who and when
Ans Joe Matthews said that I had all
of the best of the logs cut
He never objected in particular but he
said but didnt want all of the best
of the Lumber cut
42nd Did Mr Matthews or any one Else
attempt to stop or in any way interfere
with Mr Little in cutting timber to
repair and make comfortable the
buildings on the said land
And Yes he said I dont know whether he
said any thing to Mr Little or not he
told me he didnt want it cut, he said
if I had come to him he would have
43rd put me up a Kitchen much cheaper
Whose from hauled the Lumber part of which
the Kitchen was built;
Ans Mr Jim Holland loaned a yoke of
oxen to haul the principal part of
it Joe Matthews hauled some of it.
44th Did Not Mr Matthews offer to pay
for chunging your house
Ans No sir he not that I recollect of
he told me if the house needed repairing
he would do it himself. and I
told him he never should do it

45th q Is Mr Matthews a carpenter?

Ans No Sir

46th q What became of the spikes or piles which were cut at the time this injunction was sued out?

Ans Mr Willis Tucker the man I sold them to took them and shiped them to Norfolk

47th q Did you collect the money for them and if so what did you do with it

Ans He paid me twenty nine dollars and I laid it down to shingle my old house

48th q What do you mean by laying it down?

I have not spent it

49th q Have you bought shingles & nails with it?

Ans Not yet but intend to have my house repaired in the Fall

50th q How is it that you can testify as to the contents of your father's will when you do not recollect to have seen it since his death?

Because he told me how it was

He gave me the place where he kept it

51 Q. Might he not have altered his will after he told you this?

Ans No Sir I dont think he ever did alter it. he altered it once when he gave

me the place

Re Examined by defendants Council

1st Q If I understand you you simply say that your father gave you the property upon which you now reside just as he gave your brother E J Matthews the farm upon which he lives that is in his simple and I might or not

Objected to as leading in form

Ans Yes Sir he gave it to me in his simple

2nd Q What did you understand by your brothers offer to repair your house, did No want going to give it to me

3rd Q Had your brother Mr E J Matthews been in the habit of extending favors to you?

No Sir he never extended any favors to me he never come where I was unless he wanted one of my boys to help him do something

4th Q When you went to the office of Mess Withers and Prentis did you not tell them that you came in response to a letter from them

Ans Yes Sir Mr Prentis told me I was too late he had already ~~settled them business~~ he had been employed on the other side.

5th Q After Mr Prentis imparted this infor

mation to you did you talk further with him on the subject?

Ans No sir I left very soon after he told me that and said nothing more about it

6th Q If I understand you correctly you duey inphatically that you told Mr Prentis or any body else that you only had a life Int in this place

Objected to leading in form

Ans No sir I never told Mr Prentis or any one else he never asked me and I never told him

Cross Examined by plaintiffs Counsell

1st Q Did you pay your brother for helping to haul the lumber for the Kitchen

Ans He never Charged any thing as I know of he could'nt Charge any thing as many favors as have been shown him by my husband by me and my whole family

2nd Q What made you think then that he was'nt going to give you the repairs which he offered to have done on your house

Ans Because I know he wasnt going to give it to me

3rd Did you ever pay him any money on any account?

mw

No Sir
And further this deponent sayith not

Edwin Ross.

The omission of the Notary Public to sign and certify this Deposition is waived as a ground of error. —

Robt. L. Prentis,
Counsel for Plaintiff.
Merritt Briggs, atty
for Defts.

To E. A. Holland

Take notice that we shall on the 28th day of March 1861. at the office of Peter B. Prentis in the Town of Suffolk between the hours of 6 A.M. & 6 P.M. of that day, proceed to take the depositions of E. J. Mathews and others to be read as evidence in our behalf in a certain suit in equity depending in the Circuit Court for the County of Nansemond wherein you are defendant and we are the plaintiffs. 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 & continued from day to day, & from time to time as the same place and between the same hours until the same shall be completed

Respectfully yours
E. J. Mathews
by Withers & Prentis.
Attys. &c. —

I accept service of the within notice
Mar. 19th 1887.

Biggs & Rawles
Atty. for Mrs. ~~Maitland~~ Holland

Edwin J. Matthews & al. Plaintiffs

vs. } In Chancery

Elizabeth Ann Holland, Defendant

In the Circuit Court of Nansemond County, Va.,

The depositions of Edwin J. Matthews and others taken before me, Wilbur J. Kilby, a Notary Public in and for the County of Nansemond State of Virginia, pursuant to notice hereto annexed at the office of Peter B. Prentis in the Town of Suffolk on the 28th, day of March 1881 between the hours of 6 A.M. and 6 P.M. to be read as evidence on behalf of the Plaintiffs in a certain suit in Equity depending ~~between~~ in the Circuit Court for said County between said Edwin J. Matthews and others, Plaintiffs and Elizabeth Ann Holland ~~and others~~, Defendant,

Present: Withers & Prentis, Attorneys for the Plaintiffs, and Merritt Briggs Attorney for the defendant.

Mrs. Louisa Richards being duly sworn on the Holy Evangelists of

Almighty God deposes and says as follows:

First Q. What is your age, where do you reside and do you know the parties to this suit?

Ans. I am 50 years of age, and reside in Nansemond County where I have lived all my life and I know all the parties to this suit.

2nd. Q. Did you ever see the will of Samuel Matthews deceased & if so, state what disposition was made in the said will of the tract of land in the Bill in this suit described?

Ans. I have seen the will and read it, and I know what disposition he made of said land. He loaned it to my oldest sister, Elizabeth Ann Holland ~~during~~ her life and at her death it is to be equally divided between ~~her~~ his three daughters, Penelope, Louisa, and Catharine. I give to them and their heirs forever.

3d. Q. When did you first hear that your sister, Mrs. Holland claimed

said land in fee-simple?

Ans. Here lately - not more than a week or two ago.

Cross-examined by Attorney for defendant.

1st. Q. When and where did you read this will?

Ans. I read it at my father's house soon after it was written, somewhere about 1856 ~~and~~ or 1857

2nd. Q. Do you remember the contents of the whole will?

Ans. I think I do pretty much. I speak in the words of the will: I give to my son Edwin J. Matthews, the home tract of land, horse, bridle and saddle, cart and wheels afflemill and still and gun That is what he gave him.

My chattel estate is to be sold and divided between my three daughters, ~~Rhoda~~ Rebecca, Louisa and Catharine, after all expenses and all my just debts are paid. The household and kitchen furniture now at Mr. Holland's I have paid for. I give them

to my grandson, Samuel Job Holland, and that was the contents of the will for I have read it.

3d. Q. Have you or have you not talked with Mr. Matthews or others about the contents of this will lately or since this injunction was sued out by him?

Ans. I have not talked the contents of the will to no body until I repeated it here.

4th. Q Have you talked with Mr. Matthews about this will since this injunction was sued out by him?

Ans I have said there was a will and that I recollected it.

5th. Q. Have you not stated the contents of this will to your attorneys?

Ans. No. I have not

6th. Q Have you not talked with them about this will or its contents?

Ans. No Sir. I have not except what I have stated here.

7th. Q. Did not Mrs. Holland live at this place before the death of her

father and if so how long?

Ans. She did live on it before the death of her father about three years.

8th. Q. Did not Mrs. Holland come to you some after this injunction was sued out to try to get you to withdraw your name as a party to this suit and did you not tell her that you could not do it without consulting Mr. Matthews?

Ans She came to my house but she did not say anything about getting me to withdraw my name from the suit. She asked me to go to Town with her the next day to see ~~another~~ a lawyer, I said to her No. don't let us go to law, I don't want this done Let us go together to see our Brother & decide the matter.

9th. Q Did you go together to see your Brother about this matter?

Ans. ~~She~~ I went to her house the next day to get her to go with me there, and she wasn't willing to go. So I returned home and haven't said anything to her since

10th. Q. Did you to go to see your brother about this matter s.

Ans. I did not. I went at home

11th. Q Have you ever had any conversation with him since about this wille s.

Ans. No Sir. I haven't troubled myself about the matter since & was in hope it was all done with.

12th. Q Did you not Know that Mr. Matthews had sued out this injunction s.

Ans. Yes Sir. of course I Knew it.

13 Q. You Know, then as you term it that he had gone to law s.

Ans. Of course. I Knew it as there was no other way to stop the cutting of the wood.

14th. Q. Do I understand you to say that you have had no conversation with any one about the contents of this wille since this injunction was sued out s.

Ans. Yes.

15th. Q Are you not one of the heirs at law of Mrs. Holland s.

Ans. No.

Re-examined by attorneys for Plts.

1st Q Who would be Mrs. Holland's heirs at law if she were to die

construction of said will which opinion was to the effect that the tract of land devised to Mrs. Holland was a gift to her for life with remainder in fee to said two or three single daughters

5th. Q. Did the language of the will create any doubt in your mind as to how that property was devised?

Ans. None whatever.

Cross-examined by Atty. for defendant

1 Q. When did you record this will?

Ans. I remember between 1850 and 1860

2. Q. Do you remember the contents of all the wills you have recorded for the last 25 years?

Ans No. I do not recollect the contents of some that I have recorded within the last 12 months because I have never been called upon to construe them, being out of the practice of the law

3 Q. Do you remember every opinion you ever gave while practicing law in regard to wills

Ans. No. indeed, but I remember very well having given an opinion to Mr. Job Holland (a son-in-law of the testator) in regard to the will here in question, said Holland being the husband. I presume of the defendant (Mrs. Holland) in this case and who was very much involved in debt. His object in seeking my opinion was to know if any of the property devised to his wife could be taken to pay his debts, and when I told him no that his wife had only a life estate, he was perfectly relieved.

Note:— This answer is here excepted to by attorneys for the defendant and the Notary at the request of Attorneys for Plaintiffs here notes that the grounds for the exception were called for by the Attorneys for Plaintiffs and were refused by Attorney for the defendant

4 Q. Did you write the will of Samuel Matthews deceased?

Ans. I did not.

5. Q. Do you know who did write it?

Ans. I do not.

6 Q. Do you know that your legal opinion was accepted in the construction of this will?

Ans. So far as it interested Mr. Job Holland, it was accepted by him with a great deal of pleasure.

7. Q. Do you ~~remember~~ remember the contents of the whole will?

Ans I do not

8. Q Do you remember what property E. J. Matthews, son of the deceased received under that will?

Ans. I do not

9 Q. Do you remember what property Penelope & Catharine Matthews received under said will?

Ans I do not

10 Q. Then you remember only that property given to Mrs. Holland?

Ans. Yes, because an opinion was solicited as to that item or clause alone.

11 Q Was this matter fresh in your memory when Mr. Matthews (E. J.) first consulted you

about it before he sued out this injunction s.

Ans. Yes. for at least twelve months before the suit was brought & it ~~as known~~ may be more.

12. Q What caused you to think about this matter before this suit was brought s.

Ans. Because some of the parties interested had asked me what my recollection was as to the contents of the will, I can't give their names

13 Q. Had you ever thought about this matter before those parties consulted you and refreshed your memory about it s.

~~Ans~~. Ans. I had not, but if there was any memory about it, I furnished them with my recollections

14 Q Did they seem to know the contents of the will when they approached you & asked you if you remembered the contents of the will s.

Ans. I can't say that they did.

Re-examined by Attorneys for the Plaintiffs

1 Q Who do you think were the parties interested who asked you what your recollection was as to the contents of said will?

Ans. I can't say.

And further this deponent saith not.

Peter B. Prentiss

E. J. Matthews being duly sworn deposes and says as follows:

1 Q. What is your age, where do you reside and do you know the parties to this suit?

Ans. I am 49 years of age, reside in Jasper and County and know the parties to this suit being party Plaintiff myself

2. Q Did you ever see the will of Saml Matthews and if so state what disposition was therein made of the real estate in the Bill in this suit described as near as you can recollect?

Ans. I have seen the will of Saml Matthews and know how he disposed of all his real estate. He gave me the home place, and to Elizabeth Ann Holland Hawk

tract containing 100 acres, her life at her death I give namely to Penelope, Louisa, and Catharine them and their heirs forever.

3. Q When you say Hawks tract, do you mean the tract of land in the Bill described upon which Mrs. Elizabeth Ann Holland at present resides?

Ans I do.

4 Q. What was the value of the timber cut on the said tract of land sould at the time this injunction was sued out?

Ans. They cut, between 120 and 130 spiles so I have understood and I have seen them on the wharf but did not count them as they were lying so I could not count them, and I think the largest ones worth 50 or 75 cents. The spiles were cut in three lengths I ~~susto~~ understood namely 40, 60 and 80 feet, I think the real value of the timber cut to be about $40.

5 Q Have any repairs been made to the house on said tract of land since this timber was cut?

Ans. None at all as I know of

6 Q. Has the defendant in this suit cut valuable timber from said tract of land at any time heretofore?

Ans. She has, Sir. Her husband commenced to cut it before he died. And the heirs of the land stopped him, by going to a magistrate who told him that if he continued to cut it, he would be ~~dispisses~~ dispossessed of the land, and that he had no right to cut it. The magistrate's name was Nathl. P. Phillips who is now dead. This has reference to the first attempt to cut timber off the land after my fathers death. Some four or five years ago, they commenced selling ~~timber~~ timbers in the shape of logs for lumber to build a kitchen. They cut and sold until they were stopped on their own accord. They did not build any kitchen & about 12 months or 18 months afterwards they commenced to cut again. I went to them & asked them what they

intended to do, and they answered that they were going to build a kitchen, I asked her where was the kitchen which was to have been built at the lumber cut the first time and she said they did not get much for it as lumber was selling low, and that she did not want it cut. that it was the boys' doings, Mr. Wm. Tom Bartlett was the man cutting it the last time, and I asked him what he was paying for it, she said $1.50 per thousand, I said it was very low for it being close to the water, I asked him how much he proposed to cut she said enough to build a kitchen & I left him & said no more as I had no objection to her having a kitchen, I afterwards saw Mrs. Richards & asked her if her sister, Mrs. Holland had said anything to her about cutting timber off the land & she replied that she had not, I then said Mrs. Holland had told some & as I thought for a very

low price, In a day or two afterwards Mr. Richards came & asked me to go with him to see Mr. Bartlett and we went, & Mr. Richards asked Mr. Bartlett what he was paying for the lumber She replied $1.50 per thousand, & Mr. Richards said he did not think it enough, & Mr. Bartlett said he had bought for that price & Mr. Richards said other parties were getting $2.00 per thousand for timber not so near the water. I then asked Mr. Bartlett how much he was going to cut & he said 10.000 feet of the best timber to pile out a Bile, I asked him if he had cut the Bile for the Kitchen, & he replied that he did not want any Bile to build a Kitchen & I replied that he was the first man who did not want a Bile to build a Kitchen and I asked him what he was to have for building a Kitchen & he replied that he had made no bargain, I ~~think~~ said I ~~think~~ thought it strange that ~~he~~ he had made a bargain to buy lumber and had fixed the price & had made no bargain ~~to build~~ as to the price for

building the Kitchen. His reply was that he was going to get two or three of the neighbors and have a steel building a fixed-up Kitchen and I ~~said~~ told him that if that was the kind of Kitchen he was going to build with the lumber he had cut, to let the lumber be and pay Mrs. Holland for what he had cut and take away all he had cut. Mr. Richards & I then went to Mrs. Holland & told her what we had done & that if she wanted a Kitchen she might settle with Mr. Bartlett and friend to build the Kitchen & get what he owed her, & if she lacked any thing I would finish paying for it for her. After all this Mr. Job Holland came to me to get my oxen to haul timber to the mill to get lumber to build a Kitchen, & I let him have them & he cut the timber & hauled the logs ~~I had the~~ to a sawmill I had the ~~timber~~ lumber cut and built a Kitchen. This was the third time they cut timber. The Kitchen is a very

temporary affair. the sills & scantling in it are a part of an old railroad tract. I asked Mr. Holland why on earth was he building such a Kitchen & why he did not have some sills hewn & build a good Kitchen. He replied if it stood last as long as he lived it was all he cared for.

Counsel for the defendant excepts to all the foregoing answer.

Counsel for Plaintiffs called for grounds of exception, but counsel for defendant refused to give the same.

Cross-examined by counsel for the defendant

1 Q Did you ever read the will of Saml. Matthews deceased?

Ans. Yes Sir. I have both read & heard it read

2. Q. Was it a legal will?

Ans I should think so. as legal as any body's will

3. Q. To be legal it must have been witnessed, give the names of the witnesses to the Will?

Ans. James E. Morris, James E. Jenkins John Thomas Ponden.

4 Q. Any other?

Ans. No other that I know of

5. Q. Did you not say that Capt. Benj. Sykes of Norfolk was a witness to the Will?

Ans. I said that I thought so at the time

6 Q. Did you read the Will carefully?

Ans. I read it carefully enough to understand it

7. Q If you were mistaken in the names of the witnesses, could you not be mistaken in the contents of the Will?

Ans. No. Sir, because I know how every piece of the property was disposed of.

8 Q. Are you certain that you have stated correctly the names of the witnesses?

Ans. To the best of my recollection

9. Q. Did you not say that if Benj. Sykes said he was not a

witness to the will, he told a false-
hood & said so because he was unfriendly to yrs.

Ans. No Sir. not exactly in these words, I said I thought he was a witness to the will and that if he did not own it. it was because he was unfriendly to me

10 Q. Since he says he is not a witness to the will, how is it that you can positively swear to the three witnesses named above

Ans. Because I distinctly recollect all three & went after them all myself to come to my father's house

11 Q Then if that be the case why was it that you ever solicited Benj' Sykes to be one of them?

Ans. Because he was at my father's house quite often and it struck me at first that he might be one of them

12 Q What relation is the defendant in this cause to yrs.

Ans My sister, so is Mrs. Richards

13. Q Has Mrs. Richards ever had any conversation with you

about this matter since this injunction was sued out S.

Ans. Yes Sir.

14 Q Have you talked with her about the contents of this will since this injunction was sued out S.

Ans. No Sir. except about the cutting of the timber off the land

15 Q Do you know the condition of Mrs. Holland's house at this time S.
(Excepted to as irrelevant)

Ans. ~~It~~ It is a tolerably good house and its present condition is ~~as~~ quite good ~~as it has been~~ it having been reshingled about 8 years ago

16 Q. Is it as good a house as you live in S.

~~Ans.~~ (Excepted to as irrelevant)

Ans. It is as tight as mine, and does not leak as bad as mine

17 Q. Did you not buy timber from this land of Mrs. Holland to build on your own land or for any other purpose S.

Ans. Yes. ~~I~~ with the consent of Mrs. Richards

18 Q According to your version of this will, in case of Mrs. Holland's

death, to whom will the land in
question go?

Ans. One-third to Mrs. Richards that was
given to her by her father and
Mrs. Holland, Mrs. Richards &
myself heir the two-thirds of the
two dead sisters, Penelope & Catharine

19 Q. Then you admit that Mrs. Holland
has an interest in the land?

Ans. No one has ever denied that.

20. Q Have you or have you not talked
with Mrs. Richards or others about
the contents of this will lately or
since this injunction was sued
out by you?

Ans Yes Sir, I have talked to James
Holland about it, but have
not talked with Mrs. Richards
concerning the contents of the
will, I talked with Mrs Richards
about the timber which Mrs.
Holland was cutting

21 Q Since this matter has been brought
up, have you not asked Mrs.
Richards her remembrance of
the will or has she not told
you what she thought the con-
tents were?

Ans. I don't recollect whether I asked

her about her remembrance or not nor has she told me what the contents of the will were

22. Q Did she not tell you before coming here this morning that Mrs. Holland had nothing but a life interest in this place?

Ans. Never in my life.

23 Q Did you ever have a conversation with Mrs. Richards in which she expressed to you what she believed the will was?

Ans. I do not recollect.

24 Q Then you mean to say that you never talked together about the will?

Ans. Yes, Sir, but we have talked about the cutting of the timber off the land.

~~25. Q.~~ And further this deponent saith not.

E. J. Matthews

Elijah Richards being duly sworn deposes and says as follows in reply to questions by counsel for Plaintiffs

1. Q What is your age, where do you reside, and do you know the parties to this suit?

Ans. I am 52 years of age. reside in Nansemond County and know the parties to this suit.

2. Q. Did you ever hear Mrs. Elizabeth Ann Holland say what disposition her father's will made of the tract of land upon which she resides?

Ans. I ~~heard Mrs. Holland~~ went to see John Thomas Pruden who wrote the will and he told me the contents of the will and that he wrote it. I then returned home and saw Mrs Holland sometime after that I told her what Capt Pruden had told me what the will was and she acknowledged to me that that was the will. I told Mrs. Holland what I had heard the will was. and ~~that she told her~~ that I had heard that Mr. Samuel Matthews left to his son ~~his~~ Edwin Jos. Matthews his home place, a saddle. gun

a horse & a bridle, but as to the rest of his chattel estate went I did not tell Mrs. Holland, I told her I had heard that the Hawk tract of land was sent by Mr. Saml. Matthews to his daughter Elizabeth Ann Holland her life & at her death was given to his three daughters Pielofe, Louisa, & Catharine & to their heirs forever, and she acknowledged that that was the will

Counsel for defendant excepts to this answer and Counsel for Plaintiffs asked for the grounds of exception but they were refused.

3 Q. Do you Know whether or not Mrs Holland ever cut any timber from the land in controversy & if so what disposition was made of it?

Ans. I Know that some timber was cut, but as to what disposition was made of it. I don't think there is a man in

the world who can tell ~~that~~ because I saw it after it was hauled, floating up and down the creek & some lying on the wharf which was there the last time I saw it. This was the first timber that was cut that I have any recollection of, since I have been in the family, and I think it was cut in ~~1877~~ 1877. I think as well as my memory serves me in 1879, they commenced cutting again, & Mr. Matthews ~~came~~ told my wife & myself that they were cutting again, I ~~then~~ then went to see Mr. Matthews & we went to see Mr. Bartlett who was cutting the lumber. One of us asked Mr. Bartlett what he was paying Mrs. Holland per thousand for the lumber & I think he said $1.50 per M. I said to him it was not enough, that other parties were selling lumber for $2. per M further from the water than hers & that I thought he ought to give more. I think Mr. Matthews asked

him how much he was going to cut She said he wanted to cut $10,000 feet of the best timber (and get the money for it) Mr. Matthews then asked him what size Kitchen he was going to build for Mrs. Holland She replied that he did not know, Mr. Matthews then asked him ~~for his Bill~~ where his bee for the timber to build the house was She said he had none, Mr. Matthews asked him how he was going to build a house without making out a bee & what he was going to build it out of & Mr. Bartlett replied that he was going to build it out of scraps & any thing he could pick up. I then said to Mr. Bartlett that if he was going to sell all the best lumber at a reduced price & build Mrs. Holland a Kitchen out of scraps & sap timber, I objected to his cutting any more. He stopped cutting and did not take quite all that he had cut, I and

Mr. Matthews went to see Mrs Holland before I went home I told her what we had done ~~what~~ I think what Mr. Bartlett had told us was his intention in regard to building the house. Mr. Matthews told her to get the money for what Mr. Bartlett had clear and that if she wanted a Kitchen get Elijah (that is myself) or some one who understood it to build her a Kitchen and what she lacked he would pay for himself.

Counsel for defendant excepts to the foregoing answer and Counsel for Plaintiffs called for the grounds of the exception but they were refused.

4 Q. Was the Kitchen built at this time?

Ans. At Sir.

Cross-examined by Counsel for defendant

1 Q. In the event it is established

that Mrs. Elizabeth Ann Holland has only a life interest in this place, what interest if any will your wife have in it S.

Ans. According to the will, she will have one-third ~~and~~ that her father gave her. and what she is entitled to from her dead sisters.

2. Q, Did you ever hear Mr. Matthews say that Benj. Sykes was or he believed him to be a witness to his father's will S.

Ans. I Never heard Mr. Matthews say that he was, I think several years ago I did hear him say that he didn't really know whether it was Capt. Sykes or Jim Morris that was a witness to the will

3. Q Did you ever see the will S.

Ans No Sir

And further this deponent saith not

his
Elijah X Richards
mark

1 1

State of Virginia
Nansemond County, to wit
I, Wilbur J. Kilby a Notary Public in and for said County in said State do hereby certify that the foregoing depositions were duly taken, sworn to and subscribed before me at the time and place mentioned therein.
Given under my hand this 28th. day of March 1881

Wilbur J. Kilby
Notary Public

Notary's fee $5.00
charged to the
Plaintiff. E. J. Matthews

E. J. Matthews et al.

vs. } In Chy.

Elizabeth A. Holland

Depositions
on behalf the
Plaintiffs

1881. March 29th. Filed

The deposition of W.T. Bartlett taken
befor me Merritt Briggs a Notary
Public in and for the county of
Nansemond State of Virginia at the
Office of Merritt Briggs by consent of
the parties intended. on the 18th day of
March 1884 between the hours of 6 A.M.
and 6 P.M. to be read as evidence in
behalf of the defendant in a certain
suit in Equity depending in the circuit
court for Nansemond county, between
E.J. Mathews et al Plaintiffs and E.A.
Holland defendant

Present Robt. R. Prentis of counsel for
Plaintiff
Merritt Briggs of Counsel for defendant

W.T. Bartlett being duly sworn on the
Holy Evangelists of Almighty God deposes
and says as follows —

1 What is your age, where do you reside,
and do you know the parties to this suit?

45 yrs. of age. Live in Norfolk county.
and I know the parties to this suit.

2 Mr E. I. Mathews and Mr. Elijah Richards have testified that they had a conversation with you several years ago with reference to the building of a Kitchen for Mrs. E. A. Holland the defendant in this suit. Please state this conversation in full?

A The first conversation was about the Kitchen with Mr. Mathews alone. Mr Mathews came in the woods to me when I was cutting lumber, and asked me what about the cutting of the lumber. I told him I was going to build Mrs. Holland a Kitchen & was cutting lumber for that purpose. I believe he asked me. what I was paying for the lumber. I told him 15.00 per thousand feet. He then asked me how much it would take to buy lumber for the Kitchen, I calculated and told him as near as I could. He then made some remark about not cutting the best lumber or something like that. Then he left me all friendly. In a few days after that Mr. Richards & Mr Mathews came down to my home at Milners & asked me about cutting the lumber and building the Kitchen again. I told them the same

thing. that I was paying $15.00 per thousand for it. One of the gentlemen remarked that it was not enough. I ought to give $2.- per thousand. I then told them that I would give two dollars per thousand provided they would let me go on and cut the lumber and build the Kitchen but could not build it as I had promised Mrs. Holland. I dont know whether I will then how I had promised Mrs. Holland or not but rather think I had. My agreement with Mrs. Holland was as follows. I was to make the Kitchen 2 feet narrower than the old Kitchen was. by this I could save 2 plates & joice (part of them) I was to get the lumber sawed & frame the Kitchen myself for which I was to have pay for by the Day, then I was to ask a few of the neighbors to help us to weather board it & cover it for which I was to make no charge. And if I had to pay $2 per thousand for the lumber I should charge for all of my work. So they would not agree to it and they went off and left me. This is about all that I recollect of this conversation.

At the time of the conversation just alluded
3 to were you familiar with the condition
of the buildings on this place - If so
state the condition of dwelling house
and Kitchen

A yes sir I examined them - The old Kitchen
was a frame Standing there, I could not
consider it a house. The covering was all
off - It was impossible to keep anything dry
in it - The weather boarding was in very
bad condition, not fit to put on another
house. The Dwelling house was in a
very poor condition - it needed some
weather boarding on it - It needed covering -
That is all I know about it.

Cross: Examined.

1. Q. How much timber did you cut and
what became of it?

A. I cut 2617 feet I sold it to H.H.
King & Co. - I gave an order on King & Co.
for the money -

2. Q. Did you ~~not~~ give Wm. Matthews & Wm. Richards

to understand that the lumber you were then cutting was to be used in building the kitchen or not?

A. No sir that is the thing I unintentionally omitted in detailing our conversation. The bargain between Mrs. Holland and myself was that I was to buy the lumber from her sell it to Gay & Co. get lumber from Gay & Co. which was $10.± per thousand for good merchantable lumber to build her kitchen.

3. Q. Were you to cut only enough to build the kitchen?

A. I was to sell enough to buy the lumber from Gay & Co. & pay me for my work and the expenses.

4 Q. Is that all you expected to cut?

A. That is all I expected to cut just enough to cover the expense of the kitchen.

Further this deponent saith not.

W. J. Bartlett

~~In Vacation~~

~~In the~~ Circuit Court of Nansemond County on the 11th day of October 1888.

Edwin J. Matthews, Elijah Richards and Louisa his wife

v.

Elizabeth Ann Holland

This cause came on this day to be heard upon the bill, and the Answer of the defendant Elizabeth Ann Holland, with general replication thereto, and upon the depositions of witnesses, and was argued by counsel:

On consideration whereof the Court being of opinion that the tract of land in the bill described containing 100 acres, more or less lying in Chuckatuck District in Nansemond County, adjoining the lands of E. J. Matthews, John T. Phillips, Scott's Creek and the County road leading to Millners, was by the will of Samuel Matthews deceased devised to the defendant Elizabeth Ann Holland for life, with remainder to her three sisters Penelope, Louisa and Catharine Matthews in fee simple absolute, doth therefore adjudge, order and decree that the said defendant Elizabeth Ann Holland her agents and attorneys be forever enjoined prohibited and restrained from committing any further

waste upon the said land by cutting, removing or selling any of the timber therefrom except for the purpose of making the necessary repairs to the buildings now thereon. -

And the objects of this suit having been accomplished, it is ordered to be stricken from the docket.

E. J. Matthews Ass't

Final Decree.
Nov. 11th; Oct. 1888

Eliz. Ann Holland

To be entered

C. Mabie

Entd Lby O.B. No 2
P 720

Edwin I. Mathews & als
vs. } In Chancery
Elizabeth Ann Holland-

The answer of Elizabeth Ann Holland the defendant to a bill of complaint exhibited in the circuit court of Nansemond county by Edwin I. Mathews. Elijah Richards & Louisa his wife. This defendant now and at all times hereafter saving and reserving to herself all and all manner of benefit and advantage of exception to the manifold errors, uncertainties, imperfections and insufficiencies in the said complainants said bill of complaint contained for answer thereunto or unto so much and such parts thereof as she this defendant is advised is material for her this defendant ~~to make answer to make answer~~ to make answer unto. She this defendant answering saith: That true it is that some time in the year 1851 Samuel Mathews died in the county of Nansemond possessed of real and personal estate as alleged in the said complainants bill. And it is also true that the said Samuel Mathews left a will which was duly ~~recorded~~ admitted to probate in the county court of Nansemond county shortly after his death. But this defendant emphatically denies that the devise to her

mentioned in said bill was subject to any such conditions as mentioned in said bill or to any conditions whatever, but that on the contrary the tract of real estate mentioned in the bill containing 100 acres more or less lying in Chuckatuck district in Nansemond County Virginia adjoining the lands of E. D. Mathews, John T. Phillips Scotts creek and the said county road upon which this defendant resides was given to this defendant in fee simple by her said father Samuel Mathews by his last will and testament and not given for and during her natural life and after her death to any other parties as alleged in the said complainants Bill. This defendant further saith that her brother the said E. D Mathews also received from their father the said Samuel Mathews by his last will and testament a tract of real Estate in fee simple containing about 200 acres which was then and is now worth twice as much as the tract given this defendant: and that the said Samuel Mathews also by his last will and testament gave all his personal property to the said Catherine Mathews, Penelope Mathews and Louisa Mathews

(now Richards) thus dividing all his property Equitably and justly among his said five children. This defendant further saith that She is now a widow, and is old and infirm and dependent upon her own exertions for her support and comfort and that it is a great hardship that her brother E. D. Mathews who is in good circumstances and owns much property should not only seek to deprive her of her just inheritance but should also seek to impose burdens and injuries on her old age by preventing her from using the property which her Father left her. And this defendant saith to the court that the dwelling house in which She now resides situated on the said land given by her father has suffered so much from decay that it is neither safe nor comfortable and that it is badly in need of repair; that unless it is soon repaired it will not be fit to live in. This defendant therefore as She had a perfect right to do did proceed to have some of the timber on her farm or tract of land cut for the purpose of making repairs on her house. and as the said timber on the premises was unfit for building or repairing purposes She did proceed to sell a small quantity of the same for piles or spiles intending to

have applid the proceeds arising from the sale of the same to the repairs aforesaid. And this defendant also saith that there were other good causes which induced her to sell her timber and buy other timber for the said repairs viz. First because your defendant is poor and in indigent circumstances and did not have the cash ever to employ workmen to cut and saw her own timber for her use and secondly because she was informed and satisfied herself that she could gain an advantage for herself in the transaction by selling her timber at good prices for government purposes for which it was specially adapted and by buying cheaper but more suitable timber for her own use. And this defendant further saith that there is a large quantity of timber on the said land and that she only intended cutting there from enough to purchase the necessary timber shingles nails &c. and to obtain sufficient money to pay workmen to make necessary repairs upon the dwelling house in which she lives. And this defendant also saith that hereto fore the said E. D. Mathews has acknowledged her right to the said tract

of land by purchasing from her and paying her for same, timber cut from said land which he used for rails. The defendant is informed that the plaintiff the said E. D. Mathews is not entitled to an injunction until he can show a good title in himself which he has not and can not do. But admitting for the sake of argument that the facts are as stated by the plaintiffs and that this defendant is only a life tenant then this defendant saith that she is not now nor has she committed any waste; that she has a perfect right as life tenant to cut timber for repairs; that it is her duty to do so; that if she failed to repair she would be guilty of permissive waste; the said tract of real estate contains about two acres thirty acres of which is cleared the balance seventy acres is heavily timbered. And this defendant saith that her act of cutting timber instead of being an injury it would have been a benefit to the inheritance as she intended cutting only enough to repair her dwelling house. But even if the facts were as stated by the plaintiffs your defendant would have as much interest in the inheritance as the plaintiffs As she is an heir at Law to Catherine & Randolph Mathews

And in all this your defendant denies having committed any waste to the inheritance because she herself holds the fee simple title to the property in question. She is sure and E. L. Mathews and the other complainants have no interest whatever in it. And now having fully answered the complainants Bill. This defendant prays the Honorable Court to dismiss the bill of injunction granted by the Judge of the county court of Nansemond in the May of 1880 which enjoined her from cutting any of the timber on the said land, at the cost of the complainants and this defendant prays to be hence dismissed with her reasonable costs in this behalf expended and she will ever pray &c.

Elizabeth Ann Holland

Sworn to before me this
5th day of March 1881
R. H. Rawles
N. P.

Merritt Bragg
R. H. Rawles
N. P.

Virginia
Nansemond County to wit:

I R. H. Rawles a Notary Public for the County aforesaid in the State of Virginia do hereby certify that Elizabeth Ann Holland whose name is signed to the above answer has this day personally appeared before me in my said County and made oath that the statements contained in the above answer so far as they are made of her own knowledge are true, and so far as they are made on information derived from others she believes them to be true.

Given under my hand this day of 1881

R. H. Rawles
Notary Public

Answer of

Elizabeth Ann Holland

Edwin J. Matthews, Elijah Richards and Louisa his wife -

v.

Elizabeth Ann Holland. -

To the Honorable George Blow Judge of the Circuit Courts of Nansemond County:

Humbly complaining sheweth unto your Honor your Complainants Edwin J. Matthews, Elijah Richards and Louisa his wife residents of the County of Nansemond in the State of Virginia that sometime in year 1851 Samuel Matthews died in the County of Nansemond possessed of real and personal estate, that by his Will which was duly admitted to probate in the County Court of Nansemond, shortly after his death, the said Samuel Matthews devised a certain tract of real estate containing 100 acres more or less lying in Chuckatuck District in Nansemond County, adjoining the lands of E. J. Matthews, John T. Phillips Scotts Creek and the County road leading to Millner's upon which Elizabeth Ann Holland now resides, to the said Elizabeth Ann Holland for and during the term of her natural life and after her death to her three sisters Penelope, Louisa and Catharine Matthews in fee simple to them and their heirs forever. -

That the said Penelope Matthews has since the said will of her father Samuel Matthews was admitted to probate departed this life intestate and that her heirs are your Complainants Edwin J. Matthews & Louisa Richards and the said Elizabeth Ann Holland her brothers and sisters.-

That the said Catharine Matthews has since the said will of her father Samuel Matthews was admitted to probate departed this life intestate and that your Complainants Edwin J. Matthews & Louisa Richards and the said Elizabeth Ann Holland her brothers and sisters are her heirs at law.-

That the said Elizabeth Ann Holland the life tenant of the said real estate notwithstanding the fact that under and by virtue of the Will of her father she has only a life estate therein, is at this time committing waste thereon and doing great damage to the inheritance by cutting and selling the timber from the same and converting the proceeds to her own use, to the great damage loss and injury of your Complainants the remaindermen.-

Your Complainants are informed and they therefore charge that the said Elizabeth Ann Holland is at this time cutting the timber from the said land and manufacturing the same into

piles or spiles for sale or government purposes, and converting the proceeds thereof to her own use. ~~Cost & Dec~~ Forasmuch therefore as your Complainants are without remedy save in a Court of Equity where such matters are properly cognizable and relievable they pray that that the Lucia Elizabeth Ann Holland may be made a party defendant to this bill and required to answer the same on oath, that she may be enjoined and restrained by an order from your Honor's Court from committing any further waste or damage upon the real estate hereinbefore described by cutting or selling the timber thereon for manufacture into piles or by any other ways or means whatsoever, and for such other further and general relief as the nature of their case requires or the principles of equity may justify.

And your Complainants will ever pray &c.

Let a Subpoena go &c. — W

Edwin J. Matthews

Witness Pleats.

P.G.

State of Virginia,
County of Nansemond to wit:

This day Edwin J. Matthews personally appeared before me and made oath that the matters of fact contained in the foregoing Bill so far as made of his own knowledge are true and so far as made from information derived from others he believes them to be

true - Given under my hand this 5. November 1880. -

Robt. R. Prentis -
Comm'r in Chancery -

Upon the Complainants or some one of them, entering into and acknowledging a bond with good security before the Clerk of the Circuit Court of Nansemond, in the penalty of $250.— conditioned ~~to pay~~ according to law, an injunction is granted in pursuance of the prayer of the bill to restrain and prohibits the within named Elizabeth Ann Holland and her agents from committing any further waste or damage upon the real estate in the bill described by cutting or selling the timber thereon for manufacture into piles or by any other ways or means whatsoever until the further order of the Circuit Court of Nansemond. -

To the Clerk of the Circuit Court of Nansemond County. -

Nath'l Riddick
Judge Co: Ct of
Nansemond. Va.
5. Nov. 1880

Edwin J. Matthews Sol.
vs
Bill
Elizabeth Ann Holland

Wm. Thos. Prentis J.P.

Edwin J. Matthews et al:

vs } Chy: Notes

Elizabeth Ann Holland.

1880. Nov: 5th: Injunction awarded — Bond executed & filed

" " " Summ: in Chy: &c issd to Dcer: Rules, 1880.

" Dcer: 6th: Bill filed — Decree nisi vt def^ts

1881. Jany: 3rd: Decree nisi confmd & Cause set for hearing on mo. of Plffs' Counsel

" March 29th: Notes: for Plffs' filed

City Notes