

1889-005

Nansemond Co. (Suffolk)

Chancery Causes: Dempsey Hare vs Elisha H. Darden

Holland, Howell, Jones, Langston, Copeland, Cross, Lawrence, Whitehead, Hunter, Rawls, Rawles

Hemprey Hare

to } Chy. Notes

Elisha H. Darden

1887 June 20th: Bill to filed & order of Inj. awarded

" " " Inj. Bond executed Filed

" " " Sum. in Chy. & paid to July Rules, 1887.

" July 4th: Decree nisi.

Chy. Notes

This Deed, made this 16th: day of January 1882
between William Henry Hare of the first part and
Dempsey Hare of the second part: Witnesseth That for
and in consideration of the sum of Fifty dollars,
the receipt whereof is hereby acknowledged, the
said William Henry Hare do grant with general
warranty, unto the said Dempsey Hare and to his
heirs and assigns forever, all of the right, title
and interest present and prospective which
the said William Henry Hare has in and to
a certain tract or parcel of land in the
upper Parish of Hausmond, adjoining the lands
of John Wright Mills Jarnigan and Dempsey
Darden, containing Thirty acres, more or less,
it being the same land or part thereof which
was assigned to Martha Hare as her portion out
of the homestead tract of land of which Dempsey
Howell died seized and possessed, and which the
said Dempsey Howell did by his last will and
testament, devise unto the said Martha Hare
together with all and singular the appurten-
ances belonging to the same, And the said
William Henry Hare covenants that he has
the right to convey the said land to the ^{said} grantee
that the said grantee shall have quiet posses-
sion of said land that he has done no act
to encumber the said land; and that he
will execute such further assurances
of the said land as may be requisite
to give to the said grantee his heirs and assigns
a full and clear title to the said land,
clear from himself or any or all persons

whatson,

In witness whereof the party of the first
have set his hand and seal the day and
date above written

Witness

Fred W. Hunter

William Henry ^{his} ~~mark~~ ^{Seal}

In the Clerk's Office of Nassau County
Court, the 23rd day of January 1882

This Deed was acknowledged by William
Henry Han, and thereupon admitted
to record.

Teste:

Peter B. Prentiss Clerk

A Copy

Teste:

Peter B. Prentiss. Clerk

^{kind}
William Henry Howe

To 3 Copy Deed
Samuel Howe

This Deed made this the 22nd. day of June 1887
between Wells Lawrence and Mary his wife of the
one part and Dempsey Hare of the other part,
all of the County of Fauquier in the State
of Virginia, Witnesseth: That in consideration
of the sum of Fifty dollars the said Wells Lawrence
and Mary his wife do grant with general Warranty
unto the said Dempsey Hare, and to his heirs
and assigns forever, all the right, title and
interest, present and prospective, which they the
said Wells Lawrence and Mary his wife, have or
may have in and to all that certain tract or
parcel of land of which Martha Hare (the mother
of the said Mary Lawrence, who is now the wife of
said Wells Lawrence) died seized and possessed, situated
in the aforesaid County of Fauquier, and adjoining
the lands of the - Dempsey Hare, John Wright,
Mills Jurnigan, and Dempsey Barber, containing
Sixty Acres more or less together with all and
singular the appurtenances belonging to the
same, And the said Wells Lawrence and Mary
his wife, the parties of the first part Covenant
that their interest in the above mentioned
tract or parcel of land, is one undivided half of
the same, that they have done no act to encumber
the said land, that said grantee shall have quiet
possession of said land, and that they will
execute such further assurances of said land as
may be requisite.

Witness the following signatures and seals

Witness
C. H. Causey

Wells^{his} Lawrence —
Mary^{mark} Lawrence —
^{mark}

In the Clerks Office of Nausemond County Court, the
10th. day of July 1876. The foregoing Deed was presented
and acknowledged by Shells Lawrence and Mary his
wife to be their act and deed, and the said
Mary Lawrence being duly examined by me privily
and apart from her husband, and having said
Deed. fully explained to her, acknowledged that
she had willingly executed the same and
wished not to retract it.

Whereupon said Deed is admitted to record.

Teste

Peter B. Prentiss Clerk.

A Copy

Teste:

Peter B. Prentiss. Clerk.

Wells Lawrence & wife ^{Xmas}

To S. C. Deed

Dorothy Home.

Hare

10 In Chancery
Darden.

This Cause came on this day to be heard on the
bill, the answer of defendant with replication
thereto, and on the exhibits and examinations
of witnesses, and was argued by Counsel; On
Consideration whereof the Court doth order
adjudge and decree that the injunction
awarded the plaintiff in this Cause be
dissolved, and that the bill of the plaintiff
be dismissed, and that he pay to the de-
fendant his costs by him about his defence
in this behalf expended.

Hare
to J. Chancery
Garden

Decree of the court
April 10 1889

C. W. Hall

Entire Chancery order
Book no: 2. page 247.

Dempsey Hare
vs In Chancery
E. H. Darden

The answer of Elisha H. Darden to a bill of complaint exhibited against him by Dempsey Hare in the Circuit Court of Harseman County. This defendant reserving to himself the benefit and advantage of exception to the many errors in said bill contained for answer thereto on unto so much as he is advised it is material for him to answer, answers and says: That so far as this defendant seems it may be true that said plaintiff owns a tract of land in Holy Week District in Harseman County, but this defendant denies that it is situated on both sides of the County road called the Holy Week Chapel road as alleged in said bill. This defendant says that it is untrue that said plaintiff has ever been in possession of said tract of land on the South side of said road as he alleges, or exercised any rights of ownership therein. This defendant says that the County road has always

been and is now the boundary line
between said plaintiff land and
his and that it is absolutely false
that he has destroyed any line trees
as charged in said bill. It is true
this defendant was cutting and had
sold the timber on the portion of land
mentioned as he had a right to do
being the lawful owner thereof, and re-
fused to heed anything the said plain-
tiff might say. This defendant says
that said portion of land was formerly
owned by one Harrison Howell, now de-
ceased; that by the will of said
Harrison Howell it was given to
this defendant; and that said Harri-
son Howell was before, and this defen-
dant has always been since his death
in absolute and undisputed possession
of said land covering a period of over
fifty years. This defendant denies
that said plaintiff has any right
or title whatever to said portion of land,
and says that he is the fee simple
owner thereof. This defendant avers
that the juryman awarded the
plaintiff he disclosed his oath

dismissed and the defendant fol-
lowed to continue to cut and sell
the timber on said portion of land.
And now having fully answered the
defendant asks hence to be dismissed
with his costs, &c.

E. H. Darden

E. E. Holland

Merue 1896 H. D.

Virginia

County of Maunsement, Va.
This day personally appeared be-
fore a Notary Public in and for
said County in said State Elisha H.
Darden, and made oath that the
statements in the foregoing answer
so far as made of his own knowledge,
are true, and, so far as made from
knowledge or information derived from
others he believes them to be true.
Given under my hand the 14 day
of July 1887.

E. E. Steward

N. P.

Samuel H. Hark
W. J. Austin
Elisha H. Darden

To Hon. Ch. Hill Judge of the Circuit Court of
Harrison County:

Complaining sheriffs
unto Your Honor, Your Orator Decries
Hence that he is lawfully seized in fee
simple of a tract of land in said County
in Holy Wech District, situated on the
County Road called "Holy Wech Chapel" road,
and lying upon both sides of said County
Road, adjoining the lands of Elisha H.
Darden and others. For more than forty
years Your Orator and those under whom
he claims have held this land and exer-
cised undisputed rights of ownership
therein. But now it happens that said
Elisha^H Darden, without any suffi-
cient authority therefor, has asserted
a claim to that portion of Your Orator's
land lying on the South Side of said
Road and adjoining his land, and has
undertaken to cut and sell the timber
therefrom. Your Orator has forbidden
said Darden to cut any timber on this
land and warned him that he (Your
Orator) is the rightful owner thereof.
But said Darden refuses to heed any
thing Your Orator may say in the
matter and continues to cut the

timber thereon, and has destroyed the
live trees around said land making
the boundary line between Your Orator
and said Elisha^H Darden's land, and
in a short time will have cut and re-
moved therefrom all the timber on the
land claimed by Your Orator and lying
on the South Side of said County road.
And in as much as Your Orator is with-
out remedy in the premises, save by
the aid of a Court of Equity where
such matters are properly cognizable
and relievable, to the End &c. Your
Orator prays that said Elisha^H Darden
may be made a party Defendant here-
to and required to answer the allega-
tions of this Bill (answer under oath
being waived); that Your Honor will
award to Your Orator an Injunction
Enjoining and restraining the said
Elisha^H Darden, his agents, attorneys
and all other parties from cutting or
removing any timber or other material
of any kind whatever from the said
land in controversy, until the further
Order of this Court; and that Your
Orator may have such other, further

and general relief in the premises as the
nature of his cause may require or
to Equity may seem meet: And
Your Orator will ever pray &c.

Dempsey Hare
By Geo. H. Wright atty.

Kanawha County - to wit:

J. Geo. H. Wright

a Notary Public, for the said County in the
State of Virginia do certify that Dempsey
Hare personally appeared before me in my
said County and made oath that the state-
ments of the foregoing Bill of Complaint
are true to the best of his knowledge and
belief.

Given under my hand this 20th day of
June 1887.

Geo. H. Wright.

The Injunction, as prayed for in the fore-
going Bill of Complaint is hereby award-
ed, and the said Elisha^H Dancer, his agents,
attorneys and all other parties are hereby
Enjoined and restrained from cutting or
removing any timber or other material
of any kind whatever from the land in

Controversy, lying on the South side of the
"Holy Well Chapel" road and adjoining the
lands of ^{the son of} Elisha Darden on the South,
Elijah Jones on the East, and M. J. Darden
on the West, until the further Order of the
Circuit Court of Harsemaud County.
But this Order shall not take Effect un-
til the Complainant, Dempsey Hall, or
some one for him shall execute before
the Clerk of said Circuit Court of Harse-
maud County, a bond with security deemed
sufficient by him, in a penalty of \$150.00
Conditioned to pay all such costs and
damages as may be awarded ^{incurred} ~~against the~~ ^{provided}
~~this injunction be dissolved~~
~~said Complainant, by reason of grant-~~
~~ing this injunction.~~

Wilbur J. Kilby County
Court Judge for Harse-
maud County.

20 June 1887.

To the Clerk of the
Circuit Court for
Harsemaud County
June 20th 1887.

Dempsey Harv

20 } In Chancery -

Eliza H. D. D. D.

Bill.

The depositions of Thomas Holland and others taken, by Consent of parties before me this 26th day of September 1887, to be read as evidence in a Chancery suit, (in behalf of Dempsey Hare) depending in the Circuit Court of Harsema and County in which Dempsey Hare is Plaintiff & Elisha W. Darden is Defendant;

Present Brock Wright for Plff
 E. E. Holland for Dft.

Thomas Holland being first duly sworn deposes and says, as follows:

Q 1 What is your name, age, residence & occupation, and do you know the parties to this suit?

Ans Thomas Holland, 86 years old, live in Harsema and County and am a Miller. I know Dempsey Hare, but do not know Mr Darden.

Q 2 Are you ^{familiar} ~~acquainted~~ with the land on which Dempsey Hare lives, and did you ever know the boundary lines?

Ans I can't say that I did know the boundary lines, but can tell you all I know about it. I know when Mr Dempsey Howell, who was father of Dempsey Hare, first built there. I know he went in the woods and built on

both Sides of the County road from Holy Week to South Quay; he built his black folks' houses on the South Side of the road, and his own residence on the North Side but I did not know where the lines were, or any thing about the lines. How I know about it, my father had a shoe making shop in Mr Howell's yard and I was there nearly all my time; moreover Mr Howell had a woman belonging to him, who was said to be my sister.

Q 3 Do you know what land Mr Duncanson now claims?

Ans No Sir, I do not.

Cross Examined

Q 1 Do you know anything about the Southern boundary line of Dempsey Howell's land or that he owned any land on the South Side of the County road?

Ans I don't, Sir.

Q 2 When did Dempsey Howell build those houses on the South Side of the County road?

Ans I don't know, when they were built, and did not see him build them, but saw them after they were built.

Q 3 How long since there have been any houses on that Side of the road?

Ans I could not tell you, because it has been a

long time; it was before he was married
and before I was married, or had any children,
and I have children now nearly fifty years old.

Q 4 Have there been any houses on that side of the
road since Drimby Hare has been in pos-
session of his land?

Ans I could not tell you for my life, because I have
not seen the place but once since the was
rented yesterday.

Q 5 Then you know nothing of the property, of
its boundaries, of its owner, and of its situ-
ation since Decepsy Hare has been in
possession of the property?

Ans No Sir, I do not.

Q 6 Then you do not know to whom the land
in dispute belongs?

Ans No Sir, I do not.

Q 7 Has the line of the County road been changed
since those houses were built?

Ans I can not say whether it has or not.

And further this Deponent saith not.

Thomas ^{his} x Hall used
Witness: Geo H. Wright. ^{much}

J. E. Langston, being duly sworn, deposes &
says as follows:

Q 8 (Counsel for Defendant objects to the introduction
of this witness, on the ground that he has

already been examined in this case and has given testimony on all the facts within his knowledge).

Q 1 What is your name, age, residence, and occupation, and do you know the parties to this suit?

Ans. J. E. Langston, 65 years old, reside in Hancock County, am a farmer and know the parties to this suit.

Q 2 Do you know any thing about the land in controversy and the boundary lines between Dempsey Hare's land & Elisha H. Dade's?

Ans. I know where ^{about which they say there is a dispute.} the land lies but know nothing about the boundary lines.

Q 3 Do you know how Dempsey Hare came into possession of the land occupied by him?

Ans. (Objected to per the ground that there is not the best testimony & that the land occupied by Dempsey Hare is not in dispute, and that the witness having stated that he did not know the boundaries of Dempsey Hare's land, can not say whether he has ever been in possession of the land in controversy or not.)

Ans. I can only say that I never saw the will, and therefore don't know, don't know there was any will.

Q 4 Do you know whether Dempsey Howell formerly owned the land now occupied by Dempsey Hare?

Ans. He lived in the same place where Dempsey Hare now lives.

Q 5 Was he the reputed owner of the land?

Ans He was.

Q 6 Who occupied the land after his death?

Ans My sister, Elizabeth, who was the wife of Deemsey Howell, as they say. I never saw them married, but they lived together as man & wife and she would not have been living there if they had not been married.

Q 7 How long did your sister occupy the land?

Ans I could not say exactly, but two or three years. She afterwards married Bro. B. Langston. After her marriage with him they continued to occupy the land.

Q 8 During the occupancy of the land by Bro. B. Langston and his wife, do you know of any act of theirs showing whether they claimed the land across the road?

Ans (Question objected to)

Ans They built a tan kiln across ^{the road.} I don't know who owned the land. I was there when the kiln was burning, and helped to haul the tan from there. I don't suppose they would have put the kiln there if it had not been their land. I would not let any body build one on my land. After my sister married Langston they settled another sister, who married Wm Darden on the land they remained until Elizabeth died.

(Answer excepted to)

Q 9 What became of this land after the death of your Sister Elizabeth?

Ans It was turned over to the guardian of Dempsey Hare.

Q 10 Why was it thus turned over?

Ans Because he was the heir after my Sister's death.
(Excepted to)

Q 11 When did your Sister Elizabeth die?

Ans August 18th 1843

Q 12 Did you ever see any family record of your family giving the date of birth and death of your Sister Elizabeth? If so what were the dates?

Ans ~~Yes~~ - She was born Dec 11th 1812 & died Aug 18th 1843.

Q 13 Did you ever see any posts on the County road, chopped as lines on Dempsey Hare's land; if so state how they stood and were marked? (Excepted to)

Ans I have. On the main road leading right by his land. They stood on the edge of the road and were chopped as going across the road. I did not see the chops on the back side of the posts but only on the front next to the road.

Q 14 Do you know who placed them there and chopped them?

Ans I do not.

Cross Examined

Counsel for Defendant, without waiving objection to the introduction of this witness proceeds to Cross Examine -

Q 1 Please state the location of the land in controversy between Dempsey Howell and Elisha H. Darden

Ans The road does not run exactly ^{East} North ^{West} South, I think, but I should call it on the South Side of the road leading from Holy Week to South Quay road.

Q 2 D. You know its Southern boundary?

Ans No Sir, don't know any line across there.

Q 3 Has there been any houses on that side of the road during your recollection?

Ans I don't recollect any -

Q 4 Do you know of any acts of ownership exercised over the piece of land in controversy either by Dempsey Howell or your sister who succeeded him in possession?

Ans Nothing except the building of the tin kiln there; but I can not say that she owned the land from that fact.

Q 5. Who, at that time owned the land where Elisha Darden now lives?

Ans Harrison Howell was living there about 1860 for years.

Q 6 who lives there now how long has he been

in possession

Ans Elisha H. Dadeau, and he has been in possession nearly five or thirty years.

Q 7 Do you know anything of the boundaries of the Successor Horrell land?

Ans No Sir.

Q 7 Then you can not say that the County road was not the northern boundary of said land?

Ans No Sir, I can not, I don't know the lines.

Q 8 You have said in your Examination in Chief that you have seen some chopped posts on the Edge of the road leading by Dempsey Hays, on which side of the road were they?

Ans On the North Side.

Q 9 Have you ever seen any chopped posts on the South Side of said road?

Ans No Sir, I have seen a chopped pine, chopped in the same way as the posts, lower down & on the same side as the posts.

Q 10 Then I understand you to say that you have seen on the South Side of said road no chopped posts or lines indicating a continuation of the line on the South Side of said road.

Ans No Sir, have seen none on the South Side.

Q 11 Would not line posts have been placed on the South Side of said road, if the line had gone across?

Ans I could not say.

Q 12 Who has exercised ownership over the land in controversy since Dempsey Hale has been living where he resides?

Ans Both Dempsey Hale & Elisha Dadeen for a few years, say two or twelve years.

Q 13 Then ^{do} I understand from your testimony that you do not know the boundaries of Dempsey Hale's land, nor of Elisha Dadeen's land; nor who has been in possession of the land in dispute, nor whether it originally belonged to the Harrison Howell or Dempsey Howell land?

Ans I do not.

Q 14 Do you know that this tax title was not placed upon the land in controversy with the consent of Harrison Howell?

Ans No, I don't know.

Q 15 During the ^{life} time of Harrison & Dempsey Howell was any wood cut off the land in controversy?

Ans I don't know any thing about it, there was never any wood cut there within my recollection, and the County road has not been changed within my recollection.

And further this Deponent saith not.

J. E. Langston

Washington Copeland, being duly sworn deposes and says as follows:

Q 1 Who is your name, age residence, occupation

and do you know the parties to this suit?

Ans Washington Copeland, 89 years old, resides in Hantswood County, and is a farmer & knows the parties to this suit.

Q 2 Do you know anything about the land in controversy?

Ans I ~~don't~~ know nothing particular, except that it lies right on the road, on the South Side of the road.

Q 3 Who owned the land where Dempsey Ware now lives, before he came into possession of it?

Ans Dempsey Ware's father owned it; his father's name was Dempsey Howell.

Q 4 Did Dempsey Howell own any land on the South Side of the road?

Ans As far as I know he did, when he first went there he built a Cooper shop and a house for some of his black people on the South Side of the road, and his own dwelling on the North Side.

Q 5 About what time did Dempsey Howell build these houses?

Ans It was when he was a young man, before he was married and soon after he got the land from his father.

Q 6 Did you ever live there with him, or with any of his people?

Ans I never lived there, but used to go there often, for

a good many of his negroes were then to see.
Q 7 Did you ever know any wood to be cut on the South Side of the Road by Dempsey Howell during his life time?

Ans Not by him, in his life time, but his folks used to cut over there, and after he died his folks that lived there used to hire me to cut wood for them, and I cut on both sides of the road by the cord.

Q 8 Did any one else then claim the land immediately on the road on the South Side?

Ans No one that I ever heard of, until Mr Darden who is now claiming it.

Cross Examined.

Q 1 Who owned the land in controversy before Dard - Who owned the land where Dempsey Hare now lives before he came into possession of it?

Ans Dempsey Howell, who went for Dempsey Hare's father.

Q 2 State if you know the boundary lines of this tract of land?

Ans I don't know any thing about the lines, only about the buildings and cutting wood.

Q 3 Who owned the land where Elisha H. Darden now resides?

Ans Harrison Howell owned it, he was cousin

to Dempsey Howell.

Q 4 Do you know the boundaries of that tract?

Ans No Sir.

Q 5 Is the fact that Dempsey Howell built houses on the South Side of the County road the only evidence you have of his ownership?

Ans Yes Sir. If he had not owned it I don't suppose he would have built on it.

Q 6 How long since there were any houses on the South Side of the County road?

Ans I don't know.

Q 7 Were they removed away before Dempsey Howell's death?

Ans Yes Sir.

Q 8 Then do I understand you to say that there have been no houses on that side of the road since Dempsey Howell has lived there?

Ans Not that I recollect.

Q 9 Did Dempsey Howell cut any wood on that side of the road in his life time?

Ans His folks did.

Q 10 Can you say that it was not done with the consent of Harrison Howell?

Ans I don't know. I never heard of Harrison claiming it as his land.

Q 11 Who hired you to cut wood on the South Side of the County road?

Ans The woman he had for his first wife. He never

hired me.

Q 12 How long since you cut wood there?

Ans I can't tell how long. He died and left a widow & she married Dr Langston & went away. She rented out her Downy to Mr Darden who lived there during his life time, ^{& at her death} when Darden moved away. Then the woman he had for his first wife moved back there with her children & she hired me to cut wood. I never cut any during Dempsey Howell's life time, because he had plenty of foetus of his own to cut it.

Q 13 Did you ever see any body except yourself cutting wood on the South Side of the road?

Ans Now but his own men -

Q 14 How long ago has that been?

Ans It was during his life time.

Q 15 Where was the Cooper shop situated?

Ans Right over on the South Side of the road.

Q 16 Has Dempsey Hare ever had any house on that side of the Road?

Ans None that I know of.

Q 17 Are not all of his buildings, including a Cooper shop, on the North Side of the County road?

Ans As far as I know.

Q 18 Where were the buildings which were on the South Side of the road moved to?

Ans They were moved over on the North Side?

Q 19 When were they moved?

Ans They were moved after he built. There were patrol-
lers, and they kept his negroes so,

Q 20 Have you cut any wood on the South Side since
the houses were moved off?

Ans Yes Sir:

Q 21 I understood you to say that these houses were
moved ^{from} ~~once~~ there soon after Dempsey Howell
built. I also understood you to say that you
did not cut any wood over there in his life
time; then did you cut wood on that side of the
road where the Cooper shop was, before the houses
were moved off?

Ans No Sir, the houses were gone.

Q 22 How long did these houses remain on the South
Side?

Ans I can't tell, I don't know.

Q 23 Has any wood, to your knowledge, been cut on the
South Side of the road since Dempsey Hall has
lived where he now does?
~~been in possession?~~

Ans I don't know what has been done since then.

And further this Depoent saith not,

Washington ^{his} X Copeland
mark

Witness Geo. H. Wright

Garrison Cross, being first duly sworn de-
poses and says, as follows:

(Here Counsel for Defendants (at 4 O'clock
P.M.) gives notice that he has other matters

demanded his attention, and can not remain longer to attend the taking of these Depositions. Counsel for Plaintiff proceeds with the understanding that Defendants' Counsel may at any time cross Examine the remaining witnesses).

Q 1 What is your name, age, residence, occupation and do you know the parties to this suit?

Ans Garrison Cross, 44 years old, live in Hammond County, am a farmer and know the parties to this suit.

Q 2 Do you know anything about the cutting of what is called the "Hall road" from Hall's shop to the Holy Neck road?

Ans Yes, Sir, I helped to cut it from one end to the other as far as the cutting was done.

Q 3 Through whose land does the road pass?

Ans Preston Hunter's, Jim Johnson, Bob Blizard, Sam Hunter, James Hunter, Ranch Hunter, Matthew Bailey, my own, Wm Whitehead, Burgess Gordon, Peter Deedee, Coon Hunter, Charlie Boos, Claissaw Daeden, Calvin Holland, Sally Ann Porter, Elisha Daeden, and the land in dispute in this suit.

Q 4 Did you notice any marked tree or trees in that road near the land in dispute, if so state how many, where they stood and

how they were marked?

(Excepted to as leading)

Ans We cut the road and the evening we finished we got out to ^aline tree. Mr Hare came and forbid us to cut the tree. Mr Calvin Holland directed us to leave the tree. It stood there as far as I recollect, in the middle of the road two years, I drove on each side of it. It was chopped, three chops on a side as fine as any line tree I ever saw, the chops as near as I can tell, indicating a Sun rise and Sun Set Course.

Q 5 Do you know who had that tree cut down?

Ans I do not.

Q 6 When you came to the tree in cutting out the road and Dempsey Hare forbid you to cut it, was Mr Darden present?

Ans He had been there during the day but I don't recollect whether he was present there.

Q 7 Did Dempsey Hare claim that as a line tree between him & Elisha Darden?

(Excepted to)

Ans He did.

Q 8 Did you go through the woods to see if there were any other line trees?

Ans I went to a stump with a stake sticking in it. Dempsey Hare carried us & claimed the stump as a corner line.

(Answer Excepted to)

And further this Depoent saith not,

Garrison ^{his} Cross
mark

Witness: Geo H. Wright.

Now Whitehead being duly sworn depose
and says:

Q 1 You have heard the questions and answers
of Garrison Cross - were you present at
the same time and do you give the same
answers given by him to the same
questions?

Ans I was present and give the same answers.
I was also present when the tree was cut
down, and it was cut down by order of
Mr Elisha Darden, he helping to cut it
down. Mr Calvin Holland was road surveyor
at the time; Mr Holland refused to cut
it down and Mr Darden took the axe out
of his hand. To the best of my judgment the
tree was as fair a live tree as I ever saw.
it had three chops on each side, and what
I might say, was running parallel with
the road.

Cross Examined

Q 1 You have said in your answer that the tree
to the best of your judgment - was as fair a
live tree as you ever saw; do you mean
to say that it divided Hairs land from the

Dawkins?

Ans Yes Sir, I mean to say that.

Q 2 How do you know this?

Ans Because I was present when Mr Hale objected to the tree being cut down, and after his objection, the tree stood there for some time, some where between two & three years, until Mr Holland became surveyor of the road.

Q 3 When you mean to say that you have answered the above questions as you did because you heard Dempsey Hale object to this tree being cut down, and not from any knowledge of your own about the matter:

Ans No Sir, not from any knowledge of my own.
And further this Depoent saith not,
Wmth Whittehall
wack.

Witness: Geo. H. Wright.

Frank Hunter, being first duly sworn
Deposes & says as follows:

Q 1 You have heard the questions and answers of Garrison Cross; do you corroborate the statements made by him as to the live tree on the Reed road?

Ans What he said about that is correct and I corroborate the same.

And further this Depoent saith not
Witness: Frankth Hunter
Geo. H. Wright. wack

1
Taken and subscribed before me this 26th day
of Sept 1887 -

Geo. H. Wright N. O.

Depositions of E. H. Darden & others, taken
before me E. E. Holland a Notary Public
of Hancock County, Virginia, by consent
of all parties. He read as evidence in
whole & part E. H. Darden in a suit in
Chancery now pending in the Circuit
Court of Hancock County where
Dumphy Ware is Plaintiff & E. H. Dar-
den is Defendant

Present

J. W. H. Wright for Plaintiff
E. E. Holland for Defendant.

E. H. Darden being duly sworn de-
poses and says as follows:

1st Q. - What is your name, age, residence
and occupation and do you know
Ans. parties to this suit?

I am fifty seven years old, live in Han-
cock County; am a farmer; and am the
defendant in this suit.

2nd Q. - Do you own any land in this County?
if so, state its boundaries.

Ans. - Yes, sir, I own a tract of land on

what I know as the Holy Duck
Chapel road in this County, adjoining
the land of Elijah Jones, William Jen-
nigan, Henry Jennigan dead and the
land now belonging, I think, to Parker Sam-
uel known as Calvin Holland land,
and the Holy Duck County road, and
the old Edw. H. Darden farm, Sally Ann
Cross and M. S. Darden -

3rd Q. State how you acquired title to this
land and when long you have been
in possession of same?

Ans. I have been in possession of it for
twenty seven years. It was given to
me in a will made by Harrison Hom-
ell, which will was probated in
this County.

4th Q. - Is ^{also, now} the track of land now in contro-
versy between you and Drushey Hare,
a part of the above track of land given
you by the will of said Harrison Homell?
Question excepted to as leading

Ans. It is a part of it.

5th Q - Where is the tract of land now in dispute between you and Hare in this suit situated?

Ans. It is situated on the Holy Luke road leading from Holy Luke to South Quay road.

6th Q On what side of said road is it situated?

Ans. On the South side.

7th Q - Who owns the land on the North side of said road?

Ans. Drumpsey Hare.

8th Q - Where is the land in which you were forbidden by Hare to cut timber from situated?

9th Q On that road, and on the South side.

10th Q Who owns this land, and how was possession and title ascertained?
Question referred to general.

Ans. I own it-- It was given to me by Harrison Howell in his will.

11th Q- Has ^{or may} Hare ever acknowledged your title to this piece of land? If so state how and when?

Ans. He has. He has been to me and asked for certain trees on the road on this land and I gave them to him. He came ^{some} ~~once~~ ^{time} to my place and on this land to him. He has done this since I have been in possession of property.

12th Q- When did Hare first claim this piece of land to your knowledge?

Ans. About nine years ago to the day of my knowledge.

13th Q- Did he, to your knowledge, ever claim it before this time?

Ans. No Sir.

5-
14th Q. Have you or not always claimed
it or exercised ownership over it?

Ans. Yes, sir. By getting anything that was on
the land off of it.

15th Q. You have said that Dempsey has claimed
this land about ten years ago. In what
way did he claim it?

Ans. He said that somebody told him he owned
three rods over them

16th Q. Does the Holy Well Chapel road di-
vide your land from Hare's?

Ans. Yes sir

17th Q. Is the road the line between you
and Hare's?

Ans. It is.

18th Q. How long has the road been such
boundary line?

Ans. Ever since I first knew it.

19th Q. Does Harri's land adjoin yours?

Ans. The road divides us.

20th Q. Have you ever destroyed any live trees around said land?

Ans. No Sir

21st Q. ~~And you destroyed any of the~~

Where is Harri's will's original will?

Ans. It was burned in the Clerk's office, when the Clerk's office was burned.

22nd Q. Have you any copy of the will?

Ans. Yes, Sir, I have. (Christina here produces copy, to the introduction of which plain.iff's attorney excepts.)

23rd Q. Where did you get this copy?

Ans. I got it from the Clerk's office. I got it soon after Howell's death.

24th Q. Have you ever compared it with original will?

Ans. Yes, Sir, original was burned. I know it is a true copy because I went to the office and got it.

25th Q. Have you been in possession of land described in said will ever since Harrison Howell's death?

Ans. I have

26th Q. Has any one ever disputed your title to the land?

Ans. No, Sir, except now.

27th Q. Is the wife of Harrison Howell dead?

Ans. Yes, Sir, she married again.

Cross Examined

1 Q

you have said you claim your title under Harrison Howell's will & that you have been in possession ever since his death, Please state when Harrison Howell died?

Ans. He died in 1857

2 Q. When did his widow Anna Howell die?

Ans. She died six or seven years ago. She remained his widow between 2 or 3 years.

3 Q. Did you come into possession of any additional land upon the death of Harrison Howell's widow - Mrs Demigan at the time of her death.

Ans. I did not then.

4 Q. Then all the land which you claim, you claim under this will & got possession of upon the death of Harrison Howell?

Ans. Except the widows dower which I bought after her first husband's death, I considered it her interest.

5 Q. During Harrison Howell's life time, did you know anything about the boundary lines of his land?

Ans. Yes Sir I did. It was bounded by Edward H. Darden's land - Wm. W. Darden's land, Henry Demigan land, David Demigan land. Elijah Demus land. I was raised there in the neighborhood.

Know this land. I was partly raised on the same land & my father has now lives on. My father rented it & we lived there.

6 Q. Did you ever during Harrison Howell's life time go around and inspect the boundary lines of his land?

Ans. No sir. I never went around and examined any of his lines.

7 Q. Did your Title deed, the wife of Harrison Howell under which you claim define the boundary lines of your land?

Ans. It does not give any boundaries.

8 Q. Is the land in controversy which is claimed by both parties & my father is an open land in cultivation or wood land?

Ans. Wood land.

9 Q. Has not a new road been opened through your land in the last few years?

Ans. Yes. It was opened about 4 yrs ago. It was done by consent of neighbors & afterwards accepted by the County.

10 Q. Do you not know that when opening that road before getting to the Hog new road, you came upon a lime tree standing directly in the route of the new road?

Ans. No Sir. There was no lime tree there

11 Q. Were not the parties engaged in opening that road warned against cutting down a certain tree marked as a lime and claimed as a lime tree between your land and Dempsey's?

Ans. Some of the parties told me so. That was all I ever heard about it. I think Calver Woodard was the man who told me

12 Q. Then you did understand, that there was such a lime claimed - Question excepted to.

Ans. I did not understand it to be a lime. Calver Woodard told me that Dempsey had told him not to cut it down.

13 Q. Did you go to examine that tree?

Ans. I did. I went & looked at it. It was

11
Marked on one side. The mark was a little towards
the North East. It looked like some chief had
chopped it in mischief. It was not a
new chop nor did it seem to be a very old
one.

14 Q. Did you have that tree cut down

Ans. No Sir, I cut it down myself.

15 Q. Did you look for any other line trees in the
direction indicated by the marks on that tree?

Ans. No Sir. There was none in that direction. There
was no line running that way.

16 Q. If you did not look for them, how do you know
there was none running in the same direction?

Ans. Because the nearest line there was between me
and the light house.

17 Q. Did you ever see any trees or posts
indicating the line of boundary between the land
and situated on the other side of the road.

Ans. I saw some posts buried on the side of the road

18 Q. When you say on his side of the Road
which side do you mean?

Ans. I mean the north side.

19 Q. How did Han derive title to the land he
holds on the north side of that Road?

Ans. I don't know.

20 Q. Do you know anything about the boundaries
of Wempey Han's land?

Ans. No sir. I have never been around his lines

21 Q. Then you are not prepared to say what
are the boundaries of his land?

Ans. I know some neighbors who own land adjoining
them, at least they say they do

22 Q. You have said, that Wempey Han had
acknowledged your title to the land is continuing
by asking you for the privilege of cutting
certain trees on the road and of hauling
dirt for this land. Will you please state
how long it has run, since Han asked you
for any trees on this land and how far they stood
from the 20th street road & how many trees he
wanted

Ans. I suppose it was 14 or 15 yrs ago or it may have been longer than that. The trees he wanted stood near the road some of them not over 6 ft. The another stood about 18 ft from road. He asked me for some pine poles which stood near the road. The dirt refused to was on the side of the road on the land in controversy.

23 Q. Is it not a fact that Dempsey Han has for years been cutting wood and hauling dirt off this my land in controversy without any objection or hindrance from you

Ans. No Sir. It is not so. If he got anything off the land I did not know it

24 Q. Do you know whether there were ever any houses on the land ^{in controversy} of any description?

Ans. None since my recollection

25 Q. Have you seen nothing to indicate that there had been houses on it?

Ans. No Sir.

26 Q. Has not Dempsey Han time or again asserted to you his ownership of this land?

Ans. Here - when about 9 yrs. ago. when I was hauling dirt he came out there and told me it was his land. I told him it was my land - that I claimed to the road. He never hauled any dirt from there in his life. He did it without my knowledge -

27 Q. How many acres do you claim in your land?

Ans. 389 acres. Before I sold two little pieces off 25 acres to Sally Ann Cross. 5 ³/₈ to Sarah Schell

28 Q. How much timber have you cut on this land in cutting?

Ans. I don't know how much. Not very many trees had been cut when I was stopped

29 Q. How long after the new road attached to Kenton was opened, was it before you cut down the marked tree standing there in & claimed by Har as a live tree -

Ans. I don't know exactly. It was not very long.

30 Q. Was it as much as 6 mos

Ans. No sir. it was not.

31 Q Why did you let it stand at all after the road was opened

Ans. I was not there when the road was opened. If I had been I should have cut it down then. The first chance I got going out that way I took my axe & cut it down.

Re Examined.

1 Q. During Harrison Howells' life time, did he claim the land up to the Holy Neck Chapel road, if so how do you know it?

Ans. He claimed the land up to the road. I lived when sweeping Han Howells with my father and my father had to get fire wood, rails, & lightwood down on the end of the plantation near Richd. Howells, and old man Harrison Howell got anything he wanted off the land out to the road.

2 Q. Do I understand you then to say or not that you know that during Harrison Howells' life time the road was the boundary line between the land upon you now live upon "as Harrison Howells' land and ~~sweeping~~ land on which

Wemyer Han now resides.

Ans. Yes Sir. I know that to be the line

3 Q. In cutting the new road spoken of in the cross examination, were you at any time warned by Wemyer Han against cutting down any tree on the line of the road?

Ans. I was not

4 Q. Did he assert any claim to you for the land through which the new road passed

Ans. No Sir - About 9 years ago he claimed a little piece of land on the line of the road

Re. cross examination =

1 Q. How old were you when you lived with Wemyer Han now lives. Excepted to -

Ans. I was then quite young & left him before I was 21

2 Q. Do you know that Harrison Howell while you lived with Wemyer Han now lives, ever cut any timber, or hauled any dirt from the identical land in controversy on the south side of the Holy new road? Excepted to -

Ans. I know that he cut timber off this very land in cutting

3 Q. Did you at that time have anything to do with Hanson's timber business? Excepted to.

Ans. Yes sir. I used to hear him feed his horse, write his letters and anything else he asked me to do.

4 Q. Did you have any wood for him - Excepted to.

Ans. Yes sir. I have hauled wood for him from this very land

5 Q. How far was his home from this land in cutting? Excepted to

Ans. I suppose. 5 or 600 yds

6 Q. Was there any wood or timber nearer than that on this land - Excepted to

Ans. Yes sir

7 Q. Was there any cart path from the home down to this particular land.

Ans. Yes -

Q. And you would pass through other timber
more convenient, nearer home & easier to reach
for the sake of getting wood on this very land.
Excepted to -

Ans. I don't say that. I went when it was easier
to get to with a cart.

And further this deponent says not -

E. H. Barclay

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

1. What is name, age, residence, occu-
pation & do you know parties to this
suit?

Ans. E. J. Cross; am forty nine in August; live
in Harsemaind County; am a merchant
farmer; & I know the parties to this suit.

2nd Q. Do you know the situation of the
land in controversy between the parties
to this suit?

Ans. Yes, I know its situation. It lies on the
South side of Holy Rich road, in front.

of Drumpoy Hare's gates.

3rd Q. State all the facts you know in regard to its ownership.

Ans. While Mrs a Constable Darden went to Magistrate A. W. Jones and got a warrant brought it to me. The warrant was for knocking down a ~~post~~^{board} on a tree on this land and was against Drumpoy Hare. We went before him. He fined Drumpoy Hare \$5⁰⁰ to

4th Q Did Hare take any appeal from your decision?

Ans. Not that I know of.

Q And further this defendant says not -

E. J. Croft

D. L. Darden being duly sworn deposes and says as follows:

1st Q What is your name, age, residence, occupation and do you know the parties to this suit?

Ans. O. L. Darden: am forty five in Sept.;
live in Wausau County: am a
farmer: and am partner to this suit

2nd Q Do you know the situation of the tract
of land in controversy between Drumpf-
er Hare and E. H. Darden?

Ans. Yes sir. It is on the South side of
the Holy Lake road in front of Hare's
House.

3rd Q State all the facts you know in re-
gard to the ownership.

Ans. In 1857 during the big snow, my father con-
vined me to Harris on Honeels. He was
feebler than me to help him. He con-
vined me there to do it. While there Drumpf-
er Hare came and asked him for some
wood on the road in front of his
house on that land as his was so far
off. Uncle Harris told him he might
have wood. Then Drumpf-er bought him a
load. During that time the old man
sent Tom A. E. Hare to come to his
wife. He also sent me for my father

and Mr Whitelock Jones. I suppose ~~Wardens~~
 wife. He asked his wife who she won-
 ted as Adm'r she said my father W. W. Darden.
 Since I have been living where I am I
 have asked Bro. Elisha (Darden) for several
 Truss. Dry wood and saw timber, which
 I got off the piece of land in question
 & I have been using it all my life time.

4th Q. Did Mr A. E. Hore write the will?

Ans. I suppose he did. I don't know.

5th Q. Has the road always been considered
 the line between Hore & Darden?

Ans. I have always known the road as the
 line between the two tracts.

6th Q. Who has been in possession of the land
 in question since Harrison Hamell's death?

Ans. E. H. Darden. I know he has exercised
 ownership over it.

7th Q. Do you know how E. H. Darden came into
 possession of it?

Ans. My father told me Harrison Hamell gave it to him.

by his wife

~~Q. & A.~~ How old were you in 1857?

Ans. Was fifteen years old.

Q. & A. Did you know that the road over the boundary line?

Ans. I asked for Uncle Harrison & know the road over boundary line.

Cross Examination

1st Q

How much land did Harrison Homelown?

Ans. I don't know. At least several hundred.

2nd Q

Was not a large portion of it wood land?

Ans.

When I first knew it; ~~at that time~~ a large portion of it was open land. It has since grown up & I suppose two thirds of it is now in wood or old field.

3rd Q

Did any other County road except

The Hog Neck road run through or by
that land?

Ans. It did not then. Since then a new
road has been opened through it.

4th Q Did not Harrison Howell wood land
surround his cleared land on all
sides?

Ans. Yes.

5th Q How far was his residence from Hog
Neck road

Ans. Not to exceed five hundred yards.

6th Q Was there wood land nearer the
house than that on Hog Neck road?

Ans. Yes.

7th Q Was it as good and as easy to go?

Ans. No, it was no easier, only light wood.

8th Q You have said that when you went
to live with Harrison Howell that

Dumphy have come & asked for some wood on road in front of his house; are you positive that in asking for wood he specified the land in front of his house?

Ans. Yes, Sir, because he could not get to his oak wood.

9th Did Mr. Dumphy have at that time some any woodland near his house?

Ans. He had some large pine trees on the north of his house, some hundred yards or so away, but no oak close to his house.

10th And you recollect after the lapse of thirty years the particular spot from which Dumphy had wanted to cut wood and the fact that he bought Harrison horses and load of wood?

Ans. I do - I knew the old man was most ^{anxious} ~~anxious~~ that he would give land to ^{some} ~~some~~ ^{as he says} ~~for~~ free an interest in it.

11th Q. Did you ever hear Harrison Hume
give the boundaries of his land?

Ans. I never did. My father's land was on
one side of it. My father's land came
broad, and ~~was~~ adjoined Harrison
Hume's there -

12th Q. Do you know whether Dimpsey Hare
has been in the habit of cutting wood
getting clear off the land in dispute?

Ans. He has never ~~had~~ any knowledge.
I could not swear that he has not cut on
them since then.

13 Q. How did you know when you were working
for Harrison Hume when the boundary line was?

Ans. Because I have heard his neighbors say

14 Q. Which of his neighbors told you that the
road was the boundary line

Ans. I don't know that any body told me while I was there
but Henry Desjardins & Mr John Jones & ~~some~~ Ben. Hume
told me since that they worked the land and the road
was known as the line.

15 Q. How far along the county road does the land in controversy extend?

Ans. about $\frac{1}{4}$ mile, I suppose.

16 Q. How far back from the road does the land in controversy extend?

Ans. I have never heard Wemyer claim say. My brother says he claims 3 rods.

17 Q. Have you ever looked through the woods on the south side of that road for any marked trees indicating a line?

Ans. I never have. for the simple reason I did not believe to find any there.

J. H. Darden.

Alfred Hume being duly sworn deposes and says as follows:

18 Q. What is your name, age, usual occupation and do you know the parties to this suit?

Ans. I think I am about 24 1/2 years old.

live in Kansas county: am a farmer: and I know the parties to this suit.

2nd Q. Do you know the situation of the land in controversy?

Ans. Yes, sir. It is just out of Drumpsey Harri and is a part of the old Harrison Howell trail.

3rd Q. Statute you know it is a part of said trail?

Ans. As far as I know the road was always the line. I lived with old man Harrison Howell five years. He claimed the land to the road. I cut wood any where in the wood from his house to road. I have cut it in this piece for Harrison Howell. The road was always the line.

4th Q. Who has been living on this land since Harrison Howell's death?

Ans. His widow stayed there until Mr. Darden went there, Mr. Darden has been there ever since.

Cross Examination.

1st Q What years did you live with Harsi
Siri Hincee?

Ans. I don't know.

2nd Q Were you a free man?

Ans. I don't know. Was a boy.

3rd Q Were they used to send you bent wood?

Ans. Yes sir

4th Q Did he tell you where to go?

Ans. No sir I went any where in woods to
road

5th Q How near did you go to road?

Ans. I don't know that I went within thirty
yards of road.

6th Q He had plenty ^{of wood} besides that in road?

Ans. Yes sir.

attention to the tree before he cut it down, I examined the tree as well as I knew how and I can positively say that I only saw Chops on one side, if it was a line tree according to my judgment it pointed contrary to the way Wemyss & Son claims

3 Q. Has Elsie Darden had possession of this land since Harrison Howells death and exercised ownership over it?

Ans. After the widow married which was about two yrs. after Harrison Howells death and Elsie Darden purchased the widow interest he took possession of this land and has had possession of same ever since.

4 Q. Has the land in controversy always been known as a part of the Harrison Howells tract? Excepted to.

Ans. Yes sir. I have never heard otherwise until this controversy -

Cross. Examined

1 Q. you say you know the land in controversy. Please describe the land which is claimed by both Wemyss & Son & Elsie Darden.

Ans.

It is situated on the South Side of the 180th Main road opposite Wumpsey Han's gate. I don't know the distance it runs along the road. I have heard Wumpsey Han say that he claimed 3 rods back from the road.

2 Q. Are you related to the Defendant in this Suit

Ans. I am not related to him, but I married his sister.

3 Q. Were either of you related to Harison Howell?

Ans. No.

4 Q. What opportunity had you to know the boundary lines of Harison Howell's land?

Ans. My father owned a farm on one side of it, which I own now. John Wright owned land on the South. Daniel Derrigan and Henry Derrigan owned land on the Southwest. Henry Austin owned land on the West. William Parker owned land on the North West and Wumpsey Han owned land on the North.

5 Q. Did you ever visit any or all of these persons

Where names you have mentioned go around
the Hanson House track and determine the
location of boundary lines

Ans No Sir.

6 Q When was this School House built of which
you have spoken?

Ans. About 3 years ago.

7 Q Does not Denney claim the land
upon which this School House is built?

Ans It is on a point of land which is in controversy
now but at that time he made no objection
that I heard of

8 Q Are you now on friendly terms with Denney
Hart?

Ans. I am as far as I know =

Re Examine

1 Q. Now I understand you to say in answer
to questions on cross examination that the
land you father formerly owned and on

Which you now reside adjoins the land
in controversy - Excepted to.

Ans. yes sir.

2 Q Then do I understand you say or not
that the land on which you reside
comes out to the Holy men road and
then adjoins the land in controversy -
excepted to.

Ans. It does -

And from this deponent says not

Witness
Minnie Briggs

Elyas ^{his} Dimes

D.B. Dimes being duly sworn deposes and
says as follows:

1 Q. What is your name, age, occupation, residence
and do you know the parties to this suit

Ans. D.B. Dimes. Merchant & Farmer - Wauseon
county. And am 53 years old & know the parties
to this suit -

7th Q When did Harrison Howell die?

Ans The year of the big snow.

8th Q How long did his widow live there after his death?

Ans I don't know.

9th Q You know that Harrison owned a large body of land - Can you say positively there on this side he came out to the creek road?

Ans Yes, sir.

10th Q How do you know there on this side his line came to road?

Ans. I have heard him say so.

11th Q Did you ever know any one else cut wood on that side, within thirty yards of road for Harrison Howell?

Ans. Yes, Sir, Mr Dandies folk used to cut wood in there for him and for them. Selver by his permission. He was clearing

land over there & gave them permission
to cut & haul wood.

12th Q Did Harrison Horrell ever have any
land cleared on Hog Creek road?

Ans. No sir not on the road.

13th Q How near to the road did he clear
land?

Ans. None within two hundred yards of
road.

14th Q Did he clear any within five hundred
yards?

Ans. Can't say

15th Q Then the wood which he cut & which
he gave Darden permission to cut was
on land he was clearing up?

Ans. Yes, sir.

Re-examination -

1st Q. Did Harrison Horrell claim the land

to the road and cut wood off it?

Ans Yes, sir -

2nd Q Then I understand you say that in addition to the wood cut on the land he was clearing up, he also cut wood on this piece of land?

Ans Yes, sir

3rd Q Then do I understand you say that he gave Darden permission to cut on this piece of land, besides on the piece he was clearing up?

Ans. He began to cut next to the plantation and come towards the road but that I know of.

And further this deponent says not.
Alfred ^W Hurrell
made

Elijah Jones being duly sworn deposes and says as follows.

1st Q. What is your name, age, residence occupation and do you know the parties to this suit?

Ans. Egeat Jones. Farmer. Hantsford
county & am 62 years old.

Q. Do you know the situation of the land in
controversy?

Ans. Yes sir. It is on the south side of the Horry
rural road. I was born in less than a mile of
them & have been living near them nearly all
of my life. I have known the Hammon Howard
tract of land for forty five years. I mean
the tract of land he willed to Elsie Sander.
Hammon Howard's second wife was my sister. I
boarded with him in 1855. In 1857 he died
in 1859 I went back & farmed for my sister
who was still there. The road was always
said to be the line by persons who knew better
than I did. I mean the line between the
Hammon Howard & the Hammon Howard land.
When I was living there I had no particular part
of the land to get anything that the farm
required. I got what I wanted anywhere on
the land & nobody objected. We were building
a school house on this land in controversy. We
went anywhere on Elsie Sander's land that we
chose to the road. The gum tree that was spoken
of today as a line. Elsie Sander called my

2 Q. Do you know the land in controversy

Ans. I do Sir.

3 Q. How long have you known it?

Ans. I have known it ever since I could recollect and have always known it to be called the Hanison Howell tract of land until Elisha Darden came into possession of it.

4 Q. Has Elisha Darden exercised ownership over it since Hanison Howell's death and if so in what way.

Ans. Yes Sir. He has owned it & used it in any way a man can use property.

5 Q. State any fact you know in regard to the land in controversy -

Ans. I changed a day work with my brother in law Richd Howell now dead working the road. He worked in my place on the Holy Men and Wyanoke road. When he was warned on the road he let me know, I returned the day work. We worked up to the corner of Dempsey

Harris fence by 12 o'clock. The hands stopped to get dinner, after dinner we cleared out a canoe way. There was a little bridge running across the canoe way at the corner of Wampy Harris fence. He asked the Overseer, William Parker to let the boys help him cut a few poles to make a bridge across the canoe way until the rest of the hands come from dinner. He remained to Wampy Harris certainty. Let a few of the boys to go and cut them. He took the axe himself and the Overseer told him when to go. He went - When he went to cut the trees, the Overseer came up there. The Wampy Harris remarked to the Overseer "what would old man Harrison say if he was living to cutting trees off his land. The Overseer remained. He would say nothing

Cross. Examined

1 Q. When was the bridge of which you speak

Ans. Close to the south east corner of Wampy Harris fence, right on the road

2 Q. When and was this bridge on?

Ans. I don't know

3 Q you say the road overseer asked permission
of Wempy Han to cut some poles to build
a bridge

Ans. No I did not say any such thing

4 Q. Who did ask permission

Ans. Wempy Han asked the overseer

5 Q. How long has it been?

Ans. I don't know exactly, it was before the war

6 Q. you ever working as a substitute for
your brother in law that day.

Ans. I changed a days work with him

7 Q. How old were you at that time

Ans. I was a little over 21 yrs old.

8 Q Was there at that time any cutting over
this land.

Ans. None at all Sir

9 Q. Why should so trivial an incident have impressed you so forcibly, that you can recall it minutely after 30 years.

Ans. Several things caused me to remember it, one was Dempsey Hare tried to take a part of my land besides several others

10 Q. When did he try to take a part of your land?

Ans. About 2 years ago.

11 Q. Did you then think of this incident which you have just related about the bridge?

Ans. I have thought of it several times before then that made it fresher in my mind

12 Q. Who was present on the occasion referred to besides yourself, Dempsey Hare and William Vandersee

Ans. Richard Howse, Tom Purnin and a lot of road hands.

13 Q. Where are Richd Howse & Tom Purnin

Ans. Both dead - William Vandersee is dead also.

14 Q. Is there any one living besides yourself and Wempsey Han who was present on that occasion?

Ans. I don't know.

15 Q. You said a while ago that Wempsey Han about 2 yrs. ago tried to get possession of some of your land and that, that and similar acts on his part toward others, had impressed this incident on your mind. Please state what he did to get possession of your land

Ans. He claimed it as a corner that was not a corner -

16 Q. Did he bring any suit

Ans. No Sir.

17 Q. How then did he attempt to establish his claim?

Ans. He claimed that was a corner when it was not

18 Q. Was Dempsey Hare the only man who claimed that line as a corner?

Ans. He was the only one

19 Q. Did not Mr Elijah Jones claim that line as a corner

Ans. He did not. He claimed it as a side line

20 Q. Does Dempsey Hare now claim it as a line?

Ans. I dont know. I have not spoken to him from that day to this about it

21 Q. Are you on friendly terms with Dempsey Hare?

Ans. So far as I know so

22 Q. And his claiming part of your land has caused no unfriendly feeling toward him on your part.

Ans. No. That did not.

23 Q. Has anything else caused you to feel
unfriendly toward him?

Ans. Yes Sir.
Has caused me on the occasion of the
controversy between himself and Whitford.

24 Q. Did you ever go around and view the
boundary lines of the Harrison Howell Land?

Ans. Yes. a portion of them.

25 Q. Who was with you.

Ans. I was not going around to look for the
lines particularly.

And further this deponent says that
D. B. Jones

W. E. Darden being duly sworn depo-
ses and says as follows:

1st Q. What is your name, age, residence
and do you know parties to this suit?

Ans. W. E. Darden.
I am forty three, I live in Chancery and
know the parties to this suit.

2nd Q Do you know the land in dispute here?

Ans Yes, sir

3rd Q How long have you known it?

Ans About thirty five years. Have always considered it a part of the Harrison Homestead land.

4th Q State any facts you may know in regard to its ownership.

Ans In 1869 Dr. Humphrey came by my father's, where I now live, with a new pair of cart wheels. I asked him where he got the wheel hubs from. He told me Elisha Darden gave him the ^{green} trees. I suppose the green trees from which they were cut was eight or ten steps from road. I saw the green stump and it is on this land. Winter before last E. D. Darden showed me a straight line from his lane to the back road and told me I might cut the line over off the line of the road, and I

Commenced and cut from the road
for over two hundred yards and no
objection was raised. Why I asked
him about wheels was because I man-
tled some myself

Cross Examination

1st Q Did you ever go around the lines
of the farm in the land?

Ans No, Sir.

2nd Q Then how can you say where lines
are?

Ans I didn't say so

3rd Q Then I understood you to say that
you don't know?

Ans No, Sir.

4th Q Did Dumfries have to go with you to
show you the gum tree from which
he cut his teeth?

Ans No, but he told me where it was.

5th Q Did you look around & discover whether any other gum tree had been cut?

Ans No, Sir

6th Q. Then you don't know whether any other gum tree was cut?

Ans That is the only one I saw cut.

7th Q When you cut through a line started me by your brother did you cut in line of new road of which mention has been made?

Ans. No Sir. It was an Avenue from his house to road.

8th Q Has that lane ever been opened?

Ans No Sir.

9th Q Did you commence on road and cut straight through?

Ans No Sir. I commenced on road and

one between them four hundred
yards -

10th At that time Dimpsey Hare was
claiming land, was he?

Ans. I don't know. He didn't tell me so.

And further this document says not.
Wm E. Lardner

Taken, I don't know who subscribed before me -
E. E. Holland
NP

Korans fee \$4.50

11

The deposition of Dempsey Hare, taken by consent of parties before me, this 5th day of Oct 1887, to be read in evidence in behalf of Dempsey Hare, in a Chancery Suit, depending in the Circuit Court of Harperswood County in which said Dempsey Hare is Plaintiff & Elisha H. Darden is Dft.

Present Geo. B. Wright. for Pltff
 E. E. Holland } for Dft.
 Merritt Biggs }

Dempsey Hare being first duly sworn, deposes and says:

Q 1 What is your name, age, residence, occupation and are you one of the parties to this suit?

Ans Dempsey Hare, 65 years old, reside in Harperswood County, am a farmer, and the Plaintiff in this suit.

Q 2 State whether you are in possession of the land in controversy, and if so how long you have been in possession and how you acquired it!

Ans. I have been in possession over forty years, (I and my brothers and sisters, who had equal share with me and I bought them out) we came into possession upon the death of my father's wife. It was given to me and by brothers and sisters by Dempsey Howell.

Q 3 Did your Father leave a Will, if so state as well as you can where the Will is or what became of it?

Ans He left a Will, It was destroyed at the burning of the Clerk's office.

Q 4 Did you ever see the Will?

Ans No Sir:

Q 5 Who occupied the land where you now live up on the death of your Father?

Ans My Father's wife.

Q 6 How long did she occupy it

Ans Until her death.

Q 7 After her death, how did you come into possession of the land?

Ans It was given by my Father to his wife until her death, then to his children living at that time, and upon her death we came into possession of it.

Q 8 Did you ever have any paper of any kind from any person transferring possession of the land to you?

Ans Yes Sir:

Q 9 Examine the paper herewith handed you and say if that is the paper recasting the transfer.

Ans Yes Sir - (Paper herewith filed marked 'J')

Q 10 Explain how ^{or why} ~~Mr. B. Langston~~ made the transfer?

Ans He married my Father's widow.

Q 11 Was there ever any survey made of the tract of land where you now live, after the death of your father, and if so for what purpose was it made and by whom?

Ans Yes there was a Survey made. It was made for the purpose of dividing the land ^{among} ~~between~~ my father's children, and by Wm M. Jones.

Q 12 Were you present when the Survey was made, and did you take any part in it?

Ans I was present, and carried the Chain on three Sides of the tract of land.

Q 13 State where ~~and~~ the lines were run in that Survey and whether or not they included the land in controversy or any part of it?

(Excepted to)

Ans The lines included the land in controversy.

Q 14 Explain as near as you can how the lines run?

Ans I carried the Chain on three Sides, and crossed the Holy Rock Chapel road twice, on the South side. I commenced on the South East at a ^{black} Gum and Ended at a Pine on the North West. I was sick when I undertook to carry the Chain and gave out there, but the Pine was no corner tree. I never have ~~seen~~ seen a corner tree there on the land now in controversy. The corner Gum on the South East rotted down. It was hollow at the bottom and I stuck a ^{small} Stake in the stump hole. It was in a pond of water, where

no body used. I think the Stole is three rows, it was a day or two ago; the fore and aft tree near that Corner tree has been destroyed by a road being cut through there. When the road (new road which Mr Hall had cut and running by Elisha Dauden's house) was cut, one of the fore and aft trees was destroyed. I objected to its being cut down when they cut out the road. The road was used for more than one year, people rode around the tree and by it, until the road was put on the County, when it was cut down. I don't know who did it. I knew two other fore and aft ^{that were} trees on that line. One my daughter cut down, it was a dead tree, a "black jack". The other was a small Red Oak which rotted down. The line trees joining M. J. Dauden, the nearest one to the road after crossing the road, was a "Saw wood". The Surveyor of the road had an oak cut down which was dead, and near the road; it fell on the "Saw wood" and broke it down. The other line tree on the same side was a small "Black jack", which died and fell down, several years ago. The next was a small Pine. M. J. Dauden's ^{son Goode} ~~servant~~ occupies his house, and his wife cut that tree down. I saw her cutting it and remonstrated with her. Between the South East corner, on the South side of the County road, and the road, there are now two trees,

both Sweet gums. When the Survey was made
 Constable Wm Howell, carried the hatchet and
 chopped all the trees. He paid the Commis-
 sioners and Mr Howell each one dollar per day
 for their services and Mr Jones the Surveyor five
 dollars. Some one appointed them to do the work,
 I don't know who, but suppose the Court. (This
~~part of the answer, understood excepted to.~~
 Wm Howell was a right handed man, and
 all these trees by that survey were chopped by
 a right handed man; some of the trees are
 standing there now to show for themselves.
 When he laid off the lots, dividing the land be-
 tween the children, he drove posts along the
 road, and chopped them fore and aft across
 the road. Where there was a tree convenient
 at the road, he chopped that fore and aft.
 One of the trees stands there now to show for
 itself. While Dr. B. Langston was in possession
 of this land, he built a tar kiln on it. There
 was no lightwood on this land scarcely. The greater
 part was picked up on the field side. The tar
 kiln was on the south side of the Holy neck
 road. = They were five days surveying the land
 (here and at other places) before we drew lots for
 the shares. I did not carry the chain but on day.
 When we drew for it, we drew the land across
 the road, and that was the land in controversy.

When I was a small boy, living with my father I have seen his black men hauling dirt off the land in dispute, carrying it on the other side of the road. I raised the fence, I and my sister, where they hauled it through. The land where the dirt was hauled off has never grown up like the other since, it shows for itself to day. It In the life time of Harrison Howell I hauled dirt off this land in dispute and exercised ownership over it, taking any thing off it, I chose.

Q 15 How long has it been since Elisha Darden set up any claim to this land?

Ans I reckon some ten or twelve years; it was after Wm M. Jones died, and I don't recollect exactly. Wm M. Jones was my father's administrator and the man who surveyed the land after his death.

Q 16 Did you ever cut any hubs on this land or on the land of Elisha Darden adjoining it?

Ans No Sir.

Q 17 State any conversation you may have had with W. E. Darden about cutting hub timber or hubs on this land?

Ans I never had any conversation with him about any such thing. I have ^{never} cut a hub on my own land or any body's else in my life.

Cross Examined

Q 1 When did you first come into possession of the tract of land where you now live?

Ans At the death of my father's wife in 1843.

Q 2 When did you buy out the interests of the other heirs?

Ans Since that time, but I can't say exactly when.

Q 3 When did your father's widow die?

Ans In 1843

Q 4 You say in your Examination in chief that this tract of land was given to your father's widow during her life and then to your father's children - If you never saw the Will how do you know this?

Ans My father told me how he gave it, ~~two or three~~ before he died.

Q 5 What interest did Dr. B. Langston have in the land in controversy, to enable him to transfer it to any one?

Ans He married my father's widow.

Q 6 But at the death of your father's widow, from what you state, the land descended to your father's children; then why should Dr. B. Langston transfer it?

(Excepted to because ~~that~~ there is nothing to show that Dr. B. Langston transferred it)

Ans He had it in possession, by marrying the widow.

Q 7 When was the survey of which you have spoken, made?

Ans It has been about forty years or more, it was after the death of my Father's widow.

Q 8 Was it made under an Order of Court?

Ans As far as I know it was, I had nothing to do with it. There was another heir older than I was.

Q 9 Who was present at that survey?

Ans Geo R. Lee, Fred^d N. Hollands, Wm Howell Wm M. Jones, Surveyor, myself, my brother John Abram Howell

Q 10 Was Harrison Howell there?

Ans I carried him a summons, ten days previous to the survey, but he was not present.

Q 11 By whom was that summons given to you?

Ans Wm M. Jones, my Father's Adm^r gave it to me, & gave me notices for all adjoining parties.

Q 12 On what three sides did you run the chain?

Ans On the side adjoining Elijah Jones (present owner) Wylie Jones formerly; Jordan Jones (now Dempsey Hare's), James R Jones, now Elmer Hollands, Rich^d Howell's, now Wm Howell's Jacob Hollands now Wm Howell's, Geo J. Wright's, now his widow's; Godwin Jones, now Dempsey Darden's Wm W. Darden, now M. J. Darden's; this embraces three sides.

Q 13 Please state the present owners of lands over

those three Sides.

Ans I have given them in my last answer.

Q 14 Please state the present owners on the Side on which you did not go, or on the 4th Side?

Ans Elisha N. Duesen lives there, I reckon it is his.

Q 15 Where you did not carry the Chain on the line between Harrison Howell's land and the land on which you now live?

Ans I did not my brother John did.

Q 16 Where ^{what course,} ^{take to} did you commence on the South East Side at a Green and End on the North West Side at a Pine?

Ans I went down, when I started toward Sunrise course and ~~I came down in a crook~~ up to a water Oak standing in "Dead Isaac's" branch the Corner tree on Jordan Jones, James R. Jones and Rich^d Howell; then up the run of "Dead Isaac's" branch, until I came to a large Pine, ^{now in the line of Lou Howell,} then a course, ^{thru} of North East, to a big lightwood stump, then nearly East to the right to a corner stump, standing in the line of Jacob Holland and John Wright; there we took a line towards the North West, following the line of John Wright and Godwin Jones, then crossing the road (Holy Neck Chapel road) a South West course. There I stopped.

Q 17 You have stated in your Examination in Chief that you crossed the road twice over

the South Side; how could you do this, when you commenced on the South East at a Gum and stopped on the North West at a Pine?

Ans I mean I crossed the Holy Resch Chapel Road on this land in dispute that lies on the South Side.

Q 18 But you have stated above that you did not carry the chain along the line between you and E. H. Dierker, now explain how you crossed the road twice, having regard ^{to that statement} ~~to the above answer~~.

Ans I began on the South East at a Gum and ended at a Pine on the South West.

Q 19 Did you commence the Survey or to carry the chain at the County road, if so on which Side?

Ans I did not commence at the County road.

Q 20 How far from the County road did you commence?

Ans I don't remember the chains, I did not count them, the Surveyor counted them.

Q 21 How far did you cross the road on the North West Side at the Pine

Ans I don't know anything about the chains; if I was there I could show you where I went I did not count the chains.

Q 22 You have stated in your Examination that

Chief that this Pine was not a corner tree; why ~~not~~ was it not?

Ans Because it was a fore and aft tree.

Q 23 You have stated that the ^{corner} Green on the South East Side rotted down and was in a pond of water, how far was that tree from the County road?

Ans I did not measure the chains.

Q 24 How many line trees were there on the South Side of the County road, on the line you claim between you & Elisha Darden?

Ans From the first corner tree on Elijah Jones side, one was a Green (I think a Sweet Gum) some one cut it down, after the new road was cut through there; next was a small Red Oak, next was a "Black Jack", I have never seen any others.

Q 25 You have stated in your Examination in Chief that the line tree joining M. J. Darden, nearest the road, was a Saw-wood; how do you know this, if the trees you have mentioned above are all you have ever seen on that line?

Ans You asked me the trees between me and Elisha Darden and I asked you.

Q 26 Does not the line you claim between you & Elisha H. Darden, run from the County road on one side to the County road on the other side?

Ans It does not.

Q 27 State if you can all the line trees on the disputed line from road to road?

Ans Beginning on Elijah Jones line, the first is a ^{sweet} Gum; next a sweet Gum; the corner tree was a Black Gum (now gone) and a Stob stuck in the stump; the next was a Gum that was cut down in the new road; next a Red Oak, (rotted down); next a "Black Jack"; next a Pine; next a Black Jack (rotted down) next a "Sow Wood" which stood near the road and was broken down.

Q 28 Are these all?

Ans All I have ever seen.

Q 29 You have stated in your Examination in Chief that your daughter cut down one line tree; why did you not include that in the above?

Ans I have included it, it was a Black Jack.

Q 29 You have stated in your Examinations in Chief that the line tree nearest the road was a "Sow Wood"; on which side of the road is this "Sow Wood"?

Ans On the side with the land in dispute.

Q 30 You have not stated in your answer above, that there was a Pine on the North West Side on the line in dispute, where you stopped carrying the chain; why did you leave that out?

Ans I have not left it out, I don't mean the North

West Side of the land in dispute; I mean the Pine that was cut down by Laura Goode on the land in dispute; that was the tree where I stopped, and was not a corner tree. I have never seen the corner tree there.

Q 31 When did Laura Goode cut this tree down?

Ans Two or three years ago.

Q 32 You have stated in your Examination in chief that this Survey was made forty years ago, and that the Pine cut down by Laura Goode was a small one; how do you explain this?

Ans Only because it did not grow any more that I could see.

Q 33 On which side of the County road were the Chopped posts put down?

Ans On the North or field side.

Q 34 Are there any chopped posts on the South Side of the County road?

Ans There was not.

Q 35 Were there no corner trees on the North Side of the road?

Ans Not but one.

Q 36 How many acres were there in the tract of land you now claim and surveyed?

Ans I do not remember.

Q 37 You have stated that one of the children drew land on the South Side of the road

which one was it?

Ans All of us drew land on that side.

Q 38 Do I understand you to mean that each one of the heirs drew part of the land in dispute on the South side of the road?

Ans They did. There were only four of us living when the division was made.

Q 39 How did you get possession of the interests of the other children in this land?

Ans I bought ^{them} ~~it~~, and here file the only Deed I have, all my other Deeds having been destroyed. ^{My counsel calls for the production of any other Deeds & gives notice} (Deed number "D") } that he will use them as evidence.

Q 40 How much land do you claim on the South side of the County road?

Ans I don't know the number of acres, it has never been surveyed separately that I know of; but I can tell the heirs.

And further this deponent saith not.

Gemmy Hare

Taken and Subscribed before me this 5th day of October 1887

Geo. H. Wright Notary Public.

Lucinda Holland, being first duly sworn for the Plaintiff deposes as follows:

1st Q What is your name, age, residence & occupation?

Ans My name is Lucinda Holland, am now seventy years old, reside in Harrison and County, and am farming.

2^d Q Do you know the parties to this suit & are you in any way connected with the Plaintiff?

Ans I know the parties, and am in no way connected with Dempsey Hare, except that he married my husband's sister.

3^d Q Do you know any thing about Dempsey Hare's land and whether it extended across the Holy Week road?

Except to.

Ans. I know that when Dempsey Howell, the father of the Plaintiff first went on this land, he built his dwelling on the North side of the road, and one of his negro houses and a Cooper's shop on the South side of the Holy Week road.

4th Q Where were you living at that time?

Ans I was living with my father and mother

near Mr Isaac Lee's, about one mile and
a half from where Dempsey Howell lives.

Cross Examined

1st Q Do you know any thing about the bound-
aries of Dempsey Howell's land?

ans I don't ^{know} any thing now than that he built
as I said. My sister used to weave cloth for
Dempsey Howell & I was after there.

2^d Q How much land did Dempsey Howell own
on the South Side of the Holy rich road?

ans I don't know how much he owned, nothing
more than I have said, that he built his
Coopers shop and one of his negro houses
on the South Side of the road.

3^d Q Have those houses ever been pulled down?

ans Yes they have been gone from there years
ago, and the people that lived in them have
been dead over fifty years.

4th Q Has the road running along there ever been
changed;

Ans No, not that I know of.

5th Q When did Harrison Howell die?

Ans I don't know.

6th Q Were the houses you speak of on this land at the time of Harrison Howell's death?

Ans No Sir: They were gone long before he died.

7th Q Who owned where Dempsey Hare now lives at Harrison Howell's death?

Ans Dempsey Hare, who was living there before Harrison Howell's death. The houses across the road were gone before Dempsey Howell's death. They were common houses, and had been removed years before his death and while Dempsey Hare was a boy, I think.

8th Q Do you know who owned the land in controversy at the ^{time of Harrison} Dempsey Howell's death?

Ans I don't know. Mas Dempsey built the houses & I supposed he built on his own land. I never knew anything about lines, but supposed it was Dempsey Howell's land. I do not

Know who owned it at Harrison Howell's death.

9th Q Has Dempsey Harlow built any houses on that side of the road?

Ans No Sir, none that I know of.

10th Q Who now lives on the Harrison Howell tract of land?

Ans Mr Elisha Darden.

11th Q Do you know the lines of that tract?

Ans I don't know the lines of any tract land in the world.

12th Q Do you know whether Dempsey Howell built the houses across the road by permission of Harrison Howell or not?

Ans I never heard any thing about Harrison Howell in connection with it in my life.

13th Q Were these houses moved away before Dempsey Harlow went there?

Ans Yes, before Dempsey Howell died and he raked up the dirt and carried it somewhere on his farm.

14 Q Do you know that Dempsey Howell claimed this land across the road at the time of his death?

Ans I never heard a word said about it in my life.

Re- Examined-

1st Q While these house were on the land across the road, whose people occupied them?

~~Ans~~ Excepted to-

Ans Dempsey Howells.

2^d Q Did you ever hear of any sale of the land across the road before Dempsey Howells death?

Excepted to-

Ans No Sir, I never did.

~~And~~ And further this Depoent
Smith not.

Lucinda ^{hu} x Holland
witness

Witness:

Geo. H. Wright.

Dempsey Hall

v

Elisha H. Darden

Deposition for Plff
of Lucinda Holland.

Depositions of Wm Howell taken Taken
by consent before me, S. S. Howard, a notary
public for Hansman County, Virginia,
doe read as evidence in behalf of the de-
fendant in the Chancery cause of Hare
vs Darden now pending in the Circuit
Court of Hansman County, wherein
Dumfrey Hare is plaintiff and E. H.
Darden is defendant, on the 13th day
of Oct 1881.

Present - J. H. Wright, for Plaintiff
" S. S. Howard, for Defendant -

Wm Howell being duly sworn deposes and
says as follows:

1st Q - What is your ^{age} name residence, occupation
and do you know the parties to this suit?

Ans - I am 52 - Wm Howell, Hansman County -
farmer - know the parties to this suit.

2nd Q - Do you know the situation of the land in
controversy?

Ans - Yes.

3rd Q - Have you had occasion recently to go
through it - looking for line trees?

Ans - Yes, Sir. I did not find any line trees -
I made a careful search.

4th Q - Did you find any line trees between this
land & Elijah Jones or M. J. Darden?
No, Sir.

5th Q Who is & has been the reputed owner of the land in controversy?

Ans - E. H. Darden has been considered the reputed owner, so people tell me -

Excepted to -

Cross Examination -

1st Q At whose suggestion did you ^{go} through the land looking for line trees ~~at whose suggestion~~ who went with you -

Ans - Robt. Rawls & E. H. Darden, and at the suggestion of E. H. Darden -

2nd Q Was Dampy Hare present?

Ans - No Sir -

3rd Q Did you give him notice that you were going through -?

Ans - I did not -

4th Q Do you know anything about boundary lines of Dampy Hare's land on of E. H. Darden's land -

Ans - Not on that piece - I looked for it and could not find it - Excepted to -

5th Q Did you ever know anything about the boundary lines of this land -?

Ans - No, Sir -

6th Q Can you say there were never any line trees there on that side of road -?

Ans - I cannot - There are none there now -

7th Q Can you describe where you went looking for line trees; if so, do it -

Ans. Yes, I went down line I understand D. Hore claims as his - I went through woods from where he claims to Mr. J. D. Anderson's line -

8th Q How do you know ^{where} Hore claims it?

Ans. I only know from what others told me -
I examined

9th Q Did you make a thorough search of the place on that side of road to find line trees?

Examiner

Ans. I certainly did -

And further this defendant says not -
Why ^{him} Horelee
marks

Robt. Rawler, another witness, who is present, after being sworn, testifies and says as follows -

10th Q What is your name, age - residence & do you the parties to this suit?

Robt. Rawler, am 44 yrs old, live in same neighborhood as the parties to this suit?

220th Q Do you know the land in controversy?

Ans. I know the land in dispute is -

3rd Q Have you had occasion recently to go

through it - looking for line trees - if so, state
all you know about it - ?

Ans - Yes sir - I went through it with Mr
Hemmel & Mr Dandrea last Saturday -
we started at foot of the new road, and
went down about three rods from road
to Dandrea's line - we didn't find any line
trees

3rd Q Who is the reputed owner of the land in Con-
troversy?

Ans - I don't know the owner - I have ^{heard} good many
say the road was the line between D. Hare
& Dandrea - Excepted to -

Cross examined -

1st Q Did you notify Hare?

A - No, we went on land last Saturday Oct 8 -
& didn't notify him -

2nd Q Did you ever know anything about some-
day lines between Hare & Dandrea?

Ans - No, Sir -

And further this deponent says that
Ralt. R. R. R.

E. H. Dandrea being duly sworn, deposes and
says as follows:

It has been testified to by witnesses for D. Hare
that a turpentine was well on the land.

in Controversy by Drumpsey Kneel or Jno B. Langston - State what you know about it?

Ans. - Jno. B. Langston had it - once - I was living where D. - here now lives with my father - Jno. B. Langston & negroes picked up lightwood on land here now lives on - There was a woodland near the road where he could sit trap the ~~as for~~ I heard him say that he asked permission of Haines or Howell to put it on his side of road, where he could sit plenty of trap - I hoped to have the D. Sup. - for - Answer excepted to -

2nd Q. - Here states in his deposition that there was a corner tree ^{apex} - between you, & Jno. B. Langston himself - which has rotted down - and other facts & facts here as the alleged line between you & himself - is it true?

Ans. - It is not true - I have never seen any there - Answer & answer excepted to -

3rd Q. - Here states in his deposition that posts chopped were put on line on North side of road at time survey of land was made - State what you know about it?

Ans. - They were not put there then - He himself put them there ten or twelve years ago -

Cross-Examination -

1st Q. - In what years did you live where D. Haines

now live?

Ans - I don't recollect date - I don't exactly re-
member years my father lived there, but
he lived there several years -

2nd Q - Where did Jno. B. Long live at that time?
Ans - In Gates County -

3rd Q - What year did he build Tan Tulah?

Ans - I don't know. When my father was living
there -

4th Q - Did he spend much time at your father's?

Ans - Yes - He had doctors living there -

5th Q - Do you know that all the word ^{used} come
from the side of road?

Ans - Yes, sir, it did -

6th Q - What means had you knowing that fact?

Ans - I lived there & used to go out there every
day -

7th Q - How do you know?

Ans - I don't know exactly - I was a good boy & a
boy - long enough to drive cart & horse -

8th Q - Are you prepared to say after a lapse of
about fifty years that no cord was used
in the Tan Tulah from Smith side of road?

Ans - No light wood -

9th Q - Although you have never seen the limps
trees spoken of by Dempsey Hare can
you say positively there are such trees

were over there?

Ans - Never since my recollection I have known it all my life -

10th How long has it been since you first had occasion to look for line trees there?

Ans - Eleven or twelve years ago -

11th Were you present when the survey was made by Wm. M. James Townshend D. Howe has testified?

Ans - No, I was not -

12th How then do you know that the fence after posts of which he speaks in Co. road were not put there?

Ans - I know they were not. I know they were put there after he knocked down a sign board on this land of mine & Adolphus James, a justice made him pay for it. I know when division was made between Howe & his brother & sister, but I was not present -

13th Do you know whether Dr. Humphrey has put those posts in County road or - never other than has rotted down?

Ans - I think he did not. There were none there before -

14th Did you see Howe put posts there - right side of road

Ans - I did not see him put ^{them} there. He put

^{I suppose - I was done}
them three, ^{end} day or two after board
was knocked down

15th Q Who do you know they were never there before?

Ans. I know it - because I lived there - on
the South side of road & passed along the
road every day nearly.

16th Q When you mean today there because you
live near the road & passed along fre-
quently, you see & know every thing that
is done?

Ans. No sir - I do not mean any such thing
Re-examine -

17th Q Where are these posts placed?

Ans. On the side of the road -
and further this defendant says not.

E. W. Darden

Take, or rendered before me -

E. E. Hreand, M?

Know all men by these presents, that we, Dempsey Hare and John H. Wright are held and firmly bound unto Elisha H. Darden, in the sum of One hundred and fifty dollars, to the payment whereof well and truly to be made to the said Elisha H. Darden, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. The obligors herein hereby waive all benefit of the Homestead Exemption as to the obligation of this bond, and also waive any claim, right or privilege to discharge any liability arising under said bond in any currency, funds, counter claims or offsets other than legal tender currency of the United States. Sealed with our seals and dated this 20th day of June, A.D. 1887, and in the 111th year of the Commonwealth.

The Condition of the above obligation is such, that whereas the said Dempsey Hare, on his Bill in Chancery against the said Elisha H. Darden, addressed to the Hon. C. McKill, Judge of the Circuit Court of Mansfield County, has obtained from the Hon. William J. Kelly, Judge of the County Court of said County, an injunction to enjoin and restrain the defendant, the said Elisha H. Darden, his agents, attorneys and all other persons from cutting or removing any timber or other material of any kind or whatever from the said ^{said land in the} Bill mentioned lying on the South Side of the "Holy Week Chapel" Road, and adjoining the lands of the said Elisha H. Darden, on the South: Elijah Jones, on the East, and M. J. Darden on the West, until the further order of the said Circuit Court. And whereas, it is provided by the order of the said Judge, awarding the said injunction, that the plaintiff shall not have the benefit thereof until he or some one for him shall execute before the Clerk of said Circuit Court, a bond, with security deemed by him sufficient in the penalty of One hundred and fifty (\$150) dollars:

Now therefore, if the said Dempsey Hare shall pay all

such costs as may be awarded against him 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.

Executed and acknowledged
before me.

Peter D. Poutis, Clerk of the
Circuit Court of Harsemau
County

Joseph Hall
H. H. Wright

Seal

Seal

Dempsey Hare
In Chy:
20 { Jeym: Bond

Elisha H. Darden

John H. Wright,
Attorney and Counselor at Law,

Subscriber to Sloan's Legal and
Financial Register and Mem-
ber of the Continental
Collection Union.

Suffolk, Va., ... 188^d

TO ELISHA H. DARDEN:-

PLEASE TAKE NOTICE THAT ON SATURDAY JULY
2^d 1887 BEFORE A. MC. F. JONES, A JUSTICE OF THE PEACE, AT HIS
RESIDENCE IN THE COUNTY OF NANSEMOND BETWEEN THE HOURS OF 6 A.M.
AND 6 P. M. OF THAT DAY I SHALL PROCEED TO TAKE THE DEPOSITIONS
OF DIXON HEDGEPEETH AND OTHERS TO ^{be} READ AS EVIDENCE IN MY BEHALF
IN A CHANCERY SUIT NOW PENDING AND UNDETERMINED ^{er} IN THE CIRCUIT
COURT OF NANSEMOND COUNTY IN WHICH I AM PLAINTIFF AND YOU ARE
DEFENDANT. AND IF FROM ANY CAUSE THE TAKING OF SAID DEPOSI-
TIONS BE NOT BEGUN ON THAT DAY ^{or} ~~ARE~~ BEING BEGUN THEY BE NOT COM-
PLETED ON THAT DAY, THE TAKING OF THE SAME WILL BE ADJOURNED ^R AND
CONTINUED FROM DAY TO DAY AT THE SAME PLACE AND BETWEEN THE
SAME HOURS UNTIL THEY ARE COMPLETED.

RESPECTFULLY

DEMPSEY HARE

BY COUNSEL

I certify that I delivered a copy of the within notice to
Elisha H. Darden in person on the 21st day of June
1887.

J. G. McNeil

Subscribed and Sworn to before me this 24th day of June
1887.

Peter B. Hunter.

BA COMBET
Clerk of Hanson and County Court

DENISEA HUBE

RESPECTFULLY

SAME HOURS UNTIL THEY ARE COMPLETED.

CONTINUED FROM DAY TO DAY AT THE SAME PLACE AND BETWEEN THE

PERIOD THAT DAY. THE TAKING OF THE SAME WILL BE ADJOURNED AND

THEY BE NOT BEGIN ON THAT DAY ARE BEING BEGUN THEY BE NOT COM-

PLETING. AND IF FROM ANY CAUSE THE TAKING OF SAID DEPOSIT-

COMPT OF HANSEN AND COUNTY IN WHICH I AM PLAINTIFF AND YOU ARE

IN A CHANCERY SUIT NOW PENDING AND UNDERMINED IN THE CIRCUIT

OF DIXON HEREBY AND OTHERS TO BEAD AS EVIDENCE IN SAID CHARGE

AND O. B. H. OF THAT DAY I SHALL PROCEED TO TAKE THE DEPOSITIONS

RESIDENCE IN THE COUNTY OF HANSEN AND BETWEEN THE HOURS OF 8 A. M.

3. 1887 DENISEA H. HUBER, A JUSTICE OF THE PEACE, AT HIS

PLEASE TAKE NOTICE THAT ON SATURDAY NEXT

TO ELLISHA H. DARDEN:-

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *Elisha H. Gordon*

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 *July* next, to answer a

Bill in Chancery, exhibited against him

in the said Court by *Douglas Hale*.

and have then and there this summons.

Witness, PETER B. PRENTIS, Clerk of our said Court, at his office, this *20th* day of

June 1887, in the 11th year of the Commonwealth.

Teste:

Peter B. Prentis Clerk.

Memor.

The within named Defendant, Elisha H. Darden, his Agents, attorneys and all other persons, are hereby enjoined and restrained from cutting or removing any timber or other material of any kind whatever, from the land in the Bill mentioned, which land lies on the South side of the Holy Hill Chapel road, and adjoining the lands of the said Elisha H. Darden, on the South; Elijah Jones, on the East, and M. J. Darden, on the West, until the further order of the Circuit Court of Hanseman and County Virginia.

Teste: Peter B. Prentiss. Clerk.

Wright. p. 1

Dempsey Ware

as Guardian Chy. &c

Elisha H. Darden

To Judge Rules, 1887

Pro. B. No. 1.
Circuit Court

Peter B. Prentiss
Clerk of Hanseman and County Court

Subscribed & sworn before me this 24th day of June 1887.

I hereby certify that I delivered a true copy of the within writ to Elisha H. Darden, in person, on the 21st day of June 1887.
J. S. McNamee