1904-001
Nansemond Co (Suffolk) Chancery Causes: I.A. Luke vs B.C. Ellis et al

Griffith, Rogers, Williams, Freeman, Morgan, Parker

I A Louke
VS In Chancery
B & Ellis & others

1903 March 5th Process issued returnable to March Rules third Monday

" " 16 Process returned executed on defendants

Bill filed and decree nisi against said defendants

" April 6th Decree nisi confirmed and cause set for hearing

Chancery Notes.

To the Hon. R. R. Prentis, Judge of the Circuit Court of the County of Nansemond, State of Virginia.

Complaining showeth unto the Court your complainant, I. A. Luke, that B. C. Ellis of the County of Nansemond, and State of Virginia, was on or before the 13th day of November 1902 indebted to him on open account in the sum of $124.94. This claim is yet due and unpaid. That on or about the First of November 1902 your complainant after having presented this claim to the said B. C. Ellis several times without collection, wrote to the said Ellis and threatened to obtain judgment at once, unless the debt be paid, that, in anticipation that judgment would be recovered, the said B. C. Ellis with the object and intent to prevent your complainant from realizing anything from the defendant's property, conveyed by Deed dated the 13th of November 1902 to Maud Lavinia Ellis, his wife, all of his said property out of which your complainant might have collected the debt here-in specified consisting of the following property:

All those two certain tracts of land known as the "Darian Copeland Tract," and "Tom Odom Tract," in Nansemond County, Virginia adjoining each other and containing Forty five (45) Acres, more or less, and being bounded by the lands of J. I. Williams, E. J. Freeman, Elisha Cross, and others. Also the following property, now on said farm or in the posession of the said B. C. Ellis (that is at the date of the said Deed of Conveyance) namely:

Two horses; one cow and calf; Twenty Five (25) hogs; all household and kitchen furniture; farm implements; all crops raised on said farm; one buggy and harness; and two carts, wheels and gear for same.

Your complainant alleges and charges that no consideration whatever passed from the said Maud Lavinia Ellis to the said B. C. Ellis for the said Deed; that the same was made to hinder, delay, and defraud your complainant and other creditors; and he is entitled to have the said Deed set aside and the property there-in embraced subjected to the payment of your complainant's said debt. In tender consideration where-of your complainant prays that the said Deed afore mentioned be set aside as fraudulent and void and that the property embraced in the said Deed, or so much as is necessary to satisfy the complainant's claim, sold, and the proceeds applied to the

complainant's claim, and those of other creditors, if such, and that such other and further releif may be granted your complainant as is adapted to the nature of his case and agreeable to equity and good conscience. And where-as the record in the County Clerk's Office shows two Deeds of Trust made by the said B. C. Ellis, on the said property, one to Edward J. Freeman trustee for Nancy Freeman, and the other to Fred W. Hunter trustee for Nathaniel Newsoms, may a summons issue against these trustees and beneficiaries severally together with the several other defendants here-in-before named, etc. and your orator will ever pray, etc.

E. H. Williams.

W. M. Crumpler.

S. C.

CIRCUIT COURT.

I. A. Luke.....Plaintiff.

Against. In Chancery.

B. C. Ellis and Maud Lavinia Ellis.....Defendants.

The joint and separate answers of B. C. Ellis and Maud Lavinia Ellis, his wife, defendants to a bill in equity exhibited against them in the Circuit Court of Nansemond County by I. A. Luke.

These respondents, reserving for themselves the benefit of all just exception to said bill, for answer thereto, answer and say: It is true as alleged that the said complainant holds an account against your respondent, B. C. Ellis, for the amount named in the bill and that the same has not been paid although has been requested to do so. It is also true that the defendant, B. C. Ellis, executed the deed as alleged in said complainant's bill, but it is not true that said deed was made with the intent to delay or defraud his creditors; that it was made upon a consideration not valuable in law; that said consideration mentioned in said deed which is a fair and reasonable one was not to be, nor has been paid, nor was intended to be paid at the time of the conveyance; and it is not true that Maud Lavinia Ellis had notice of a fraudulent intent on the part of the defendant, for in fact no such intent existed. The entire transaction was fair and bona fide, perfectly free from all and any intent to defraud said complainant or any other creditors.

And further your respondent, Maud Lavinia Ellis, owned a tract of land up until the 14th day of December, 1876, at which date she sold the said tract of land to Jesse Parker for the sum of Five Hundred and Fifty Dollars. Your respondent, Maud Lavinia Ellis, then loaned this money, the purchase price of her farm, to her husband, B. C. Ellis, and he purchased the farm mentioned in this suit. Your respondent, Maud Lavia Ellis, also at this time let him have Thirty-six Dollars in money, making the total Five Hundred and Eighty-six Dollars. With this Five Hundred and Eight-six Dollars your respondent, B. C. Ellis, spent in purchasing the farm mentioned in this suit, farming implement, etc. Your respondent, B. C. Ellis,

has never paid one penny of this money to your respondent, Maud Lavinia Ellis, but he has held it drawing interest from the I4th day of December, I876, which amounts at this time to $I543.9I. Your respondent, B. C. Ellis, had promised her from time to time to secure this money and in the fall of I902, he then agreed to transfer his property to her to settle the account. While it amounted to more than the consideration named in the deed the property was taken in settlement of the account and the consideration was made in the deed just the amount that your respondednts believed that the property was worth at the time. Your respondent, Maud Lavinia Ellis, purchased this property subject to a certain deed of trust made by your respondednts to Fred W. Hunter, trustee for Nathaniel Newsoms, to secure a certain note dated Nov. 29th, I886, for the sum of $200. and it now amounts to $404.60, and your respondents believed that the consideration in the deed subject to the martgage would be the full value of the farm. And further your respondents say why this this deed was made at this time was because of the bad health of your respondent, B. C. Ellis. He was very sick and went to the Hospital and the physicians advised him that they could not cure him and knowing that he was in the condition that he was and on account of his ill health he thought it nothing but proper that he should first protect his family according to his promise.

These respondents again deny any and all charges of fraud or fraudulent intent, and have now fully answered the said complainant's bill and pray hence to be dismissed with their reasonable costs.

And they will every pray, etc.

Witness
S. E. Everett

B. C. Ellis
Maud her x Lavinia Ellis
mark

STATE OF VIRGINIA,
To-wit:
County of Nansemond.

I, S. E. Everett, a Notary Public for the County and State aforesaid, do certify that B. C. Ellis and Maud Lavinia Ellis, whose names are signed to the foregoing answer appeared before me in County and made oath that the statements in the foregoing bill a are true.

Given under my hand this 1st day of April 1903

S. E. Everett N. P.

I.A.Luke, #
In Chancery.
Vs. #
#
B.C.Ellis and Maud Lavinia Ellis, #

This day this cause came on again to be heard upon the papers formerly read,and on motion of the plaintiff,it appearing from the statement of Counsel,that,the matters in controversy have been settled between the parties,it is ordered that this cause be removed from the docket.

Entered Oct. 12, 1904

Robert R. Rennie

Entered in Chy. Order
Book No. 3. Page 607.

C.B.Haslett.

I have been living within Three Miles of Mr & Mrs Ellis for Three or Four Years,and have known them all my life.I never knew and have never heard that Mrs Ellis was worth any property out of which she might have paid a thousand dollar consideration.I would consider the property as conveyed in the deed from Mr Ellis to his wife richly worth $2000.00.If I had the money I would be willing to give $1500.00 for the land alone.I know nothing about the Deed of Trust which they have on the place, if any they have,nor do I know anything about what Mrs Ellis got from her father's estate.

CIRCUIT COURT OF NANSEMOND COUNTY.

I. A. Luke,

vs.

B. C. Ellis.

BEFORE

J. U. Burges, Notary Public.

Depositions of I. A. LUKE and others, taken pursuant to notice, at S. E. Everett's office, Suffolk, Virginia, on Wednesday November IIth, and Friday November I3th, I903, and _____ to be read as evidence on behalf of the plaintiff and defendant in the above entitled cause now pending.

Present:- W. M. Crumpler, For Plaintiff.
E. H. Williams, For Plaintiff,
S. E. Everett, For Defendant.

-----o-----

It is agreed that the depositions shall be taken by a stenographer and afterwards transcribed, and that the signatures of the witnesses may be waived, and it is further agreed that the depositions be taken out of the presence of the Notary Public, J. U. Burges, but the said Notary Public to swear the witnesses which was done by the Notary Public, J. U. Burges.

-----o-----

I. A. LUKE, called and sworn on behalf of the plaintiff testified as follows:

Q. Mr. Luke you have filed a Bill in Equity to set aside a certain deed of conveyance made by Mr. B. C. Ellis to his wife, Maud Lavinia Ellis, now of record in the Clerk's Office of Nansemond County Court please state fully and as accurately as possible your reasons for having brought this suit.

A. Mr. Ellis ran an account with me I think either in I899 or I900. In the fall of the year he came to me and told me if I would give him three cents for his bunch peanuts that he would pay the account. I told Mr. Ellis at the time that the peanuts were not worth three cents. The market was not that. But in view of the fact that he wanted to pay the account previous to Christmas that I would give him the three cents. Christmas being the time the account fell due. Mr. Ellis a short time thereafter brought the peanuts and I think settled the account within $2.45. The next year he wanted some goods again and in the spring got a part of this account now in question and sometime in the spring I delivered to Mr. Ellis at Drum Hill, North Carolina, $I6.00 worth of guano. This $I6.00 and the merchandise account brought the account up to its present figures. The last time I saw Mr. Ellis at that time, I think it was in August or September, I90I, he came in the store and wanted some meat. I charged him more for the meat than he wanted to pay and he went out without buying it. I saw no more of Mr. Ellis that year. Sometime about the close of the year he wrote me a letter mailed at Somerton saying that he was very sorry but would be unable to pay me any part of this account. This was the end of I90I, the year the account was made. He alleged as his reason that some person in North Carolina had unexpectedly demanded from him the payment of a debt and it would take all that he had that year to liquidate his indebtedness. Then I immediately wrote to Mr. Ellis enclosing a note for the amount of my account with the request that he sign the note and return to me. This was immediately after getting his letter. A few days thereafter I received a reply to my letter from Mr. Ellis saying that he would pay the account just as soon without giving the note as he would by giving the note and declined signing the note at all. This matter stood thus the remainder of that year, that is until the fall. I wrote Mr. Ellis that if he did not settle the account I should institute legal proceedings to make my money (this was the fall of I902) just a few days before the making of this deed from Mr. Ellis to his wife. Mr. Ellis did not reply at all to my letter and the first thing I knew about the conveyance I saw it in the Herald.

Q. Mr. Luke has Mr. Ellis no available property which was not conveyed in this deed of bargain and sale out of which you might proceed by law to collect the amount of his indebtedness to you.

A. None that I know of.

Q. Mr. Luke have you seen Mr. Ellis' farm? Do you know it?

A. Yes sir. I passed there on several occasions. I passed there last fall while he was in the field picking peanuts and some one was mauling rails.

Q. What would you have considered the actual cash value of Mr. Ellis' farm containing forty-five acres of land together with the personal property which was conveyed in this deed to his wife at the date when the deed was made, November 13th, 1902.

A. I should think $2000.00 would be a very reasonable consideration.

Q. Would you be willing yourself to give the amount in excess of the of his indebtedness to you of the consideration in the deed from Mr. Ellis to his wife, if so specify.

A. Yes sir. I certainly would. I would willing give the amount of the consideration in the deed, $1000., in excess to the claim which Mr. Ellis owes me together with all costs which have been incurred.

Q. Mr. Luke is this specification based on your desire for the real estate or is it simply made in order that you might save yourself loss.

A. Merely to save myself loss.

Q. Then you did not mean to say that the property is not worth more than the consideration in the deed together with your indebtedness.

A. No sir. If I were to buy the property I should expect to realize something out of it over and above the entire claim.

Q. Mr. Luke do you know Mr. Ellis' wife, Mrs. Maud Lavinia Ellis?

A. I do not.

Q. Do you not know of her?

A. Yes sir. I know of her what the people in my neighborhood said.

Q. In the community in which you live is she generally estimated to be a woman of wealth and money?

A. No sir.

Q. Mr. Luke did you any time previous to the time this deed was made threaten to get judgment against Mr. Ellis?

A. I so stated that in the first part of my evidence. That threat

was made about the first of November, 1902, and the deed of conveyance from him to his wife, as you will see, bears date just thirteen days later.

Q. Mr. Luke do you know of your own knowledge that other creditors besides yourself were pressing Mr. Ellis for the collection of debts which they held against him about the same time that this deed of conveyance was made.

A. I know that Mr. Ellis owed considerable money to other people.

Q. This is not of your own knowledge?

A. I do know. I was told so by a man, who was a brother merchant, that he was in debt to him and he also told me Mr. Ellis would not pay it.

CROSS EXAMINATION.

Q. Mr. Luke what do you think is the value of the farm?

A. $2000.

Q. Of course, you do not mean that this is subject to the deeds of trust if there are any.

A. I do not know anything about the deeds of trust. I never heard of a lien on the farm before. I always understood that the property belonged to Mr. Ellis.

Q. Did Mr. Ellis tell you he would not pay it?

A. Mr. Ellis has never told me that he would not pay it but his actions have.

Q: He never has told you in words he would not pay it, on the other hand he has told you that he would pay it.

A. The last time I saw Mr. Ellis was when I passed his farm and he told me he would pay me in a few days, that was last fall in November. It was after this deed was made.

Q. It was after this deed was made that he told you he was going to pay it?

A. Yes sir.

Q. Mr. Luke you did not know that he owed his wife any money did you?

A. Never heard of it before this transaction sir.

RE-DIRECT EXAMINATION.

Q. Mr. Luke Mr. Everett asked you the question if Mr. Ellis had told

you that he would not pay the debt, did I or did I not understand you to say that you wrote to him and told him that he would either have to pay the debt or else sign the note which you enclosed in the letter and also that if he would not sign this note that you would collect the debt by legal proceedings.

A. Yes sir, I wrote him that.

Q. Did Mr. Ellis regard this letter to him or did he disregard it?

A. Disregarded it absolutely.

Q. This did you or did you not say was about the first of November, 1902?

A. It was about the first of November, 1902, that I wrote to him threatening legal proceedings if he didn't pay the debt.

Q. You had sent him this note before that time.

A. Eight or ten months before that time and he refused to sign it.

RE-CROSS EXAMINATION.

Q. Did you send him a note to sign or write him and send it?

A. I wrote him and sent it and got his reply as I stated in the beginning of my evidence.

Mr. W. J. Ellis called and sworn on behalf of the defendant testified as follows:

Q. What is your name, age, residence and occupation?

A. W. J. Ellis, twenty-seven, Nansemond County, and farmer.

Q. Do you know the parties to this suit?

A. Yes sir.

Q. Are you related to Mr. B. C. Ellis and Mrs. Maud Lavinia Ellis, the defendants in this suit?

A. They are my mother and father.

Q. A suit has been instituted by Mr. I. A. Lake against them claiming that a certain deed dated the 13th day of November, 1902, was executed to defraud him and your father's creditors, do you know why this deed was made to your mother.

A. It was because he owed her the money.

Q. Why did he owe her the money and why was the property sold?

A. Because I know that she had property and that the property was sold

for the money to buy another place with.

Q. Do you know how much her property sold for?

A. No I do not.

Q. Do you know the amount that your father owed your mother?

A. No sir I do not know the amount.

Q. I do not mean in dollars and cents. If you can give any where near it please do so.

A. Well I have heard them say some where about $560. or $565.

Q. Then you have heard them talk to each other about this matter.

A. I have.

Q. What have they said about this money that your father owed your mother?

A. I have heard her say that he owed her the money and I have heard him tell her that he would pay the money back to her.

Q. Then he had over $500. of her money?

A. Yes sir.

Q. You heard him tell her from time to time that he would take care of her in this.

A. Yes sir.

Q. How long had he been owing her this money?

A. I suppose it has been twenty-six years.

Q. Then this is the money that she sold her farm for?

A. Yes sir.

Q. And this deed that Mr. Lake has complained of was made to pay your mother what your father owed her.

A. Yes sir.

Q. Do you know that there is a deed of trust on the property?

A. Yes sir I do.

Q. Who is this deed made in favor of?

A. Charles B. Parker.

Q. He is your uncle is he not?

A. Yes sir.

Q. Do you know the amount of the deed of trust.

A. About $300. interest and all.

Q. What do you consider the farm worth?

A. I have never estimated it. I have never thought anything much about that.

Q. Well suppose you judge it now, what do you think it would be worth?

A. I should judge it to be worth not over $1000.

Q. Do you think this a fair consideration, $1000.00?

A. I do.

Q. Are you satisfied that your father did not do this to defraud his creditors?

A. Yes sir I am.

Q. Could you say he did it to secure you mother as the preferred creditor?

A. Yes sir.

CROSS EXAMINATION.

Q. You said Mr. Ellis that you are twenty-seven years of age and that your mother disposed of property which belonged to her about twenty-six years ago, at that time according to your statement you were one year old.

A. Yes sir.

Q. Now, Mr. Ellis, being at such a stage of infancy how is it that you can remember the selling price of that farm or how is it that you remember of your own knowledge that your mother ever owned any property.

A. I have seen the deed for it since I have been old enough to read it.

Q. That deed states what consideration?

A. I don't remember what consideration it states. I don't remember the reading of the deed now.

Q. Do you remember or not the person who bought her property.

A. Yes sir.

Q. Who bought it?

A. It was her brother.

Q. What was his name.

(Mr. B. C. Ellis spoke up and said Jesse Parker).

Q. What did your father give for the farm on which he now lives.

A. I don't know sir.

Q. How long has he owned the same.

A. About twenty-six years I guess.

Q. Do you know this of your own knowledge? Have you also seen the deed for this transaction?

A. No sir.

Q. Now can you explain or tell us why it was that your father had not for this long period of twenty-six years attempted to convey his property to your mother in consideration of his indebtedness to her before the 13th of November, 1902.

A. I can not sir.

Q. Do you remember having heard your father say that he was indebted to Mr. I. A. Lake.

A. Yes sir I have heard him say so.

Q. When did you last hear him say that? Was it before the deed of conveyance was made.

A. I did not hear him say so before the deed was made. I have not been living at home for three years until this spring.

Q. Then if you have not been home for three years until this spring ~~and~~ the talking and conversations between your father and mother concerning his indebtedness to her took place over three years ago.

A. Yes sir.

Q. Then you do not know anything about what took place concerning this indebtedness on or about the 13th of November, 1902, the time when the property was conveyed to your mother.

A. No sir I do not.

Q. You had not been home for three years. Did you hear any conversation between them on or about that time concerning why the transaction was made?

A. On or about that time, no.

Q. You have said that you remembered having seen the deed from your mother to Mr. Parker and the purchase price was about $560. or $565.

A. Yes sir.

Q. I understood from your testimony that you said your father owed your mother $560. or $565.

A. Yes sir.

Q. Now is it not true that the amount of indebtedness to your mother by your father is the amount for which her property sold.

A. He owed her the amount that he got from her.

Q. Then how is it that you know how much your father owed your mother and yet do not know, in answer to a question asked by Mr. Everett, know what the property sold for?

A. Did I say I knew what the property sold for?

Q. You said that you did not know.

A. I have heard him say how much he owed her.

Q. Then you do not know whether the property as owned by your mother some twenty-six years ago sold for one dollar or one thousand dollars.

A. I don't.

Q. Then if this be true, do you or do you not know that $560. or $565. was the amount of indebtedness of your father to your mother.

A. I have heard my father say that he owed my mother about $560. or $565.

Q. And still you say that the indebtedness of your father to your mother is the amount for which your mother's property sold and that you do not know what it sold for.

A. I don't think I said so.

Q. Now about this deed of trust, this $300. deed of trust, how do you know of your own knowledge that there is any deed of trust on your mother's farm?

A. I know from what I have heard.

Q. You have not heard anything about this for the last three years, have you?

A. No sir.

Q. If it be true that there is a deed of trust on this property are you aware that it dates back to between 84 and 86?

A. I don't know how long it dates back.

Q. Do you know why your father has not paid this deed of trust, if it exists?

A. No sir I do not.

Q. What is the style of this deed of trust? Who is the beneficiary?

A. Mr. Charles B. Parker of McRea, Georgia.

Q. Do you remember when the money was loaned?

A. Yes sir.

Q. How long ago was it?

A. I don't know.

Q. State about how long?

A. I don't know. It has been sometime.

Q. About how many months or years.

A. It has been several years. I do't know how many.

Q. Were you present when the money was tendered?

A. No sir.

Q. Who borrowed this money your mother or your father.

A. My father borrowed it I reckon.

Q. You say that you are twenty-seven years of age and that you remember when this money was loaned.

A. Yes sir.

Q. Do you realize that if there is any deed of trust on this property that it was made at least seventeen or nineteen years ago?

A. I don't know how long it has been made.

Q. Do you remember all of the transactions of your father, when he sold his hogs, when he sold his peanuts, when he sold a certain horse or any other transaction which may have occurred seventeen or nineteen years ago, you being at that time either seven years or nine years old.

A. No I don't remember these transactions.

Q. Then Mr. Ellis if you can't remember these why is it that you remember this particular transaction with such accurateness?

A. I said I remembered this transaction from what I had been told. I was not hanging around my father's heels whenever he sold a horse, hog or peanuts.

Q. Then you now mean to say that you do not remember when the money was borrowed and that you did not know when it was paid to your father

A. I said I did know when this money was borrowed concerning the deed of trust.

Q. Do you remember where this money was borrowed and where it was paid? (By payment I mean when it was paid by Mr. Parker to your father).

A. I don't know when or where it was paid. I don't know the dates I mean.

Q. Do you remember the place where it was paid.

A. I do not sir.

Q. Then you do not know whether this transaction took place at your home, in Suffolk, in Holland, or some other place.

A. I do not.

Q. But still you remember when the loan was made and the amount of the loan.

A. I remember hearing him speak of borrowing the money and the amount he borrowed. That was what I heard him say.

Q. Do you know Mr. Ellis whether or not this money has been paid of your own knowledge?

A. I don't think it has ever been paid. I have never heard of it.

Q. Mr. Ellis when your mother dies you will be an heir or a part heir together with your brother and sisters, if you have any, to this property You have said that the property was worth $1000. Now Mr. Ellis would you be willing to take $125.00 if Mr. Luke would offer it to you now for your interest in that property at your mother's death?

A. I do not know when my mother is going to die or what improvements are going to be made on the farm by that time.

Q. Suppose you were 1/8 owner in this property this evening would you take $125.00 for your interest in the same?

A. Yes, I would take it.

Q. When you said that the property was not worth more than $1000. did you mean by that your mother's farm.

A. I meant the land.

Q. Now Mr. Ellis you mean that the land is worth $1000. what are the buildings worth?

A. I don't know what they are worth.

Q. You don't know what the buildings are worth.

A. I do not.

Q. What kind of a house is on the farm?

A. Two story house with five rooms.

Q. How long has this house been built?

A. It has been built ever since 1891, in September.

Q. Do you know what the house cost when it was put on it?

A. I have heard $650.

Q. Do you think the house is worth now as much as it was when it was put on it?

A. I do not sir.

Q. What do you think the amount of depreciation would be?

A. I do not know about that.

Q. About how much.

A. I don't know.

Q. Now Mr. Ellis if the land is worth $1000. is the land with the house on it worth more?

A. Of course, it is worth more.

Q. Then what would you value the house and land at?

A. I never valued it.

Q. You have valued the land and said that it was worth $1000. now can't you place a rough estimate on what the land and the house together are worth?

A. I don't expect to try to do it sir.

Q. Do you remember what actual property was conveyed by your father to your mother in that deed dated last November?

A. I do not sir.

Q. (Well let me read it to you. Two horses, one cow and calf, twenty-five hogs, all household and kitchen furniture, farming implements, all crops on the same, one buggy and harness , two carts and wheels and gear for same). You knew about this property, did you not?

A. I suppose I did sir.

Q. What would you consider at this time a proper price therefor?

A. I have never thought anything about the worth of it.

Q. Do you know these two horses?

A. I certainly do.

Q. What do you consider these two horses worth?

A. I don't know what they are worth.

Q. What would you sell them for if they were yours?

A. I am not selling horses.

Q. Are they worth $100. a piece?

A. I don't know.

Q. Are they worth $50. a piece?

A. I don't know.

Q. Do you know whether they are worth $25. a piece or not?

A. I reckon they are worth that if they are worth anything.

Q. Now if they are worth $25. a piece how much do you think they would bring at public auction?

A. I don't know how much they would bring.

Q. Then will you or will you not tell us what in your opinion these two horses are worth?

A. I will tell you what I think the two horses are worth. I reckon the two horses would sell for $75. a piece.

Q. Do you know this cow and calf referred to?

A. I do.

Q. What are they worth?

A. They would be worth $25.

Q. What are the twenty-five hogs worth?

A. They are not worth anything now. They died with the cholera.

Q. What were they worth at the time this deed was made?

A. I suppose they were worth a dollar a piece.

A. What is the household and kitchen furniture, that is all the furniture which is in the house, or your father's house, or your mother's house, worth?

A. I suppose $50.

Q. Do you mean to say that you have not in your house consisting of all household and kitchen furniture, beds, chairs, carpets, curtains, bureaux, tables, dining ware, cook stove and other property within the house is not worth more than $50.00?

A. No sir I did not say so. To the best of my judgment it would be $100.

Q. What are the farming implements as conveyed in the deed last November 13th to your mother worth in your opinion? I mean the plows and cultivators, etc

A. Ten Dollars.

Q. What do you consider the growing crop on your father's farm last year worth?

A. I don't know sir I was not there until the crop was housed.

Q. Then if you do not know what it was worth last year what is the growing crop on it this year worth?

A. I reckon it would sell for $300.

Q. What is the buggy and harness as conveyd in this deed worth?

A. $I.50.

Q. Do you mean to say that this buggy and harness at the time it was conveyed to your mother was not worth bgt $I.50.

A. No sir I did not say so.

Q. Then what was it worth?

A. I suppose it was worth $5.00.

Q. What were the two carts and wheels and gear for same that were conveyed in this deed worth?

A. About $20.00.

Q. Give us a rough estimate of what you think the land, house and all the personal property which I have mentioned is worth, or was worth last fall, Nov. I3th?

A. I suppose it was worth $I000. I suppose if it was put up at public auction it would bring $I800. or something like that.

Q. Do you know about how this debt owing by yout father to your mother was secured?

A. No sir I do not.

Q. Do you know whether or not there was any note given by your father to your mother or any other security?

A. I do not.

Q. Did you ever hear among all the conversations to which you have referred between your mother and your father concerning this indebtedness of his to her any demand made for the payment of the money?

A. I have heard her tell him that she wanted him to pay her the money that he owed her.

Q. What was his reply to her?

A. That he would do it.

Q. Did he ever suggest how he would do it?

A. I never heard him suggest any way.

Q. Did you ever hear any conversation bwteen your mother and your father concerning the conveyance of the property now in litigation.

A. No sir.

Q. Do you know whether or not your mother charged interest on the debt from your father to her?

A. I have heard her say that she did.

Q. Do you know how much this indebtedness would amount to calculated with interest to the 13th day of November 1902?

A. I do not.

Q. Can you explain why the consideration in this deed of conveyance was made $1000. when according to your testimony in this case the amount of the debt calculated with interest up to the 13th day of November, 1903, amounts to $1423.60?

A. No I don't know why it was.

Mr. T. P. Griffith called and sworn on behalf of the defendant testified as follows:

Q. What is your name, age, residence and occupation?

A. T. P. Griffith, twenty-two, farmer, Nansemond County, Virginia.

Q. Do you know Mr. B. C. Ellis and Mrs. Maud Lavinia Ellis, parties to this suit?

A. I do.

Q. Are you in any way related to Mrs. Maud Lavinia Ellis?

A. Yes sir she is my aunt.

Q. Mr. B. C. Ellis has made a deed of bargain and sale selling all his property to his wife. The date of the deed is November 13th, 1902. Do you know why this deed was executed by Mr. Ellis?

A. I think he owed her some money why he did it.

Q. You say you think he owed her some money, state what you know about it.

A. I have heard him say that he owed her this money.

Q. Why did he owe her this money?

A. Because he used her money to buy a farm.

Q. I know that you know all about this transaction and to save the time will you state it now, the whole of it, so that we will understand it.

A. The place that his wife owned was sold to another man and this place was bought and he used the money to buy this place with. That is all I know about it.

Q. How do you know this?

A. Because I have heard him say that he owed the money for the place that way and I have heard her say so.

Q. Then you say that you heard them say that the place conveyed to her by her husband, B. C. Ellis, was purchased by B. C. Ellis with the money that her farm sold for to Jesse Parker?

A. Yes sir.

Q. What do you think that this farm is worth?

A. I suppose the house and farm would be worth $1200. or $1300.

Q. What do you think the personal property is worth that was conveyed?

A. I should say $350.

Q. Then do you know why she only paid a thousand dollars for the whole.

A. No sir I do not know why the deed was made for $1000.

CROSS EXAMINATION.

Q. You said that this transaction took place you thought because he owed her money.

A. Yes sir.

Q. Was this a matter of your own knowledge?

A. I heard him say so and I heard her say so just like I said before.

(Here the counsel for the plaintiff move the Court that all evidence of this nature be stricken from the record on the gound that it is irrevalent to admit of such evidence (it being hearsay).

Q. Do you live with Mr. Ellis?

A. No sir. I live one mile from him.

Q. How long have you known of this indebtedness between Mr. and Mrs. Ellis?

A. I don't know how long it has been. I have heard of it a number of times.

Q. Did you hear of any arrangement between Mr. and Mrs. Ellis whereby the property as conveyed in the deed of Nov. 13th, 1902, was to be so conveyed or taken in satisfaction of the indebtedness in question?

A. I never heard anything about that.

Q. Did you know anything about this transaction at the time it took place?

A. No sir I did not.

Q. When did you first learn that Mrs. Ellis owned the property?

A. I saw it in the Suffolk Herald that Mrs. Ellis owned the property.

Q. Did you think at that time thatMrs. Ellis was worth $1000.00?

A. No sir I did not.

Q. Did you hear or have you heard at any time any comment before this deed was made as to why it was made?

A. No I have never heard.

Q. Then the first time that you knew that this property was conveyed in satisfaction of the indebtedness, which you had heard Mr. Ellis owed his wife, was since November 13th, 190?.

A. Yes sir.

Q. What did you say that the farm was worth?

A. Between $1200 and $1300.

Q. Don't you think that it would sell for more than that at public auction.

A. I don't know much about that thing. Land is pretty high.

Q. Are you prepared to say that it would not bring $1600. at public auction?

A. No sir I am not prepared.

Q. Are you prepared to say that it would not bring $2000. at public auction?

A. No sir.

Q. I suppose you know what kind of a crop is on the farm.

A. No sir I don't.

Q. Mr. Ellis testified just now that the crop he thought would sell for about $300. is that correct?

A. I reckon it would sell for $300.

Q. I suppose you have been to Mr. Ellis' house and that you have seen the personal property in the house such as beds, furniture, etc., ~~now~~ *now* what is all of that worth?

A. I don't know. I never stopped to inspect it. I don't know what he has got in it.

Q. Give a rough estimate. Would you estimate what is in the house and from ~~what~~ your own knowledge what you have seen inside of the house at as much as $100. That being the amount that young Mr. Ellis has testified.

A. I reckon I would.

Q. What are these two horses in question worth?

A. I don't know anything about the horses and don't know which two horses you are speaking of.

Q. The two horses as far as that is concerned,

A. $25. a piece.

Q. Now Mr. Griffith you say that you don't know very much about the horses but that you think about $25. a piece.

A. yes sir.

Q. Then you think Mr. W. J. Ellis' judgment when he said that they were worth $75. was incorrect?

A. I don't know anything about that. Every man's judgment is not the same. He might judge a thing at $100. and I might judge the same thing at $25.

Q. Now are you familiar or do you not know the cow and calf conveyed in the deed in question?

A. No sir I do not know the cow and calf. Perhaps I have seen it but I did not know it.

Q. Do you know anything about the twenty-five hogs in question?

A. I never saw the hogs as I know of. I don't know anything about this.

Q. Ordinarily what would twenty-five hogs, raging from the ages of two to three months, be worth?

A. I could not tell much about that unless I saw the hogs. About $25. I reckon.

Q. Do you know of or have you seen the different farming implements which Mr. Ellis conveyed in this deed?

A. No sir I have not seen them.

Q. Have you any idea what they are worth?

A. I suppose ten dollars.

Q. What is the buggy and harness as conveyed in this deed worth?

A. I should think $5.00 would be a fair price for it.

Q. What are the two carts, wheels and gear for same worth?

A. I should think about $25.00.

Q. Now Mr. Griffith, you and Mr. W. J. Ellis have agreed very nearly on the value of the crop and all property concerned with the exception of your valuation on the land and house and your valuation on the two horses.

A. Yes sir.

Q. Now are you prepared to say that Mr. W. J. Ellis' estimation of $75. a piece for the horses and $1650. for the land and house is incorrect?

A. Oh, I don't know about that.

Q. Well as a matter of fact Mr. Griffith would you not say that that would be a fair judgment to be placed on?

A. Of how much?

Q. #1650. for the land and house and $75. a piece for the horses.

A. I judged tham at what I thought they would bring. Mr. Ellis has his own opinion.

Q. Have you any positive knowledge of the fact that Mrs. Maud Lavinia Ellis owned a farm twenty-six years ago?

A. Yes sir a part of one.

Q. Well how do you know this?

A. From what I have heard other people say.

(The attorneys for the plaintiff ask that this last statement be stricken from the record as heresay evidence).

Q. Then Mr. Griffith you only know from what you have heard other people say?

A. yes sirQ. Is that true as well with the other things that you have testified in this case as with that particular question?

A. I think it is so.

Q. You said that Mrs. Ellis you have heard owned a part interest in a farm twenty-six years ago.

A. Yes sir.

Q. Do you know what the value of that farm was?

A. No sir I do not.

Q. Do you know what that farm sold for when she sold it?

A. No sir I do not.

Q: Do you know except from what you have heard other people say how much Mr. Ellis owed Mrs. Ellis?

A. No sir I do not.

Q. Were you summoned here to-day as a witness?

A. No sir.

Q. Who required you, Mr. Griffith, to testify in this case?

A. Mr. Everett.

Q. Do you know how Mr. Everett found out that you knew anything about this matter?

A. No sir I do not. I did not tell him.

Q. When did you first tell what you knew about this matter and what you have testified to ?

A. I told Mr. Everett a few minutes ago what I knew about it.

Q. Is this the first time that you have told any body what you knew about this matter?

A. Yes sir.

Q. When did Mr. Everett tell you to come up here and testify?

A. He told me a few minutes ago that he wanted me to testify. I was sworn in as a witness before any one knew that I was going to be a witness. Mr. Everett took me in the other room and asked me what I knew about it.

Q. Mr. Griffith you said just now that you were not summoned here to-day but that Mr. Everett told you to come.

A. No sir I did not say that he told me to come.

Q. Then why did you come here to-day?

A. I came here to bring Mr. Ellis to town to-day.

Q. Which Mr. Ellis?

A. Mr. W. J. Ellis.

Q. And you never even told Mr. Ellis or Mrs. Ellis or Mr. W. J. Ellis what you knew about this matter before you came up here?

A. No sir.

Q. Now Mr. Griffith you have talked to Mr. Ellis about his case since you found out Mr. Luke was suing him have you not?

A. Mr. Ellis never talked to me about it before to-day here in town.

Q. You knew that Mr. Ellis was being sued didn't you?

A. I knew it by seeing it in the paper.

Q. You are a friend of Mr. Ellis are you not?

A. I try to be a friend.

Q. Well why have you not told Mr. Ellis what you knew about this case as you say you told Mr. Ellis and Mr. Everett when in the other room a few minutes ago.

A. I don't attend to other peoples business.

Q. If you are a friend of Mr. Ellis would not it be reasonable that

you should have mentioned it before a few minutes ago?

A. You can be a friend without mentioned everything you know.

Q. Now Mr. Griffith you say that you came to-day merely to bring Mr. W. J. Ellis?

A. Yes sir.

Q. If that be true what was the necessaity of your attending the taking of depositions in this case?

A. I came up just to hear the case. I guess Mr. Everett knew something about my having a knowledge of this case as we were raised near together, about five miles apart.

Q. Now Mr. Griffith if as you say, you have never mentioned your knowledge to any body before this afternoon why do you guess that Mr. Everett knew that you had any knowledge whatever concerning the fact involved in this suit?

A. I don't know about that.

Q. Mr. Griffith has any one, either before you came here to-day or since you have been here, suggested to you what you should testify to in this case?

A. No sir.

RE-CROSS EXAMINATION.

Q. Mr. Griffith, Mr. Crumpler has asked you if any one had suggested to you what to say in this case. I do not know what he meant by it at all. Whether you had something to say whether it be true or not. How did you understand it. Did you understand that he meant that had someone suggested to you to lie.

A. That is the way I understood it.

Q. I will ask you this question. The first time that I ever said anything to you or ever knew your name was about five minutes ago when I went in the other room with you, was it not?

A. Yes sir.

Q. And that you had been sworn without my knowing why and I took you in the other room and asked you what you knew about it and you told me what you testified here to about you did not come down here to testify but you came down to bring another witness. But if you had known that what you knew would have done Mr. Ellis any good you would have told him, but you did not know that what you knew would do him any good until you saw him.

A. Yes sir.

-----o----

The further taking of these depositions was here adjourned by consent of all parties to Friday, November I3th, I903, at 9 o'clock A. M.

-----o-----

Suffolk, Virginia, Nov. I3th, I903.

At IO o'clock A. M., met pursuant to adjournment.

Present:- The same counsel as on Wednesday.

Robert Rogers, called and sworn on behalf of the defendant testified as follows:

Q. What is your name, age, residence and occupation?

A. Robert Rogers, seventy-seven, Gates county, North Carolina, farmer.

Q. Do you know the parties to this suit, Mr. I. A. Luke, B. C. Ellis and Mrs. Maud Lavinia Ellis?

A. I do not know Mr. Luke. I know the defendants, B. C. Ellis and Mrs. Maud Lavinia Ellis.

Q. Do you live near Mr. Ellis?

A. Yes sir about three miles of him.

Q. Do you know whether Mrs. Ellis owns any property or ever owned any property?

A. Only what I have heard.

(Attorneys for the plaintiff in this cause hereby object to admission of any hearsay evidence and do therefore except to the same).

Q. You said only what you have heard do you know it from the records as to whether she ever owned property or not?

A. The Clerk's Office shows that she does.

Q. Then you mean when you say you only know what you have heard you mean what you have heard or seen as to the records do you not?

A. What I know about this is what I have seen at the Clerk's Office.

Q. Then will you please state what property you know that she owns?

A. She owns the place where Mr. Ellis lives at the present time.

Q. Do you know of any other property that she has owned years back?

A. Yes sir she owned property that her father left her.

Q. Has this ever been sold by her?

A. The records show that she sold it.

Q. How much did she sell it for?

A. The records show that. $550.

Q. Can you give the date of this?

A. Some where about 76 or 77. The records show that. Dec. I4th, I876.

Q. Do you know that it is $550.00?

A. Yes sir.

Q. Do you know what she did with this money?

A. I only know what the records show. I know what she told me she was going to do with it and what they said that she did with it.

Q. You know from the records and what they told you, they, Mr. and Mrs Ellis?

A. Yes sir.

Q. Will you please state what they said they were going to do with it?

A. Well, Mr. Ellis said he was going to buy a farm. He sold hers and promised to take the money and buy her another farm.

Q. Why do you remember Mr. Rogers so clearly what was said at that time, twenty-six or twenty-seven years ago?

A. Mr. Ellis owed me some money and I heard that he had sold a farm and I thought it was a good time for me to get my money and I went to see Mr. Ellis and told him my business. He told me that he had the money but that it belonged to his wife and he owed it to her. I insisted that he should pay me and he said he would see his wife and if she agreed to let him have the money to pay me that he would give it to me and said that he promised to replace it and told her he would pay it back again.

Q. What was this amount?

A. He did not pay me but $I0.

Q. Was this conversation that you had with him just after the sale of the farm in 76?

A. Yes sir directly after the sale in 76. The man that bought the farm was the man that told me about it.

Q. Do you know as to whether or not Mr. B. C. Ellis borrowed this $550. from his wife and purchased him a farm.

A. That was my understanding of it.

Q. Do you know whether any of this money has been paid or any interest up to the present time?

A. No sir I do not.

Q. Do you know that no interest was paid or principal?

A. I thought the farm was paid for. I thought she had a deed to the farm up until a short time ago and that it was in her name.

Q. Why was your attention called to it then?

A. On account of the suit.

Q. You said it was understood in the community that the property was hers and always had been?

A. Yes sir.

Q. You said that she had some way of getting money and that she sold her land for money?

A. She had land that sold for money.

Q. Did Mr. B. C. Ellis have any property or any way of making money?

A. None that I know of.

Q. Was he considered a very poor man?

A. He did not have anything except what he worked for.

Q. Do you know whether or not Mrs. Ellis had any income or money coming to her from any other source besides the farm.

A. Well she had a little interest in the chattel property from her father. It is reported Mr. Charles Parker has been assisting her at different times.

(The plaintiff's attorneys object to this evidence of common report which is merely heresay and move that it be struck from the record and to its admission hereby except).

Q. Do you know whether or not Mr. Charles Parker assisted in paying for the farm or building houses, etc.?

A. I know what Mr. Charles Parker told me. He told me that he had two sisters and that he built both of them a house.

Q. Then he did build a house on this farm?

A. He did build this house on this farm.

Q. Do you know whether or not there is a deed of trust on this farm?

A. Only what I have heard Mr. and Mrs. Ellis say.

(The plaintiff's attorneys object to this evidence or common report which is merely heresay and move that it be struck from the record and to its admission hereby except).

Q. Do you know that from the memorandum that you have from the Clerk's

Office?

A. Yes sir. It is recorded in the Clerk's Office.

Q. And you have it on your memorandum?

A. Yes sir.

Q. What is the date of it?

A. Note is dated Nov. 29th, I886, and deed is dated December I7th, I886.

Q. Do you know whether any part of this deed of trust has been paid or not?

A. Only what I have heard.

Q. How did you hear it?

A. Mr. Ellis told me that none of it had ever been paid.

Q. What do you think is the value of the farm that the defendant now lives on?

A. Well say 8, 9, or I0 hundred dollars would be a good price for it.

Q. What do you think the personal property that he owned or did own last November, twelve months ago, including the crops on the farm would sell for at public auction?

A. His household furniture was ordinary. And I think his horses were not worth much.

Q. Then what would you think would be a good valuation of his personal property at that time, including the crops on the farm?

A. I should think $250. or $300. would be enough. I don't think his horse were worth more than $50. both together.

Q. Then you think that 8, 9, or I0 hundred dollars was enough for the farm?

A. He gave $550. for the land and built a house on it. $900. would be a fair valuation of it.

Q. Do you think $250. or $300. would cover the personal property?

A. I do.

Q. Then you think $I200. for the farm and the personal property a good valuation?

A. That is what I think it would have brought if sold.

Q. Then if Mrs. Ellis paid $I000. for the farm and the personal property subject to a deed of trust with interest amounting to $400. then she paid more than the farm was worth, that is $I400.

A. I think she paid all that it would have brought.

A. If he had never paid the $550. and the interest, or any part thereof, he would owe her more than the farm would sell for, would he not, that is $550. with interest for twenty-seven years would be $1450. or $1500. and then the deed of trust $400. with interest would amount to 9 or 10 hundred dollars. If she cancelled her debt for the farm and the personal property subject to the deed of trust you think that she over paid for the farm and the property.

A. I think she paid more than it would bring.

Q. The plaintiff, Mr. Lake, states in his bill of complaint against the defendants that they did this to defraud him or to delay or hinder his creditors in the collection of their debts or claims, do you believe that this transfer was done for any such purpose or do you believe that it was done to pay Mrs. Maud Lavinia Ellis the amount that her husband owed her?

(Attorneys for the plaintiff in this cause object to the admission of such evidence and move that it be excluded from the record and hereby except to its admission).

A. It was done to pay his wife or to secure her.

Q. It has been testified to and said by all the witnesses for the plaintiff that Mrs. Ellis was a woman of no means, is that true or not?

A. That is not my understanding of it. I understood that she had an interest in her father's estate. He left her property as he did the rest.

Q. You live near them and know as much about this as any one?

A. I live three miles. Mr. Ellis lives on the road to Holy Neck and I go by there going to Church and I have known the farm ever since I have known any farm.

Q.Do you know any woman in that community whose family stood better ?

A. They always had a plenty. Her family stood high.

Q. Name the sources from which her property came?

A. It came from her father. It has been understood that her brother is worth a half a million dollars and he helps her by giving her money.

Q. Do you know whether Mr. Ellis has been in bad health for the last three years?

A. I think I can answer that. I have seen him a great many times when I thought he would not live but a little while.

Q. Do you know whether he was sent to a hospital or not?

A. I only heard that.

(The counsel for the plaintiff object to the admission of this evidence on the ground that it is irrelevant and has no connection whatever with the case and move that it be excluded from the record and not considered by the Court and hereby except to its present admission).

Q. You understood that he did go to the hospital?

A. Yes sir. He told me that he had been to the hospital.

Q. Do you know why this deed was made convgying all the property to his wife last November, 1902?

A. It was done to secure her. I heard he did this on account of his health.

(The counsel for the plaintiff object to the admission of this evidence on the ground that it is irrelevant and has no connection whatever with the case and move that it be excluded from the record and not considered by the Court and hereby except to its present admission).

Q. Do you know whether or not that physicians advised Mr. Ellis that he could not be cured and could not live long?

A. I heard Dr. Leigh say so.

CROSS EXAMINATION.

Q. Mr. Rogers, I understood you to say that you knew that Mrs. Ellis owned property some twenty-six years ago because you had heard that she owned it, is that true?

A. That is the way I said.

Q. You further said, which seems to be in confdict, that you knew it because the records showed it.

A. Well that is the only way I knew it from the records.

Q. You don't consider matters of records heresay do you?

A. No I don't consider it heresay when it comes from the records.

Q. Then you mean to say simply that you knew she had owned property because the records show it and not because you had heard that she

owned it?

A. I believed that she owned property and the records showing it I then knew it.

Q. Mr. Rogers when did you search the records of the Clerk's Office?

A. I got Mr. Everett to do it for me. I can not recollect dates, and it was late when I got here last night.

Q. Then as a matter of fact except for what Mr. Everett told you and the data he gave you on paper you do not know from the records of the Nansemond Clerk's Office that Mrs. Ellis ever owned any property?

A. I know it just like I know the other. She gave deeds in our County and they are recorded in our Court and, of course, they ought to show just like it does here that she had property. I know the property that they said was hers in our County and here too.

Q. When did you examine these records, Mr. Rogers?

A. Why I have not examined them at Gatesville.

A. When did you examine them in this County?

(Objected to. Answered before).

A. I got Mr. Everett to do it for me. I did not have time. I did not get here until late last night.

Q. You said Mrs. Ellis owned property some twenty-six years ago. I understood you also to say that that property came from her father, is that true?

A. Yes sir in Gates County and in Nansemond County too.

Q. Is her father's estate the only land she ever owned?

A. That is except what she got from her brother Charles.

Q. Do you know of your own knowledge that she ever got anything from her brother?

A. They told me. I did not see it.

Q. What do you know about the particular transaction in question, the deed which was given on the 13th of November, last, from Mr. Ellis to his wife, that is in regard to the consideration therein named as to where she got the money from?

A. I think Mr. Ellis took the deed in his name when he bought the land and paid for it with her money and when he thought he was going to die he put it in her name. I don't know but that is what I think. I only have it from heresay, that is Mr. Ellis told me himself.

Q. Did you ever hear anything of her brothers furnishing her $1000. to pay for this property which was conveyed on the 13th day of last November?

A. I don't think I did. But I know that he furnished money to build the house on this farm.

Q. When was the last time you saw Mr. Charles Parker?

A. Well sir I don't know exactly but I can tell by asking Mr. Ellis a question. Last August, 1903. He and I went from here together. He asked me about my son's farm and he wanted to know if he would sell it. I told him I did not think he would. And he remarked that he wanted to buy a farm for one of Mrs. Ellis' boys. He said that he had given one a farm and he wanted to give the other one one, and he asked me if that was the least I would take for it, $12.50 an acre, and he said if I got in a notion to sell to let him know and whatever arrangements Mr. Ellis would make with me he would pay the bill.

A. Did he tell you anything at that time about Mr. Ellis having conveyed his property to his sister?

A. No sir.

Q. Then did he tell you that furnished any part of the $1000. as named in the deed from Mr. Ellis to Mrs. Ellis when you saw him last August?

A. He did not.

Q. But he told you that he had helped his sisters from time to time and that he had built the house on this farm in question. You testified Mr. Rogers that Mrs. Ellis said when she sold the property of her father's estate that she was going to buy more real estate with it?

A. I did not say so.

Q. What did you say?

A. I said I heard that was what she was going to do with it.

Q. Then you do not know of your own knowledge that she did actually invest the purchase price or the selling price of her father's property or her share therein in the farm on which she now lives?

A. I only know what I have heard.

Q. You said that Mr. Ellis borrowed the money from his wife to purchase a farm, did you mean to say that you know that of your own knowledge?

A. I did not say that.

Q. What did you say?

A. I said he borrowed money from his wife to pay me.

Q. Then if he did borrow any money from his wife to pay for this farm you do not know it and have not heard of it?

A. I heard that he took this money and paid for the farm.

Q. Did you ever hear either Mr. or Mrs. Ellis say whether or not any of the money which he borrowed from her had been paid back?

A. I thought that money was to be put in the land where they live.

Q. And you do not know and have not heard them say whether or not any of it had been paid back?

A. No I never heard it. I don't think I ever did.

Q. You started to remark that you heard Mr. Ellie sometime ago say something about owing his wife money, when was that?

A. I don't remember.

Q. Has it been in the last year?

A. I don't think it has been in the last year.

Q. You stated in reply to a question from Mr. Everett that Mr. B. C. Ellis had no way of making money, is that true?

A. He was a poor boy and never had anything except what he got from his wife. I have known him ever since he was a boy.

Q. Is it not true that Mr. Ellis is considered a good farmer?

A. He got along pretty well until he was sick. He has been sick for years. Up until that time he got along pretty well as he was a smart man.

Q. He seems to be in good health at present.

A. Yes sir, but if you had seen about twelve months ago you would not have thought he would live.

Q. Now Mr. Rogers is it not ~~it~~ true to say the least that since the purchase of this present farm which Mr. Ellis ~~or his wife owned~~ on which Mr. Ellis now lives ~~some twenty-six years ago that~~ Mr. Ellis has been making a fairly good living and taking care of his family as well as the majority of farmers?

A. He has had a great deal of bad luck. He has lost his hogs for several years and he had an expensive family and I think it has been at least six or seven years that he has been afflicted up until the last year or two.

Q. Then for the last two years he has been in good health has he not?

A. Since he got well I don(t know whether it has been two years or more but ever since he got well he has looked as he does now and I

think he enjoys good health now.

Q. Was Mr. Ellis in bad health one year ago to-day?

A. I don't know.

Q. To the best of your recollection?

A. It might have been longer than one year or it might not have been so long. I know when he went to the hospital and when he came back.

Q. To the best of your knowledge and belief had Mr. Ellis returned from the hospital and was he in better health or good health one year ago to-day?

A. He was in bad health when he came home. He was sick but whether it has been one year or not I don't know.

Q. Have you any means of telling how long Mr. Ellis has been in good health since his last sickness?

A. It is so I can not remember whether he has been home one year, longer or shorter.

Q. Mr. Rogers I understood you to say in your direct examination that you believed that Mr. Ellis made this deed because he was sick and he thought he was going to die, now if you do not know how long Mr. Ellis has been recovered from his sickness what caused you to believe that one year ago to-day he conveyed his property to his wife because he was in ill health?

A. I don't know whether it has been a year or not since he got well. I know when he came home the first time I saw him he was looking bad.

Q. Then you do not know whether Mr. Ellis was in good health on the 13th day of Last November, 1902, or not?

A. No I can not say.

Q. Mr. Rogers the point that I want to understand is this, if you do not know whether Mr. Ellis was in good health on the 13th of November and are not prepared to say that he was not upon what did you base your belief that he made that deed on the 13th of November because he was i bad health?

A. My knowledge was that he did it because he had never done it before. He said that was why he did it and I thought it was so as it looked reasonable.

Q. Then except from what Mr. Ellis has told you you have no reason to believe that his ~~error~~ reason for making this conveyance was because he was in ill health at that time and also you do not know whether Mr. Ellis was in good or bad health on the 13th day of last November, 19~~0~~2?

A. I don't think so. I am not certain about it. I don't think he was well until last Christmas. I don't recollect as I took no notice of it, but I know when he came home the first time I saw him he looked bad.

Here

Q. Referring to your statement as to the capacity of Mr. Ellis for the last twenty-six years in making money I unde stood you to say that he had an expensive family, now having such an expensive family was it not necessary that he should have made some money and a good living in order to have paid the expenses of his family?

A. Well I don't hardly know. He had a son who was afflicted. And I see him after he came home and he looked bad. Had he been dead he would not have looked worse.

Q. I see Mr. Rogers that you do not understand my question. If you had an expensive family, several children, some sick, to clothe and feed them in order for you to pay your debts and to keep your creditors off of you would not it be necessary that you should make a good living?

A. I am a man that can make a living, but there are some that can not.

Q. Mr. Rogers have not Mr. Ellis' crops from year to year been pretty good?

A. I don't know. It is a mighty poor farm. I reckon it produces as good a crop as most any one would on poor land.

Q. You said Mr. Rogers that Mr. Charles Parker had a deed of trust on this property?

A. That is what I said.

Q. Where is that deed of trust recorded?

A. In the Clerk's Office.

Q. Do you know that of your own knowledge?

A. No sir. I only know what Mr. Parker told me.

Q. Would you believe me if I were to tell you that it had never been but two deeds of trust on this farm. That one of these was recorded on the 23rd day of June, I884, and was to secure Nancy Freeman. The other was to secure Nathaniel Newsom recorded on the 7th day of December, I886.

A. That is the one.

Q. Which is the one?

A. Charles Parker has the Newsom one.

Q. Do you know this of your own knowledge?

A. What Mr. Parker told me. I don't know it of my own knowledge.

Q. Did Mr. Parker tell you that he has Nathaniel Newsom's deed of trust?

A. He told me he had a mortgage on it. I have heard that this is what he had.

Q. You do not know this to be true?

A. I know what he told me.

Q. Now Mr. Rogers it is possible that Mr. Parker referred to a deed of trust which had been given to him and which he had not recorded?

A. I do not know anything about that.

Q. You simply heard others say that he had the Newsom deed of trust Mr. Rogers, the son of Mr. B. C. Ellis, W. J. Ellis, testified and said that the land itself, the 45 acres, in his opinion was worth $I000. and that it cost $650. to build a house which is on the farm placing the value of the house and land at $I650. is that a fair valuation?

A. I don't think so.

Q. You valued the land at 8, 9 or I0 hundred dollars?

A. I valued it at what I think it would bring. If sold I think it would bring that.

Q. Do you think $I000. is all that both the house and the land would bring at public auction?

A. I do think so.

Q. Mr. Rogers is not land of more value to day than it was twenty years ago?

A. It is more valuable than it was twenty years ago.

Q. Mr. Rogers in your opinion a piece of property which was actually worth $500. twenty years ago what in your opinion would it

be worth to-day?

A. It would depend on circumstances.

Q. State the circumstances and the value?

A. It would be worth a little more. I know land that was bought for $650. twenty years ago. There has been $3000. worth of timber cut off of it and the land to-day would sell for $3000. While othes would not do it. There is a farm in front of me thatsold for $1200. twenty years ago and it sold for $600. a few years ago. You can not tell anything about it. The farm that I spoke of has been improved.

Q. Mr. Rogers is the farm on which Mr. Ellis now lives any more valuable than it was the day he bought it.

A. It is not any better.

Q. Would it sell for any more to-day?

A. Of course it would sell for a little more as it has a house on it, but the land is not any better.

Q. Mr. Rogess do you mean to say that to take the house off of the land that it would not bring any more to-day at public auction than it would have twenty years ago?

A. Some places are a little higher than they were then, you know.

Q. How much more do you think this farm without the buildings would sell for to-day at public auction than it would have sold for twenty years ago at public auction?

A. I don't know., It depends on who wanted it. The land is no better and I don't think it would sell for any more unless some man wanted it for privileges.

Q. Do you consider Mr. W. J. Ellis' estimation of the value of the house at $650. about correct?

A. Well I will tell you what I think about it. I had to have some houses built some years ago and I don't think mine cost me in proportion to that. I don't think it cost that much.

Q. It is natural Mr. Rogers is it not that every individual should think his own property worth more than the value which would be placed on it by another?

A. No sir I can not say that is so.

Q. . Now Mr. Rogers what is the house on this farm in your opinion worth?

A. According to what my house cost me, I am no judge of buildings, I think I could put a house there for less than $650.

Q. You have not answered my question. I asked you what in your opinion was the value of the house which is on this land?

A. I can put a house there for $450. I may be mistaken but I think I can do it.

Q. Then you do not consider the land itself worth one cent more than it was when it was bought and you consider the house on the land worth $450. making the value of the house and land, the land having been purchased twenty years ago for $550., $1000. is that correct?

A. I do not think it would bring any more unless some one wanted it for privileges.

Q. Mr. Rogers do you know or did you know the two horses which were conveyed in this deed from Mr. Ellis to his wife?

A. I know one of them. I saw one last night.

Q. What would these horses cost you if you were to go to a livery stable to buy them?

A. The one I saw last night would not cost me anything. I have not seen the other one. I would not give anything for the one I saw last night.

Q. Suppose a livery man owned these horses what in your opinion would he charge for them?

A. I don't know.

Q. Mr. W. J. Ellis has valued them at $75. a piece, is that a fair valuation?

A. Not in my opinion..

Q. Then what would you give for them?

A. I would not give anything for the one I saw yesterday for he is not worth anything now. He might have been worth $75. at that time, but my opinion is that he never had a horse worth $75.

Q. Then you do not know the value of these two horses at the time this deed was made and I believe I understood you to say that you did not know but one of them?

A. I know the one I saw yesterday.

Q. Now Mr. Rogers it has been brought in evidence that at the time this deed was made Mr. Ellis owned three horses, two of them having been conveyed in this deed to his wife, do you know which two they

were?

A. No sir.

Q. In your original examination you told Mr. Everett that you thought that these horse were worth $25. a piece, now if you did not know but one of the horses and if you did not know which two were conveyed in this deed how could you say that they were not worth but $25.00?

A. Because I have never known Mr. Ellis to have a horse worth over $25.

Q. You admit Mr. Rogers that you don't know but one horse which he has, or had.

A. I don't know but one now.

Q. Now Mr. Rogers you partly answered the question. How could you tell Mr. Everett when you had never seen but one of these horses that they were worth $25. a piece?

A. I just told you why.

Q. Do you know anything about the cow and calf which he conveyed in this deed?

A. I only know what a common cow and calf would sell for and that is all that I know.

Q. Do you know or did you know the twenty-five hogs conveyed in this deed?

A. I was at Mr. Ellis sometime ago and they killed hogs and I think it was about two years ago and the other hogs he fed on the road. When I passed there I see them.

Q. Then you do not know the particular twenty-five hogs conveyed in this deed?

A. No I do not.

Q. Now Mr. Rogers how much would all his personal property, consisting of of everything which is within the hull of his main house, his dining and cook rooms sell for to-day at public auction?

A. I don't think it is worth more than $100 or $150.

Q. What would his farming implements sell for?

A. I don't know whether he has any new fashion machines or not. I can make some valuation after thinking about it.

Q. What would the growing crops raised last year have sold for?

A. I reckon it would have sold for $350. or $400.

Q. Now are you familiar with the buggy and harness as conveyed in this deed?

A. I have seen it, but don't know of its value. I saw it yesterday and I can tell something about it.

A. Do you know anything about the two carts and wheels and gear for same?

A. I don't know? I have seen them at Drum Hill. One I think is a common cart and the other one a very sorry one.

Q. Mr. Everett asked you the question what you considered all the property conveyed in this deed from Ellis to his wife, consisting of the growing crops, household and kitchen furniture and everything would be worth, now upon what ground did you base your answer when you said that it all would not sell for over $200. or $300.

A. I will tell you why I did it. Mr. Ellis said he had disposed of part of his peas when he did it, that is when he executed the deed.

Q. Did Mr. Ellis tell you that he sold a part of his peas before this deed was made?

A. I think he did.

Q. When did he tell you that Mr. Rogers?

A. He told me so to-day.

Q. He had not told you he had sold a part of his peas before to-day?

A. I don't know whether all of peas were disposed of when he told me a part of the peas had been sold.

Q. You did not answer my question. I asked you whether or not you had heard Mr. Ellis say before to-day that he had sold a part of his peas before he made the deed to his wife?

A. I don't recollect.

Q. Mr. Rogers the values which you have placed on each article of the personal property as conveyed in this deed from Ellis to his wife are correct are they not?

A. How much have I made them?

Q. Mr. Rogers all that I want to know is have the answers which you have given to my questions been true to the best of your knowledge?

A. If there is anything wrong it is an error of the head and not of the heart.

Q. Mr. Rogers you have referred to Mr. Charles Parker as being a

wealthy man how long has he been a wealthy man?

A. Several years.

Q. Was he ~~gone~~ fifteen years ago?

A. Oh yes he has been ~~gone~~ twenty or thirty years.

Q. I understood you to say in reply to Mr. Everett's question: What in your opinion was Mr. Ellis' purpose in conveying his property to his wife, that you thought it was to secure her, his wife, for money which he owed her, do you mean to say by that that you do not believe Mrs. Ellis paid any cash for the property but that Mr. Ellis merely conveyed it to her because he owed her?

A. If she did not pay for it it was because he owed her the money for it and he told me that was what it was for and he could not use it.

Q. Do you know any reason why Mr. Ellis has not paid Mrs. Ellis this debt before last November 13th, 1902, and if he intended to convey this property to her why he held it for twenty-six years before he did it?

A. People have different reasons for holding it. I sold my wife's farm and never gave her any deed for it and have never given her a deed for what I owe her yet.

Q. Did you know that Mr. B. C. Ellis was indebted to Mr. Luke and others and that they were pressing him for the money?

A. I never heard of it until lately. I did not know that he owed any money.

Q. Mr. Rogers you said Mrs. Ellis got her money from her father's estate do you know how much the farm sold for.

A. I don't recollect now.

Q. How many children did her father have?

A. Five or six.

Q. What would you have considered his property, both real and personal, worth at that time?

A. Well if I could recollect what the land sold for I could tell you but I don't recollect.

Q. I am not talking about what the property sold for. I simply want to know what in your opinion the farm was worth together with all his personal property?

A. If I could tell you what the person gave for it I could tell you. I know who bought the land but I don't know what he paid for it.

Q. You have told me what in your opinion Mr. Ellis' place is worth and what it was worth when he bought it, now I simply want to know what in your opinion the property of Mrs. Ellis' father of every kind and description, his farm and all its appurtenances was worth ?

A. Well if you tell me like Mr. Ellis told me I can tell you. I think the farm in North Carolina sold for $800. The one in this County for $2000. or $2500.

Q. Mr. Rogers what would that farm which sold for $2000. or $2500. twenty years ago sell for to-day?

A. Well it is in a better condition to-day than it was then. It would sell for all of that to-day or more. It is in better condition.

Q. How much more do you think it would sell for to-day?

A. It would not have made it when he first bought it.

Q. Mr. Rogers can't you give us a rough estimate of how much in your opinion the farm which his wife got from her father's estate would sell for to-day, provided it was just like it was the day it was sold?

A. It depends upon circumstances.

Q. Do you know of your own knowledge whether or not any of the money which Mrs. Ellis got from her father's estate was spent by her in any other way than to purchase a farm on which she now lives?

A. You know I don't know, I only know what she said she did.

Q. Mr. Rogers did I understand you to say that Mr. Ellis told you that he invested the entire money for which his wife's property sold in this present farm?

A. I don't think I told you so.

Q. Did I understand you to say that Mr. Ellis told you that he had $550. of his wife's money which he invested in this way?

A. No sir I did not tell you.

Q. What did you say?

A. He told me that she had some money for which she sold her farm and that she was to buy another farm with it, but I did not say any price.

Q. He did not tell you how much money then he got from her? How much he invested in this property?

A. No sir.

Q. Do you know from whom Mr. Ellis bought this property?

A. I don't remember.

Q. Was it J. F. Odom?

A. He lived there one time. His father was the first man that owned the farm. Of course, his heirs got it after his death.

Q. Was it Mills H. Eure?

A. I can't remember but I think it was.

(Questions and answers objected to. The records are the best evidence and the only evidence).

Q. Now Mr. Rogers the records show that Mr. Ellis has owned two pieces of real estate. One piece conveyed to him by deed dated Dec. 25th, 1876, containing 39 acres from Mills H. Eure. The other piece containing 106 acres conveyed to him by J. F. Odom by deed dated December 28, 1876. The consideration in the aggregate for these two pieces of property amounts to $225. Can you explain or can you tell us of your own knowledge where the other part of that $550. went to?

A. I can not.

Q. Can you tell us how this property has been reduced from 145 acres to 45 acres?

A. I can not tell you.

Q. Can you tell us Mr. Rogers in which of these two pieces of property the money which Mr. Ellis borrowed from his wife was invested? Or if in both is that a matter of your own knowledge?

A. My understanding was that it was all invested in the place where they live at. How much it was I don't know.

Q. Did I understand you this morning to say that it was intended as you understood it that the property should have been conveyed to Mrs. Ellis?

A. I replied that from what he told me about expecting to invest it in another place.

Q. Now if this be true that it was intended that the first place should be bought in the name of Mr. Ellis can you tell us why the second error was made?

A. I don't know anything about that.

Q. Can you tell us Mr. Rogers or have you heard Mr. or Mrs. Ellis

say what went with the proceeds of the 100 acres of land which has been disposed of since 1876?

A. No I don't know anything about that.

-----o-----

The further taking of these depositions was here adjourned by consent of all parties to Tuesday, November 24th, 1903, at 10 o'clock A. M.

-----o----

Suffolk, Va., Nov. 24th, 1903.

At 10 o'clock A. M., met pursuant to adjournment. Present. The same counsel as on Friday.

J. I. Williams, called and sworn on behalf of the defendant testified as follows:

Q. Give your name, age, residence and occupation?

J. I. Williams, fifty-two, Gates County, farmer.

Q. Do you know Mr. Ellis, Mrs. Ellis and Mr. I. A. Luke?

A. Yes sir/

Q. How far do you live from Mr. Ellis?

A. One mile.

Q. Mr. B. C. Ellis in November, 1902, transferred or sold all the property that he owned to his wife, Maud Lavinia Ellis, Mr. Luke has attempted to set aside this deed on account of fraud, that is to say, Mr. Luke says that Mr. Ellis did not owe his wife one penny and that he put it in her name for only one purpose and that was to keep from paying him. Will you please state as to what you know about this transaction?

A. I have known Mr. Ellis for twenty-five years or more and have lived in one mile of him, part of the time about two miles. Mrs. Ellis got from her father's estate an interest in two tracts of land, one in North Carolina and one in Nansemond County. She sold her interest in the North Carolina tract to her brothers then she bought some interest of her brothers in the Nansemond County tract. Then I think she owned three or four interests, I don't remember which, in the home tract. Mr. Ellis bought another tract of land and it was deeded to him instead of to her as it ought to have been done. I have heard he deeded it back to her.

Q. Do you know whether he used Mrs. Ellis' money to buy the farm?

A. No sir no more than what I have leanned from the family. I have heard him say so.

Q. Then did you learn from the family that he still owed her this money?

A. The money was put in the land, I suppose that was the money her land sold for.

Q. And the land that she put her money in was conveyed to her by her husband, Mr B. C. Ellis, was it not?

A. Yes sir, the land known as Bear Garden tract of land she sold her interest in to her two brothers, I don't remember which two.

Q. Is Mr. Ellis a man of any means?

A. No sir.

Q. Is his wife a woman of any property or has she been considered so?

A. No sir. She owned her interest in this land.

Q. Did she have any other income from any source?

A. No sir.

Q. Has she a brother?

A. Several brothers.

Q. Has she any property besides what has been conveyed to her by her husband, Mr. B. C. Ellis?

A. None that I know of.

Q. Do you know whether her brothers helped to maintain and support the family or not?

(Question objected to move that it be excluded from the evidence, it is leading).

A. Yes sir. I know a great many articles that he has given her, so I have learned from the family. That is all I know.

Q. Is it understood in the neighborhood that Mr. C. B. Parker, who is said to be very wealthy, helps the family frequently?

(Question objected to on the ground that it is irrelevant).

A. Well I don't know hardly. I could not say about frequently. I know that he has helped her.

Q. Is Mr. C. B. Parker a man of means or not?

A. It is said so, but I don't know.

(Question objected to on the ground that it is irrelevant).

Q. Have you beenover to Mr. Ellis' house and made an inventory

of the property and if you have with whom and what was it?

A. I have seen Mr. Ellis' property all the time. He is one of my neighbors and I know about what he has got as well as I know what I have got myself. I have made an inventory. Mr. Freeman and myself took an inventory of it and here it is.

Q. What do you believe that the farm would sell for(including land and houses)?

A. About $900.

Q. I see you have valued the household furniture at $99. is that correct?

A. Yes sir.

Q. I see you have valued two horses at $75. cow at $10. 25 hogs at $40.

A. Yes sir.

Q. You valued carts and wheels at $40. is that correct?

A. Yes sir.

Q. One lot of corn $30. is that correct?

A. Yes sir.

Q. Fodder at $8.00.

A. Yes sir.

Q. Peanuts at $140.

A. Yes sir.

Q. Potatoes at $8.00.

A. Yes sir.

Q. Cotton at $20.

A. Yes sir.

Q. The whole amounts to $1370. Do you think that you have valued this property at a reasonable price?

A. I certainly do. I think we did.

Q. If there never had been any suit would you have done the same.

A. I was not leaning on either side. I was disinterested. Called upon unexpectedly. I did not expect to do anything of the kind.

Q. There has been something said about valuing hogs that were dead, please make an explanation of that.

A. We did not value you any hogs that were dead. We valued the property as if the inventory had been taken at that time.

Q. You valued them as if it had been taken at that time?

A. Yes sir. We both live there in sight of him and we know what he had.

Q. Was the reputation of Mr. Ellis that of a man that ran accounts to defraud his creditors?

A. Not that I know of.

Q. Do you believe that Mr. Ellis would pay Mr. Luke if he could make the money to pay him.

A. I know that he told me that he made a very poor crop but that he was going to pay Mr. Luke what he owed him as soon as he could. He did not do anything to try to defraud Mr. Luke.

(Question and answer objected to on the ground that it irrelevant and leading).

(Counsel for the defendant says that it is relevant and a part of the res gestae happening at the date of the transaction itself and being a part of the transaction).

Q. I understood Mr. Ellis told you this just after the deed had been made?

A. Yes sir.

(Question and answer objected to on the ground that it is leading).

Q. What did you believe about the matter when he told you this? Did you believe he was doing it to defraud Mr. Luke or not?

A. No sir I did not think so at the time. Of course, we don't know what a man intends to do but all he said to me was that he owed Mr. Luke; that he a bad crop; and that as soon as he could he was going to pay Mr. Luke.

Q. Did you have anyother conversation with him then about owing his wife and why he made the deed to her?

A. I knew all about the making over of the deed. He had been promising her for years and years but had not done it.

Q. You said he had been promising her for years and years to make this deed to her?

A. So he had said while talking to me.

Q. You started to say something about the land coming through her, what was that?

A. The only property through her came from the Parker tract.

Q. Is there anything else that you wish to state in connection with

this matter?

A. No sir, none that I know of.

CROSS-EXAMINATION.

Q. I understood from your testimony that Mrs. Ellis got certain property from her father's estate was that property real or personal, or both?

A. Well it was property that her father gave her. The old man died and there were several heirs and she owned an interest in a tract of land in N. C. and she sold her interest to her brothers and bought two or three interests in the old home tract, then Mr. Ellis bought this other land and the deed was put in his name instead of in hers like it ought to have been as the money came through her.

Q. Then all of the property which you know of your own knowledge that Mrs. Ellis got from her father's estate was real estate, was it not?

A. Yes sir.

Q. This real estate I understood from your testimony was subsequently sold do you know the date of its sale?

A. No sir I don't remember the date. It was about twenty-five or thirty years ago. It has been a long time.

Q. Was it as far back as 1876?

A. I don't remember exactly how long it has been. It has been a long time probably thirty years, probably longer.

Q. Do you know to whom she sold this property?

A. I think she sold it to her brothers, Jack and Isaac. I don't remember whether she sold to Charles any or not it has been so long.

Q. Do you know what this property sold for?

A. I do not. I don't remember it has been so long.

Q. Do you know what the property on which she now lives cost?

A. No sir not exactly. I have known all about the contract or deed but I don't recollect the consideration. I think thought it was about $250. or $300.

Q. You say about $250. or $300.

A. Yes sir. I remember all the transactions but I can not remember the consideration.

Q. Then Mr. Ellis bought with his wife's money not only onetract

of land but two tracts and had them both put in his name.

A. Yes sir. He bought the Darian Copaland tract and the Odom tract.

Q. I understood from your testimony that the reason Mr. Ellis put them in his own name was because of a mistake. He did not intend to to it?

A. I said it ought to have been in his wife's name as it came from his wife. If I get anything from my wife I think it ought to be deeded back to her.

Q. Do you know whether Mr. Ellis intended to put the property in his own name or not?

A. I don't know why he did it. I suppose his wife agreed to it. I know that her money bought the land. I know that.

Q. Now the deed, which it is said in this case conveyed the property of Mrs. Ellis to Mr. Chas. B. Parker bears date December I4th, I876, and the consideration therein named is $550. can you explain why the deed of Mrs. Ellis according to the testimony in this case has reached with interest $I400. when the records do not show that Mr. Ellis expended for the purchase of this property more than $I25. for 39 acres thereof and for the additional I06 acres which he bought he only paid $I00.

A. I do not know anything about that. It is beyond my knowledge and beyond the knowledge of any body.

Q. Do you know how much $225. with interest from December I876 to the present time would amount to?

A. I don't know anything about that. It is something I never heard of before in my life. I know all the transactions from beginning to end but I don't remember any dates. I don't know about what you have got it.

Q. Have you understood it that the entire amount which Mrs. Ellis received for her property, that is $550.00, was put in this present property on which she now lives?

A. I understood that the money for which the land sadd was put in the land she now lives on.

Q. Do you know anything about where the balance of the $550. went to if it be true that it was not put in this property?

A. I don't know.

Q. Can you tell us of your own knowledge why this property was put in

Mr. Ellis' name and not in Mrs. Ellis' name?

A. I don't know. I have told you two or three times that it ought to have been, but I don't know.

Q. Were you at Mr. Ellis' house on or about the 15th of November, 1902?

A. I don't know. I go there very often.

Q. Do you know anything about when this deed from Mr. Ellis to Mrs. Ellis was made and why it was made?

A. No more than this. I have heard him say he had promised to make it back tohis wife. I did not know that he had done it until I saw it in the Suffolk Herald. I take the paper.

Q. Can you explain why Mr. Ellis waited twenty-seven years to convey this property back to his wife?

A. I don't know about that.

Q. Did you know that just a few days before Mr. Ellis conveyed this property to his wife that Mr. I. A. Luke had threatened him with suit unless he paid him his debt.

A. No sir. Mr. Ellis told me that he owed Mr. Luke and that he was going to pay him as soon as he could. He had a poor crop.

Q. Was this statement made before or after the deed was made.

A. I don't remember about that. It was sometime along last year. I don't remember.

Q. If a man intends to pay his debt as Mr. Ellis told you he intended to pay Mr. Luke, do you think He would hesitate to give his creditor five notes dividing the debt in five equal parts and payable one note each year for five continuous years.

A. Well it would seem that he ought to.

(Question and answer objected to on the ground that no such proposition has been made to Mr. Ellis. If such a proposition should be made Mr. Ellis is ready to accept it this minute).

(Counsel for the plaintiff say that such a proposition has been made to Mr. Ellis before he conveyed this property to his wife. We do not doubt that he is now willing to accept its terms).

Q. How do you know of your own knowledge that Mr. Ellis did not make this conveyance for the purpose of defrauding his creditors.

A. Well I tell you I do not know anything about that. I could not

tell you. It is just as I told you I have heard him say that he owed Mr. Luke and would pay him just as soon as he could.

Q. Mr. ELLis has been in feeble health for sometime?

A. He has been to two hospitals. One in Baltimore and one in Norfolk.

Q. When did he go?

A. Three or four years ago.

Q. Had he been and had he returned and was he in as good health as he is at the present time one year ago?

A. I don't about that. He was sick for sometime. He was not able to do anything and he is not able to do anything now. He is badly afflicted.

Q. Are you prepared to say that he was not working on or about the I3th of November last?

A. I don't think he was working much. He was not able.

Q. Would you consider a man who could maul rails and cut wood in the woods working?

A. Well he can't do that. He says he can not. He told me so. There was a crowd cutting wood in the wodds and he had to stand off and look on. He could not work.

Q. Are you prepared to say that on or about the time this deed was made to his wife that he did not maul rails and did not cut wood?

A. He did not and don't do it now.

Q. It has been stated in this case that the house on this farm cost $650. now what do you consider the land worth if the house was not on it?

A. It was not worth more than $250/ or $300. It is a bad piece of land.

Q. Do you mean to say that the entire 45 acres is not worth over $250. or $300.

A. Yes sir. I don't think it is without the house.

Q. Do you base your opinion on what you would be willing to give for it or on your judgment of real estate at the present price at which it sells.

A. I don't know what real estate is selling for. It has gone up considerable.

Q. Now I understood you to say that you thought the entire purchase price for which Mrs. Ellis sold her property which came from her father's estate was put in this property?
A. I did not say so. I said that he bought the property with her money. I know when he bought the property she paid for it.
Q. You have testified as to a certain inventory which you and Mr. Freeman made out was your opinion based on your knowledge of the property which was conveyed in the deed of Ellis to his wife last November 13th, and that alone?

A. Well there was no other property there except what was conveyed and we got it at what we thought it would sell for at public auction. That is the way we looked at it.
Q. When did you make this inventory?
A. Yesterday morning. There has been no change in this property.
Q. How is it that you could have made an inventory on property which was conveyed a year ago, the growing crop having been disposed of and much of the other property in the deed having been disposed of?
A. We did not value anything for this year. We were there and we know what he had last year. There has been no change except in the hogs, some have died, some have lived and some have been killed.
Q. Then what was the growing crop, consisting of all products cultivated on that 45 acres of land last year worth?
A. We put it at about $250. or $300. including corn, potatoes and everything.
Q. Then instead of valuing the entire property at $1370. you gentlemen valued it at $1620. did you not?
A. We did not.
Q. Then you mean to say that ~~your~~ the value of $75.00 placed on these two horses and $25. on the cow and calf by Mr. W. J. Ellis is not correct?
A. Not correct. The cow is not much larger than a dog.
Q. This is the same cow of your own knowledge that was conveyed in this deed of conveyance?
A. Yes sir the same cow.

Mr. E. J. Freeman called and sworn on behalf of the defendant testified as follows:

Q. What is your name, age, residence and occupation?

A. E. J. Freeman, fifty-nine, farmer, and live on the line of North Carolina and Virginia.

Q. Mr. Williams has just stated that you and he went to MR/ Ellis and took an inventory of the property that was conveyed to his wife last year and that you filed a memorandum here, were you with him and did you take this inventory with him?

A. I was and I did.

Q. Do you consider this a fair price for the property and all that it would sell for at public auction?

A. Yes sir.

Q. There is a deed of trust on this property amounting to $400. and Mrs. Ellis gave $1000. for the property subject to the deed of trust making in all $1400. that she paid for the place, do you think she paid the full value of it or not?

A. I think she did if she paid $1400. I think she well paid for it.

Q. The inventory that Mr. Williams has put in here as evidence is the one that you and he made out is it not?

A. Yes sir.

Q. Do you know whether or not Mr. Ellis owed his wife at the time that he made her a deed?

A. No sir. I don't know that.

Q. Did you know that Mr. Ellis used Mrs. Ellis money in purchasing the farm that they now live on?

A. No I don't know it but it was always supposed so.

Q. Was Mrs. Ellis a woman of any means?

A. She owned an interest in her father's estate. There were six or seven children and probably eight and their father owned two tracts of land, one in this County and one in Gates County.

Q. Do you know that Mr. Ellis gave this deed conveying his property to his wife to defraud his creditors or has Mr. Ellis ever told you that he made this deed to keep from paying Mr. I. A. Luke?

A. No sir. The first I knew about the deed I saw in the Herald.

Q. Is there anything more Mr. Freeman that you wish to state that I

have left out?

A. No sir.

CROSS EXAMINATION.

Q. You have said that Mrs. Ellis had an interest in her father's estate do you know this of your own knowledge?

A. Yes sir.

Q.Do you know what the amount of that was?

A. No sir I don't.

Q. Do you know whether or not she bought the interest of her brothers and invested it in this property?

A. I don't know it of my own knowledge but I have heard she bought the interest of Jack and Isaac and also of her sister Mrs. Griffith in the Bear Garden tract and bought interests in the old home tract.

Q. Do you know or have you heard them say whether or not she paid cah for this or bought it on time?

A. I have never heard it.

Q. Now if she bought some of the other interests in the property in order to have paid therefor it was necessary, was it not, that she should have had other means or money besides her interest in that estate?

A. There were two tracts of land and she sold her interest in the Gates County tract and bought those interests in the tract in Nansemond County.

Q. Do you know how much she sold her interest for?

A. No sir I do not.

Q. Do you know when the deed conveying her interest was made?

A. No sir.

Q. Do you know or have you heard them say why the deed was taken in Mr. Ellis name instead of hers?

A. No sir.

Q. You have made an inventory with Mr. Williams appraising the farm at $1370. are you prepared to say that the house and land at the present prices of real estate would not sell for more than $900.

A. I don't think it would from my knowledge of it. It has a quick sand bottom and mill ponds all around it.

Q. Do you know and had you seen all of the furniture, each article,

which was conveyed by Mr. Ellis to his wife?

A. Yes sir I saww them and I saw the hogs and cattle a year ago. I remember he had a lot of pigs last August or September that played around ~~my~~ the feed house?

Q. Then you mean to say the property consisting of everything would not be worth more than $1370.

A. I think that that would be a fair estimate of it.

Q. Did you hear about the 13th of last November the reason why Mr. Ellis conveyed to his wife his property?

A. No sir. The first I knew of it I saw the advertisement in the Herald in regard to the deed which he had made to his wife and the first I heard of Mr. Ellis owing Mr. Luke was near Christmas.

Q. Then you are not prepared to say that Mr. Ellis did not make this deed for the purpose of defrauding his creditors?

A. No I can't say that.

Q. Did you ever hear either Mr. or Mrs. Ellis say or do you know of your own knowledge that any understanding was ever made by Mr. and Mrs. Ellis for the payment of the debt which she claimed was due her?

A. I never did before the deed. I heard Mr. Ellis was running an account with Mr. Luke. Mr. Ellis mentioned it to me himself of trading at Holland.

Q. Did you ever hear why this deed has been made?

A. No sir. I heard Mr. Ellis say why it was made.

Q. What was his alleged reason?

A. That he had used his wife's money in the purchase of this property and that he thought she ought to have it back and that he did it to make her safe.

Q. Did you hear him explain why he had not conveyed the property to her in lieu of these reasons prior to this deed and during twenty-seven years in which he had had to do the same.

A. No sir.

Q. How far do you live from Mr. Ellis?

A. Somewhere in the neighborhood of 1/2 mile. I don't think it is hardly 1/2 mile across my field to Mr. Ellis'.

Q. Do you know or have you heard of any cash consideration which accompained this conveyance other than the consideration as alleged

by Mr. Ellis that he was indebted to her, Mrs. Maud Lavinia Ellis.

A. No sir.

Q. Did it seem to be the only consideration which Mrs. Ellis paid that is, this indebtedness between her and her husband when you were talking to Mr. Ellis?

A. That is what he told me.

Q. Did Mr. Ellis tell you what he paid for this tract of land when he bought it.

A. No sir he did not.

J. T. Parker, called and sworn on behalf of the defendant testified as follows:

Q. What is your name, age, residence and occupation?

A. J. T. Parker, fifty-three, Suffolk, Virginia, merchant.

Q. Do you know the farm that Mr. B. C. Ellis lives on?

A. Yes sir.

Q. What do you think the farm is worth?

A. Well I should think about $900. or $1000.

Q. Mr. Ellis conveyed all his personal property and the farm to his wife do you know anything about the value of the personal property?

A. Nothing at all.

Q. Did you know whether or not Mr. Ellis owed his wife any money?

A. I have heard it. Common report said he did.

(Question and answer objected to on the ground that it is irrelevant) + hearsay

Q. Was Mrs. Ellis a woman of any property or means?

A. Yes sir I always heard it that she was. I don't know it of my own knowledge I have heard she was.

(Question and answer objected to on the ground that it is irrelevant) + hearsay

Q. Was that a general understanding?

A. Yes sir.

Q. Do you know whether or not Mr. Ellis used her money when he purchased the place that he sold to her?

A. I don't know of my own knowledge. I have only heard it.

(Answer objected to as far as the hearsay part is concerned).

Q. Was it the understanding as far as you know of the neighborhood that Mr. Ellis had used her money in purchasing the tract of land in controversy?

A. Yes sir.

CROSS EXAMINATION.

Q. Are you prepared to day that this farm together with the house and land would not sell for more than $1000.

A. That is what I think. I don't think it would bring more than that.

Q. I understood you to say that you knew nothing whatsoever of the personal property that was conveyed under this deed or of its value?

A. No sir that has all been done since I left there.

Q. You don't know anything about why Mr. Ellis conveyed this property to his wife do you?

A. No sir.

Mr. I. A. Luke called and sworn testified as follows:

Q. Please state whether or not you went to or passed by Mr. B. C. Ellis' house on or about the 13th day of November, and if so what was he doing?

(Question and answer objected to. Mr. Luke has been examined before. This is new matter and not in rebuttal).

A. A few days after seeing the transfer of Mr. Ellis' property to his wife in t he Suffolk Herald I passed Mr. Ellis' house. I saw Mr. Ellis with his son and a negro man mauling rails on the side of the woods. That was the next week, Monday morning I think, after this conveyance was made the week previous.

Q. Then Mr. Ellis was not in the field at that time but mauling rails?

A. He was mauling rails.

Q. Then did you or did you not mean to say as the stenographer has quoted you "I passed there last fall while he was in the filed picking peanuts and some one was mauling rails".

A. No sir I never said that. Mr. Ellis, his son and a colored man were mauling rails in the woods nat far from the field.

(Question and answer objected to on the ground that Mr. Luke has made a statement in his first examination and now has been replaced on the stand in the way of rebuttal to correct that that he has said)

Q. Mr. Luke it has been brought out on the side of the defendant that this p operty belonged to Mrs. Ellis, did you know that fact?

A. Mr. Ellis told me himself before contracting ~~any~~ this debt or any part of it that he was the sole owner of his property and further than

what Mr. Ellis told me I phoned to the Clerk's Office and found that he did own it.

Q. Had you not thought that he did own it would you have allowed him to run an account?

A. Not one penny.

CROSS EXAMINATION.

Q. Did you phone to the Clerk's Office Before you trusted him?

A. No sir. I took his say so and then phoned to the Clerk's Office after he was gone.

Q. That was the first transaction that you had ever had with him as a credit transaction?

A. Yes sir.

Q. I have understood from your other question and answer that the first item on this bill was the first time that you had ever trusted him?

A. I did not say that. Mr. Ellis ran an account with me the year previous and paid it all to $2.45 as well as my memory serves me. The next year he ran the account here and has not paid one penny of it.

Q. I have understood you to say in your first examination that you went to see Mr. Ellis last fall and that he was in the pea field and some one was mauling rails and in your last examination I understood you to say that Mr. Ellis himself was mauling rails.

A. The first statement I never made. So far as Mr. Ellis being in the field he was in the woods, he, his son and a negro man mauling rails.

Q. How can you account for such an answer being written and that you did not make it?

A. I never made such a statement. I never did. You can do that as well as I can.

Q. There is a great difference between being in a field and mauling rails is there not?

A. I should think it was.

Q. Then you think there is no way of getting this difference except from quoting you do you not?

A. I never made the statement. The first I ever heard of it was on the manuscript. Mr. Ellis was in the woods and not in the field.

Q. Can you tell me the date that you were there and saw him in the woods last fall?

A. Sometime in November a few days after this conveyance.

Q. What part of the woods was he in?

A. He was in the woods on the left hand side of a path not very far from his farm leading to his house.

Q. How many were with him when you saw him?

A. His son and a colored man. That is all there were.

Q. Did you see Mr. Ellis with a maul in his hand?

A. I saw him with an ax.

Q. Did you see him strike with that ax?

A. I did before I got to him. He discontinued and engaged in a conversation with me.

Q. Do you think Mr. Luke that he was able to maul rails at that time?

A. I certainly do.

Q. Did you not say the last time we were taking depositions in this case out there in the hall that you knew of the affliction of Mr. Ellis and that he had told his trouble to you at the time we took the depositions?

A. He did not tell it the day we took the depositions.

Q. How did you happen to say that you knew of his affliction?

A. I heard him mention it to you.

Q. But still you think he was able to do manual labor and was maulling rails.on the day that you were there.

A. That affliction would not keep a man from using an ax. If I had it it would not.

Q. Did you have anybody with you?

A. I did not.

Mr._____Morgan, called and sworn on behalf of the plaintiff, testified as follows:

Q. Mr. Morgan where do you live?

A. I live about 2 I/2 miles from Somerton.

Q. Do you live near Mr. B. C. Ellis?

A. I suppose about three miles.

Q. Please state in your opinion what his farm is worth.

A. The present prices of real estate are ~~so~~ high down I don't know what to say. I know but very little about Mr. Ellis' farm, only just passing the road. I would think it was worth $1500. or more the house and all that is on it. My opinion may be wrong.

Q. Do you not think as a matter of fact that the place would bring as much as $1500.

A. If it was put up at public auction I don't know but what it would.

Q. Possibly more?

A. Quite likely.

Q. Do you know of the personal property which was conveyed in this deed of conveyance?

A. No sir not any of it.

Q. You have seen his horses and cattle, etc., have you?

A. No sir I know none of his cattle and horses.

Q. Do you know anything about Mr. Ellis' health?

A. Not at the present. Of course, I knew when he went to the hospital.

Q. Was he able to work on or about the 13th of last November?

A. I could not answer that question.

Q. Have you seen him or did you see him on or about the 13th of last November and since then doing manual labor.

A. Sometime during November I passed there and he was out there chopping wood. He was near the ravine between Mrs. Parker's and his house.

Q. Was he cutting wood from the stump or how?

A. Yes sir he had chopped down a little pine and was cutting it up and I stopped and talked to ~~me~~ him.

Q. He seemed to be in good health did he not?

A. I suppose like he is now. That was this November twelve months ago. I am sure Mr. Ellis remembers my passing there.

Q. Have you heard of his sickness being a great inconvenience to him for the last twelve months or eighteen months?

A. No sir I have not for the last year. I have had very little conversation with Mr. Ellis for the last twelve months and I have not heard any one speak anything about it. Of course, I heard from him often when he was suffering so much.

Q. You did hear about his health being bad the time he went to the hospital, did you not?

A. Yes sir. My wife and I went to see him after he came from the hospital and he seemed to be suffering right much. That has been about three or four years.

Q. Was he suffering that way last November?

A. I never heard him say.

Q. Have you ever heard of any indebtedness between Mr. and Mrs. Ellis?

A. None at all.

CROSS EXAMINATION.

Q. You know but little about their business.

A. But little.

Q. You are not in a position to know their business are you?

A. No sir.

Q. Do you know the lines and boundaries of Mr. Ellis' farm?

A. I do not.

Q. When you are valuing the farm did you believe that the property in front of his house across the road was part of his farm?

A. No sir only a portion of it. He said he bought a small piece of land across the road. That was Mr. Ellis' words to me that he bought a piece in front of his house.

Q. Then you believed that that was Mr. Ellis land over there.

A. He told me he had bought it. That is all I know.

Q. Did you think that Mr. Ellis owned the entire land on the opposite side of the road from him?

A. He told me that he had bought it.

(Question and answer objected to on the ground of repetition).

Q. Then when you valued Mr. Ellis' farm at $1500. you were valuing the farm with the understanding that the land on the opposite side of the road was a part of the farm?

A. A part of the farm yes sir.

Q. Could you say that Mr. Ellis told you that that was a part of the farm?

A. Yes sir and that he had bought it.

Q. How did the question come up with Mr. Ellis? Did it come up on the day that you ~~saw~~ saw him cutting the little pine tree?

A. No sir it did not.

Q. When was the conversation in regard to purchasing the land opposite his farm?

A. I think aswell as I can remember it was one day last summer,-twelve months ago.

Q. I am now trying to refresh your mind. Did he say he wanted to buy the land or that he had already bought it?

A. He told me that he had already bought it.

Q. Did you understand by that that he had a deed to it or that he had made a contract to buy it?

A. I did not give it any thought one way or the other.

Q. Where were you when he told you?

A I was standing on the road right between his house and the piece in front of his house.

RE-DIRECT EXAMINATION.

Q. Did I understand you to say that he told you that he had bought the entire tract in front of his house?

A. No sir a small piece of it, a corner.

Q. Was that the greater or lesser part?

A. The lesser part.

Q. How much would you consider that there was?

A. I don't remember. He did tell me how many acres but I have forgotten.

Mr. E. J. Freeman, called and sworn on behalf of the defendant, testified as follows:

Q. It has been stated by Mr. Morgan that Mr. Ellis told him that he had bought that property. I do not mean to doubt Mr. Morgan in the least and understand that Mr. Ellis did purchase that property. Did you ever own that property?

A. Yes sir. I bargained with Mr. Ellis for Mr. C. B. Parker who lives in Georgia. He had built a house on the land opposite this for Mr. Ellis and Mr. Ellis' farm was so poor and he ~~xxxxxxxxxx~~ did not have enough land to work without renting and he wanted to rent that land and I told him that I would sell it as it was near him

and his fowels bothered my crop and it would be better to sell it. Parker got hold of it some way and authorized Mr. Ellis to buy the land. I bargained with Mr. Ellis for the piece of land alone but made the deed to Mr. C. B. Parker and he paid for the land.

CROSS EXAMINATION.

Q. How much did it contain?

A. I5 acres, more or less.

Q. What did you sell it for?

A. It was some where near $200. I don't remember the amount.

Q. As well as you remember was it more or less?

A. I rather think it was more than $200.

Q. Can't you make a rough estimate of about what you think you sold it for?

A. I don't know. I know what I bargained to sell it for $275. We were bargaining for sometime and I can't remember the amount he paid me. I don't remember but the deed will show it.

Q. Mr. Freeman what would you value the land of Mr. Ellis at without the house?

(Objected to the same has been stated over and over time and time again).

A. I would think $250 would be a fair value of it.

Q. How is it that you value I5 acres directly in front of 45 acres which is just three times as much land at more than you value the 45 acres?

A. Because the I5 acres is high land and well drained while the other is quick sand bottom, mill ponds around it and the land is so poor.

Q. Can you explain to us why Mr. Ellis farm is so deceptive as far as quality is concerned but directly across the road from the piece which ~~he~~ you sold and the the quality of the land which you sold to him is so much superior to Mr. Ellis'?

A. I just stated that because Mr. Ellis(land is poor and the water stands on it. The water runs off of the land I sold him on to his land and almost buries it.

Q. The deed from Mr. Eure to Mr. Ellis containes 39 acres, can you explain where the other six acres can be?

A. I don't know about the acres of land and in regard to the deed

from Eure I don't know about it. There were two pieces of land, one known as the Darian Copeland tract and the other as J. Odom tract. He bought six acres from the Odom's.

Q. Where did this six acres come from?

A. He bought it from the Odom heirs, as well as I can emember.

Q. Do you know whether or not this deed for this six acres has been recorded?

A. No sir I don't know anything about that.

(Question objected to. The best and only evidence is the records).

I. A. Luke.....Plaintiff.

Against. In Chancery.

B. C. Ellis and Maud Lavinia Ellis.....Defendants.

With the consent of the parties to this suit, here entered of record, it is ordered that this cause may be submitted to the Judge of this Court for such decisions and decrees herein in Vacation as might be made in term.

Vacation Cause.

I. A. Luke,

vs. In Chancery.

B. C. Ellis and Maud Lavinia Ellis.

Entr April 17, 1903
Robt R. Ellis.

Enetered in _____ Chancery Order Book, ~~pag~~ No 3.
Page 509.

NOTICE.

To B.C.Ellis and Lavinia Ellis:

Take notice that on the IIth.,day of November I903, at the office of William M.Crumpler,in the Town of Suffolk,in Nansemond County,Virginia,between the hours of 9 O'clock A.M.,and 6 O'clock P.M.,of that day,I shall proceed to take the depositions in that certain cause of I.A.Luke Vs. B.C.Ellis and Lavinia Ellis,to be read in evidence in my behalf in the suit in equity depending in the Circuit Court of Nansemond County;and if for any cause the taking of the said depositions be not commenced on that day;or if commenced,if they be not completed on that day,the taking of the said depositions will be adjourned and continued from time to time at the same place and between the same hours until they are completed.

Respectfully,

I. A. Luke..... .....Plaintiff.

Against. In Chancery.

B. C. Ellis and Maud Lavinia Ellis.....Defendants.

By mutual consent of the parties, both plaintiff and defendants, in the above styled suit pending in the Circuit Court of Nansemond County, it is hereby agreed that this cause shall be made a vacation cause and that the same may be submitted to the Judge for such decision and decree in vacation as might be made in term.

E. H. Williams
and
Wm. M. Lumsden.
Attys for Plaintiff.

J. T. Ellis Atty
for Defendants.

Agreed to be made a Vacation cause.

I. A. Luke,

vs. In Chancery.

B. C. Ellis and Maud Lavinia Ellis.

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON B. C. Ellis and Maud Lavinia Ellis

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 Third Monday in March 1903, to answer a Bill in Chancery, exhibited against them in the said Court by J. A. Locke

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this 5th day of March, 1903, in the 127th year of the Commonwealth.

A copy—Teste:

_____, CLERK.

Teste: A. P. Gomer, CLERK.

Executed this the 14th day of March 1903. by delivering a true copy of the within process to Mrs. Lavinia Ellis in person.

B. C. Ellis not being found at his usual place of abode I delivered a true copy of the within process to his wife, Mrs. L. Ellis a female whom I found true over the age of 16 yrs and to whom I explained the purport

J. J. DeBerry Deputy
For A. A. Baker Sheriff

E. R. Williams p. q.

I. A. Luke

vs. | In Chancery.

B. C. Ellis & others

1903

March Rules.

Third Monday.

Nansemond Circuit Court.

*Process Book No.*_____

*Page*_____

NOTICE.

To B.C.Ellis and Lavinia Ellis:

Take notice that on the IIth.,day of November I903, at the office of William M.Crumpler,in the Town of Suffolk,in Nansemond County,Virginia,between the hours of 9 O'clock A.M.,and 6 O'clock P.M.,of that day,I shall proceed to take the depositions in that certain cause of I.A.Luke Vs. B.C.Ellis and Lavinia Ellis,to be read in evidence in my behalf in the suit in equity depending in the Circuit Court of Nansemond County;and if for any cause the taking of the said depositions be not commenced on that day;or if commenced,if they be not completed on that day,the taking of the said depositions will be adjourned and continued from time to time at the same place and between the same hours until they are completed.

Respectfully,

Sufficient and legal service is hereby accepted —

J. E. Everett
Atty for defendants

To the Clerk of the Circuit Court of Nansemond County.

I. A. Luke

Against. In Chancery.

B. C. Ellis and Maud Lavinia Ellis.

Issue summons to Third Monday Rules in March, I903.

Pay $1.50

E. H. Williams. P.Q.

I. A. Luke
vs
Chancery
Memorandum
Ble Ellis & others

Costs
Clerk $4.88
Jay 1.50
Staff 1.00
$7.38