

Woody vs. Abrams Defendants

EVVIDENCE OF THE DEFENDANT IN THE CASE

ABRAMB V. C. C. WOODY

First: The defendant introduced Peed Book 45, p. 455, which deed there recorded is from Evelyn Byrd Bassinger et als to C. C. Woody, conveying 478 1/2 acres of land, and which is described in said deed as follows:

“All that certain tract or parcel of land lying and being in King William, County, Virginia, containing 478 1/2 acres, and bounded and described as follows:

“Beginning at a white oak in Fountainbleau line, thence South 27 degrees W. 92, 50 chains, to gate post, thence S. 18 degrees E 22.5 chains to the middle of the barn door, thence S. 18 degrees W. 48. 50 chains to point on the Pamunkey river, thence up the river 17. 50 chains to the mouth of Manquin Greek, thence up said. creek 326 chains to a gum tree, corner to Fountainbleau, thence N. 70 degrees E. 52. 50 chains to the beginning, being that portion of Pampatike estate allotted to May Nelson Carter Buckner in the partition thereof in the chancery, suit of O. Shirley Carter and wife v Ann W. Carter et als as per decree of the Circuit Court of King William County, Virginia, entered on the 19th day of April, 1886, and recorded in Chancery Order, Book No. 5, pp. 88 to 90, and also recorded in Deed Book 5, pp. 291 et seq.”

Second: The defendant introduced partition deed among the Carters and plat of division, Deed Book 5, pp. 291 et seq. This deed shows the division of Pampatike Farm among the Carters and the plat referred to in said Partition deed was introduced in evidence on behalf of the defendant, which said plat Shows that the tract or parcel of land claimed by the defendant is marked No. 2 on plat A. (See plat for more definite description of said tract of land.)

Third: Defendant introduced Chancery Order Book No. 1, p. 89, which shows how the land was divided by the commissioners in a chancery suit among the Carters, and refers to the plat introduced by the defendants.

Fourth: Defendant introduced Processioner's Book in the Clerk's Office of the Circuit Court of King William County, pp. 78—79, for the purpose of establishing the lines in dispute.

Fifth: C. C. Woody, the defendant in this action, 'testified as follows:

That he, is 46 years old; that he lived on Pampatike Farm with his father, J. P. Woody, when his father rented Pampatike Farm from the Garters about 43.years ago; that his father rented and lived on Pampatike Farm about 13 years; that he, the witness, lived on the farm with his father and was well acquainted with the location of Mancuin Creek; that his father used to graze his cattle in the lowgrounds where the creek is located; that he,

the defendant, used to look after the cattle for his father; that his father moved from Pampatike Farm in 1901, but that the witness went back on the farm in 1915, and has lived' continuously on 'the farm since that time, and that Manquin Creek has always been located to his certain knowledge at the same place where the present creek now runs; that his father owned another tract of land which adjoined Manquin Creek and the property now owned by the plaintiffs and the defendant; and that he has had an opportunity to know and has known the location of this creek for at least 35 years, and that there has been no material change in the location of the creek during that period of time.

He further testified that the old dyke, a ditch along which is now claimed by the plaintiff as the bed of Manquin creek was built by Mr. Carter for the purpose of keeping the overflow of the water from Manquin Creek off of the black land field; that the old dyke was not built along, Manquin Creek as claimed by the plaintiff; that the location of Manquin Creek as claimed by the plaintiff is where dirt was taken from with which to build the dyke, and is not the bed of Manquin Creek claimed by the plaintiff, nor has it ever been the bed of Manquin Creek; That the dyke did not run along the creek, but that there were leaders running from the dyke to the creek as now claimed by the defendant, and which are now visible.

He further testified that Eddie Booker never cut any timber across the Manquin Creek where it now is located and always has been located; that the bridges referred to by Eddie Booker and other witnesses were bridges across a swamp leading into Blakes pond; that Mr. Jeana Clements, manager of Pampatike Farm for the Carters for many years, in about 1910 enclosed a part of the lowgrounds for a pasture, and ran a wire fence across location of the creek bed as claimed by the plaintiffs to Manquin Creek as claimed by the defendant, and used the piece of land thus enclosed as pasture; that wire fence is still there; and Mr. Clements posted Pampatike Farm against hunting, and other trespassing, and posted that portion of Pampatike Farm which is now claimed by the plaintiffs as being, the location of Manquin Creek and always exercised absolute ownership and control over that portion claimed by the plaintiffs for a period of fourteen years, which was before and after the Abrams purchased Blakes farm; that there was one bridge erected across Manquin Creek by Mr. Clements while he had charge of the island, a part of Pampatike Farm, as a short cut in getting from the Pampatike Farm to his old home above Manquin; that Mr. Clements told the plaintiff that he had told the Abrams' that they might get some wood for fire - wood from across the creek on the Pampatike side in consideration of the Abrams' allowing him to use a private road through their farm in getting to his own home near Manquin.

The defendant further testified that he had never heard of any claim made by the Abrams' or anyone else until a short time before this action was instituted that Manquin Creek had changed its location, and was formerly located as claimed by the plaintiffs.

He further testified that he could go to almost any place on the lowgrounds dig up white sand.

J. P. Woody, a witness for the defendant, testified as follows:

That he is 48 years old; that he is a brother of C. C. Woody, the defendant in this action; that he went to live on Pampatike Farm 40 years ago; that he has known the place for the last forty years; that he has known the Swamp and Manquin Creek since he was 12 or 15 years old; that he hunted up cattle on the black land; that the swamp is in the same place and that the creek is in the same place that it always has been; that the same creek was the line; that the dyke only caught the high water; that he went to Richmond in 1905; that he left Pampatike Farm in 1901; that he worked the black land a few years after that; that he stayed in Richmond until 1926; that the dyke ran down by black land; that the dyke did not run into Blake's Pond; that the dyke goes along the black land field; that the dyke does not hit Gravel Run Swamp; and that Manquin Creek runs around Blake's Pond.

John Elliot, another witness for the defendant, testified as follows:

That he is about at 70 years old; that he has lived in King William County all of his life; that he carried the surveyor's chain for L. D. Robertson, Sr., County Surveyor, when the Pampatike Farm was divided among the Carters in 1885, under a decree of the Circuit Court of King William County; that he had not been on the farm but twice since that time; that he went up there once this year with Mr. Abrams, the plaintiff in this case, and the other time with Mr. C. C. Woody; that Manquin Creek is now located at the same place that it was when he carried the chain for Mr. Robertson in 1885; and that he did not recall any dyke running along the side of the creek.

Charles Reed, another witness for the defendant, testified as follows:

that he is 70 years old; that he has lived in King William County all of his life; that he rented the black land field on the Pampatike Farm about 35 years ago; that he is acquainted with the Manquin Creek; that to the best of his knowledge and belief it is now located at the same place that it always has been; that it was his duty to keep up the dyke and to keep the water off of the field; that the dyke is now in the same place that it always has been; that he went to look at the creek with Mr. Abrams this year; and that he told the plaintiffs that there had been no change in the creek as far as he could see.

William Heath, another witness for the defendant, testified as follows:

That he is 75 years old; that he is acquainted with the lowlands; that he rented them from Mr. Jeana Clements who had charge of the farm, for hunting purposes; that he hunted there until about 11 years ago; that he is acquainted with Manquin Creek and had observed it on many occasions; that Mr. Clements told him that the creek was the line; that he was there two weeks before the trial of this case; that the creek had not changed; that the same creek has always flowed into Blake's Pond; that he had hunted every inch of the ground up to the creek for about 15 years; that the creek was always said to be the line; that an old dyke ran along the side of the field; that he has not hunted on the property for 10 or 11 years.

Willie Pointer, another witness for the defendant, testified as follows:

That he is 66 years old; that he had lived in King William County all of his life; that he had always been known as a great fox hunter; that he had, hunted on Pampatike Farm many

times; that he had known Manquin Creek for the past 53 years; that he had been up and down the creek many times; that if the creek had changed, he he not know where it had changed; that he ha ridden by the side of the dyke; that the dyke was on the edge of the field along the black land.

Jim Hines, another witness for the defendant, testified as follows:

That he is about 65or 70 years old; that he was raised on Pampatike Farm; that he had known Manquin Creek for 50 years; that it is now located where it was when he first knew it; that Manquin Creek was always considered the line between Blake's Farm and Pampatike; that he never crossed the creek on the Blake's side; that he always stayed on the Pampatike side; and that the creek is now where it always has been.

W. E. Rouzie, another witness for the defendant, testified as follows:

That be is about 60 years old; that he has known Manquin Creek for the past 27 years; that it is now located at the same place that it was when he first knew it; that he cultivated the black land on Pampatike Farm; that he also managed a sawmill for his uncle, W. D. Rouzie, on Pampatike Farm many years ago; that the canal which the plaintiffs claim to have changed the course of the creek actually only did away with a bend in the creek, and did not otherwise change the course of the creek in any way; that the canal was cut for Mr. Carter upon the order of Mr. Jeana Clements; that he used to go over the dyke to water his horses; that the creek went in the direction of Blake's Pond; that there were about three dykes; that when the water broke through the big dykes, the smaller ones would catch it; that the black land ran up to the dyke; that he never Saw any evidence of a stream along the dyke, but that the creek was some distance from the dyke; and that there the plaintiff claims Manquin Creek was originally located is the place where dirt was gotten with which to build the dyke.

T. Crawford Redd, another witness for the defendant, testified as follows:

That he was a surveyor from Richmond; that he is about 70 years old; that he has had many years experience in surveying ; that he was employed by Mr. C. C. Woody to make plats of the land in controversy; that while making the necessary surveys, he used his level to ascertain what point was of the laud was the lowest; that the point where Manquin Creek now runs is the lowest point in the swamp; that the old ditch along the dyke is higher than the place where the creek now runs; that it would have been impossible for the creek to nave run in the ditch as claimed by the plaintiff except in times of high water when the lower part of the swamp would have been filled with water; that the point where the creek now runs showed that the banks were old; that the creek was low at the time that he saw it, and the height of the banks showed that it was running in the lowest part of the swamp ; and that as far as he could tell, the plat of L. D. Robertson, surveyor, made in 1885, and introduced by the defendant in this case, was correct, but on cross examination, he a stated that he could not locate the courses and distances given on the plat.

Charles Saunders, another witness for the defendants, testified as follows;

That he is about 60 years old, that he was born in King William County, and worked for the Carters on Pampatike Farm, that he was acquainted with Manquin Creek and had known it for 40 years; that it is now located in the same place that it was when he first knew it; that he ran a tramroad along the side of the old dykes, crossing the end of the black land field, and going through the island to the landing on the Pamunkey River; and that this tramroad was built for the Paris Lumber Company in 1903.

Cleveland Adams, another Witness for the defendant, testified as follows;

That he is 40 years old; that he had worked all of his life on Pampatike Farm; that he moved on Pampatike Farm in 1908; that Manquin Creek is now located in the same place that it was when he first knew it; that he worked for Mr. E. V. Clements, who had charge of the Pampatike Farm from the time that Mr. E. V. Clements came there until last year, or about twenty-two years in all; that he was well acquainted with Manquin Creek; that he knew that Mr. E. V. Clements enclosed part of the lowgrounds with a wire fence up to Manquin Creek where it is now located, and embraced within this wire fence the location of the Manquin Creek as claimed by the plaintiff; that Mr. Clements did not get permission from Mr. Abrams or anyone else when he ran the wire fence because the land enclosed by the wire fence belonged to the Pampatike Farm; that he knew that Mr. Clements posted that portion of the land that is now claimed by the plaintiff for the purpose of keeping people from hunting on it; that the land was posted first in 1915 and again in the year 1925; that Mr. Clements always told him that the Manquin Creek as it is now located is the line between Pampatike Farm and Blake's Farms now owned by the Abrams'; that he was acquainted with the dyke on Pampatike Farm and that it does not run to Blake's Pond nor does it run along the side of Manquin Creek; that he has never seen or has never been able to find where any timber was cut across the creek on the Pampatike side by Mr. Booker or Mr. Atkins; that Mr. Atkins crossed the creek from the tract of land now owned by Sweet's and was cutting on Pampatike, but that Mr. Clements stopped him from cutting on the Pampatike side; that the Blake's who formerly owned the farm now owned by the Abrams never claimed any land across the Manquin Creek as it is now located; that Mr. Clements did not cut the canal so as to change the course of Manquin Creek and to cause it to run into Max's Spring Pond, but did cut a small canal at Ridge Woods which took a bend out of the creek thereby making it straight at this point, but did not otherwise change the course of the creek. (Script) He denied that he told Mister Butler that he didn't know where the line was between Pampatike and Blakes.

J. L. Abrams, another witness for the defendant, testified as follows:

That he was 52 years old; that he lived on Pampatike Farm in 1901 with Mr. J. P. Woody that after Mr. Woody left the farm he lived there with Mr. E. V. Clements for 12 years; that he is well acquainted with Manquin Creek; that it is now located where it was when he first knew it; that he never heard of the Blake's or anyone else claiming any land across the creek as it is now until a short time before the institution of this action; that he remembered Mr. Clement's stopping Mr. Buck Atkins from cutting timber across the

creek opposite Sweet's land; that he erected the wire fence for Mr. Clements about 20 years ago, which inclosed, the land now claimed by the plaintiff; and that Mr. Clements used the land enclosed by the fence for a pasture; and that Mr. Clements never got permission to run the fence from Mr. Abrams or Mr. Blake who then owned the Abrams' property.

E. W. Farmer, another witness for the defendant testified as follows:

That he is 43 years old; that he was 13 years old when he first hunted on Pampatike Farm; that he had known Manquin Creek for about 30 years; that the creek is now located where it was when he first saw it; and that the dyke followed the old field.

A. G. Willis, another witness for the defendant, testified as follows:

That he is about 80 years old; that he had known Manquin Creek all of his life; that he had the land that is now J. P. Woody's estate in his possession 35 years ago; That he has always known Manquin Creek; that there has never been any change in the course of the creek; that 25 years ago, he hauled lumber for Mr. Rouzie; that he hauled the lumber down an old tramroad. Which ran along by the side of the dyke; that this road was built by the Paris Lumber Co. a long time before he used it; that Mr. Booker cut wood on Blake's property, but did not cut any across Manquin Creek; and that the old tramroad was 50 yards or more from the creek.

V. W. Fox, another witness for the defendant, testified as follows:

That he was 48 years old; that he knew nothing about Blake's Pond, but that he had known Manquin Creek for twenty years; that he sold the boots worn by the man who cut the ditch for Mr. Clements on an order of Mr. Clements; that the ditch which Mr. Clements had cut was 30 yards long, but did not otherwise change the course of the creek; that this ditch was out near Ridge Woods, which is 150 yards up-stream from where the plaintiffs claim that it was cut; that except for taking the bend out of the creek, this ditch did not change the course of the creek; that he owns up the creek above and adjoining Abram's place; that the corner of his place and Abrams' place is on the west side of Manquin Creek; that he does not consider that he owns any land on the east side of Manquin Creek as the Abrams claim he does; that it was quite a distance from the creek to the old dyke; that he came to Manquin in 1905; that in the spring of 1905 he became acquainted with Manquin Creek; that the creek at that time was running at the same place that it is running at now; that in 1905 he did not see where any change whatever had been made in the course of the creek; that if there had been any change in the creek, he would have been able to detect it and would have detected it.

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EVIDENCE OF THE DEFENDANT IN THE CASE

ABRAMS V. C. C. WOODY

First: The defendant introduced Deed Book 45, p. 455, which deed there recorded is from Evely Byrd Bassinger et als to C. C. Woody, conveying $478\frac{1}{2}$ acres of land, and which is described in said deed as follows:

"All that certain tract or parcel of land lying and being in King William County, Virginia, containing $478\frac{1}{2}$ acres, and bounded and described as follows:

"Beginning at a white oak in Fountainbleau line, thence South 27 degrees W. 92, 50 chains, to gate post, thence S. 18 degrees E 22.50 chains to the middle of the barn door, thence S. 18 degrees W. 48.50 chains to point on the Pamunkey river, thence up the river 17.50 chains to the mouth of Manquin Creek, thence up said creek 226 chains to a gum tree, corner to Fountainbleau, thence N. 70 degrees E. 52.50 chains to the beginning, being that portion of Pampatike estate allotted to May Nelson Carter Buckner in the partition thereof in the chancery suit of O. Shirley Carter and wife v. Ann W. Carter et als as per decree of the Circuit Court of King William County, Virginia, entered on the 19th day of April, 1886, and recorded in Chancery Order Book No. 5, pp. 88 to 90, and also recorded in Deed Book 5, pp. 291 et seq."

Second: The defendant introduced partition deed among the Carters and plat of division, Deed Book 5, pp. 291 et seq. This deed shows the division of Pampatike Farm among the Carters and the plat referred to in said Partition deed was introduced in evidence on behalf of the defendant, which said plat shows that the tract or parcel of land claimed by the defendant is marked No. 2 on plat A. (See plat for more definite description of said tract of land.)

Third: Defendant introduced Chancery Order Book

No. 1, p. 89, which shows how the land was divided by the commissioners in a chancery suit among the Carters, and refers to the plat introduced by the defendants.

Fourth: Defendant introduced Processioner's Book in the Clerk's Office of the Circuit Court of King William County, pp. 78-79, for the purpose of establishing the lines in dispute.

Fifth: C. C. Woody, the defendant in this action, testified as follows:

That he is 46 years old; that he lived on Pampatike Farm with his father, J. P. Woody, when his father rented Pampatike Farm from the Carters about 43 years ago; that his father rented and lived on Pampatike Farm about 13 years; that he, the witness, lived on the farm with his father and was well acquainted with the location of Manquin Creek; that his father used to graze his cattle in the lowgrounds where the creek is located; that he, the defendant, used to look after the cattle for his father; that his father moved from Pampatike Farm in 1901, but that the witness went back on the farm in 1915, and has lived continuously on the farm since that time, and that Manquin Creek has always been located to his certain knowledge at the same place where the present creek now runs; that his father owned another tract of land which adjoined Manquin Creek and the property now owned by the plaintiffs and the defendant; and that he has had an opportunity to know and has known the location of this creek for at least 35 years, and that there has been no material change in the location of the creek during that period of time.

He further testified that the old dyke, a ditch along which is now claimed by the plaintiff as the bed of Manquin Creek was built by Mr. Carter for the purpose of keeping the overflow of the water from Manquin Creek off of the black land field; that the old dyke was not built along Manquin Creek as stated by witnesses for the plaintiff; that the location of Manquin Creek as claimed by the plaintiff is where dirt was taken from with which to build the dyke, and is not the bed of Manquin Creek as claimed by the plaintiff, nor has it ever been the bed of Manquin Creek; that the dyke did not run along the creek, but that there were leaders running from the dyke to the creek as now claimed by the ^{plaintiff} defendant, and which are now visible.

He further testified that Eddie Booker never cut any timber across the Manquin Creek where it now is located and always has been located; that the bridges referred to by Eddie Booker and other witnesses were bridges across a swamp leading into Blake's Pond; that Mr. Jeana Clements, manager of Pampatike Farm for the Carters for many years, in about 1910 enclosed a part of the lowgrounds for a pasture, and ran a wire fence across the location of the creek bed as claimed by the plaintiffs to the Manquin Creek as claimed by the defendant, and used the pice of land thus enclosed as a pasture; that the wire fence is still there; that Mr. Clements posted Pampatike Farm against hunting and other trespassing, and posted that portion of Pampatike Farm which is now claimed by the plaintiffs as being the location of Manquin Creek, and always exercised absolute ownership and control over that portion claimed by the plaintiffs for a period of fourteen years, which was before and after the Abrams' purchased Blake's Farm; that there was one bridge

erected across Manquin Creek by Mr. Clements while he had charge of the island, a part of Pampatike Farm, as a short cut in getting from the Pampatike Farm to his old home above Manquin; that Mr. Clements told the plaintiff that he had told the Abrams' that they might get some as wood for firewood from across the creek on the Pampatike side in consideration of the Abrams' allowing him to use a private road through their farm in getting to his own home near Manquin.

The defendant further testified that he had never heard of any claim made by the Abrams' or anyone else until a short time before this action was instituted that Manquin Creek had changed its location, and was formerly located as claimed by the plaintiffs.

He further testified that he could go to almost any place on the lowgrounds and dig up white sand.

J. F. Woody, a witness for the defendant, testified as follows:

That he is 48 years old; that he is a brother of C. C. Woody, the defendant in this action; that he went to live on Pampatike Farm 40 years ago; that he has known the place for the last forty years; that he has known the swamp and Manquin Creek since he was 12 or 15 years old; that he hunted up cattle on the black land; that the swamp is in the same place and that the creek is in the same place that it always has been; that the same creek was the line; that the dyke only caught the high water; that he went to Richmond in 1905; that he left Pampatike Farm in 1901; that he worked the black land a few years after that; that he stayed in Richmond until 1926; that the dyke ran down by

black land; that the dyke did not run into Blake's Pond; that the dyke goes along the black land field; that the dyke does not hit Gravel Run Swamp; and that Manquin Creek runs around Blake's Pond.

~~Charles~~ ^{John} Elliot, another witness for the defendant, testified as follows:

That he is about 70 years old; that he has lived in King William County all of his life; that he carried the surveyor's chain for L. D. Robertson, Sr., County Surveyor, when the Pampatike Farm was divided among the Carters in 1885, under a decree of the Circuit Court of King William County; that he had not been on the farm but twice since that time; that he went up there once this year with Mr. Abrams, the plaintiff in this case, and the other time with Mr. C. C. Woody; that Manquin Creek is now located at the same place that it was when it was when he carried the chain for Mr. Robertson in 1885; and that he did not recall any dyke running along the side of the creek.

Charles Reed, another witness for the defendant, testified as follows:

That he is 70 years old; that he had lived in King William County all of his life; that he rented the black land field on the Pampatike Farm about 35 years ago; that he is acquainted with the Manquin Creek; that to the best of his knowledge and belief it is now located at the same place that it always has been; that it was his duty to keep up the dyke and to keep the water off of the field; that the dyke is now in the same place that it always has been; that he went up to look at the creek with Mr. Abrams

this year; and that he told the plaintiffs that there had been no change in the creek as far as he could see.

William Heath, another witness for the defendant, testified as follows:

That he is 75 years old; that he is acquainted with the lowlands; that he rented them from Mr. Jeana Clements, who had charge of the farm, for hunting purposes; that he hunted there until about 11 years ago; that he is acquainted with Manquin Creek and had observed it on many occasions; that Mr. Clements told him that the creek was the line; that he was there two weeks before the trial of this case; that the creek had not changed; that the same creek has always flowed into Blake's Pond; that he had hunted every inch of the ground up to the creek for about 15 years; that the creek was always said to be the line; that an old dyke ran along the side of the field; that he had not hunted on the property for 10 or 11 years.

Willie Pointer, another witness for the defendant, testified as follows:

That he is 66 years old; that he had lived in King William County all of his life; that he had always been known as a great fox hunter; that he had hunted on Pampatike Farm many times; that he had known Manquin Creek for the past 53 years; that he had been up and down the creek many times; that if the creek had changed, he did not know where it had changed; that he had ridden by the side of the dyke; that the dyke was on the edge of the field along the black land.

Jim Hines, another witness for the defendant, testi-

fied as follows:

That he is about 65 or 70 years old; that he was raised on Pampatike Farm; that he had known Manquin Creek for 50 years; that it is now located where it was when he first knew it; that Manquin Creek was always considered the line between Blake's Farm and Pampatike; that he never crossed the creek on the Blake's side; that he always stayed on the Pampatike side; and that the creek is now where it always has been.

W. E. Rouzie, another witness for the defendant, testified as follows:

That he is about 60 years old; that he has known Manquin Creek for the past 27 years; that it is now located at the same place that it was when he first knew it; that he cultivated the black land on Pampatike Farm; that he also managed a sawmill for his uncle, W. D. Rouzie, on Pampatike Farm many years ago; that the canal which the plaintiffs claim to have changed the course of the creek actually only did away with a bend in the creek, and did not otherwise change the course of the creek in any way; that the canal was cut for Mr. Carter upon the order of Mr. Jeana Clements; that he used to go over the dyke to water his horses; that the creek went in the direction of Blake's Pond; that there were about three dykes; that when the water broke through the big dykes, the smaller ones would catch it; that the black land ran up to the dyke; that he never saw any evidence of a stream along the dyke, but that the creek was some distance from the dyke; and that where the plaintiff claims Manquin Creek was originally located is the place where dirt was gotten with which to build the dyke.

T. Crawford Redd, another witness for the defendant, testified as follows:

That he was a surveyor from Richmond; that he is about 70 years old; that he has had many years experience in surveying; that he was employed by Mr. C. C. Woody to make plats of the land in controversy; that while making the necessary surveys, he used his level to ascertain what point of the land was the lowest; that the point where Manquin Creek now runs is the lowest point in the swamp; that the old ditch along the dyke is higher than the place where the creek now runs; that it would have been impossible for the creek to have run in the ditch as claimed by the plaintiffs except in times of high water when the lower part of the swamp would have been filled with water; that the point where the creek now runs showed that the banks were old; that the creek was low at the time that he saw it, and the height of the banks showed that it was running in the lowest part of the swamp; and that as far as he could tell, the plat of L. D. Robertson, Surveyor, made in 1885, and introduced by the defendant in this case, was correct, but on cross examination, he stated that he could not locate the creek by that plat because there were no courses and distances given on the plat.

Charles Saunders, another witness for the defendants, testified as follows;

That he is about 60 years old; that he was born in King William County, and worked for the Carters on Pampatike Farm; that he was acquainted with Manquin Creek and had known it for 40 years; that it is now located in the same place that it was when he first knew it; that he ran a tramroad along the side of the old dykes, crossing the end of the black land field, and going through the island to the landing on the Pamunky River; and that this tramroad was built for the Paris Lumber Company in 1903.

Cleveland Adams, another witness for the defendant, testified as follows:

That he is 40 years old; that he had worked all of his life on Pampatike Farm; that he moved on Pampatike Farm in 1908; that Manquin Creek is now located in the same place that it was when he first knew it; that he worked for Mr. E. V. Clements, who had charge of the Pampatike Farm from the time that Mr. E. V. Clements came there until last year, or about twenty-two years in all; that he was well acquainted with Manquin Creek; that he knew that Mr. E. V. Clements enclosed part of the lowgrounds with a wire fence up to Manquin Creek where it is now located, and embraced within this wire fence the location of the Manquin Creek as claimed by the plaintiff; that Mr. Clements did not get permission from Mr. Abrams or anyone else when he ran the wire fence because the land enclosed by the wire fence belonged to the Pampatike Farm; that he knew that Mr. Clements posted that portion of the land that is now claimed by the plaintiff for the purpose of keeping people from hunting on it; that the land was posted first in 1915 and again in the year 1925; that Mr. Clements always told him that the Manquin Creek as it is now located is the line between Pampatike Farm and Blake's Farm now owned by the Abrams'; that he was acquainted with the dyke on Pampatike Farm and that it does not run to Blake's Pond nor does it run along the side of Manquin Creek; that he has never seen or has never been able to find where any timber was cut across the creek on the Pampatike side by Mr. Booker or Mr. Atkins; that Mr. Atkins crossed the creek from the tract of land now owned by Sweet's and was cutting on Pampatike, but that Mr. Clements stopped him from cutting on the Pampatike side; that the Blake's,

who formerly owned the farm now owned by the Abrams', never claimed any land across the Manquin Creek as it is now located; that Mr. Clements did not cut the canal so as to change the course of Manquin Creek and to cause it to run into Max's Spring Pond, but did cut a small canal at Ridge Woods which took a bend out of the creek thereby making it straight at this point, but did not otherwise change the course of the creek. *He denied that he told Walter Butler that he didn't know where the line was between Pampatike & Blake's.*

J. L. ~~Abrams~~ another witness for the defendant, testified as follows:

That he was 52 years old; that he lived on Pampatike Farm in 1901 with Mr. J. P. Woody; that after Mr. Woody left the farm he lived there with Mr. E. V. Clements for 12 years; that he is well acquainted with Manquin Creek; that it is now located where it was when he first knew it; that he never heard of the Blake's or anyone else claiming any land across the creek as it is now until a short time before the institution of this action; that he remembered Mr. Clement's stopping Mr. Buck Atkins from cutting timber across the creek opposite Sweet's land; that he erected the wire fence for Mr. Clements about 20 years ago, which inclosed the land now claimed by the plaintiff; and that Mr. Clements used the land enclosed by the fence for a pasture; and that Mr. Clements never got permission to run the fence from Mr. Abrams or Mr. Blake who then owned the Abrams' property.

E. W. Farmer, another witness for the defendant, testified as follows:

That he is 43 years old; that he was 13 years old when he first hunted on Pampatike Farm; that he had known

Manquin Creek for about 30 years; that the creek is now located where it was when he first saw it; and that the dyke followed the old field.

A. G. Willis, another witness for the defendant, testified as follows:

That he is about 80 years old; that he had known Manquin Creek all of his life; that he had the land that is now J. P. Woody's estate in his possession 35 years ago; that he has always known Manquin Creek; that there has never been any change in the course of the creek; that 25 years ago, he hauled lumber for Mr. Rouzie; that he hauled the lumber down an old tramroad which ran along by the side of the dyke; that this road was built by the Paris Lumber Co. a long time before he used it; that Mr. Booker cut wood on Blake's property, but did not cut any across Manquin Creek; and that the old tramroad was 50 yards or more from the creek.

V. W. Fox, another witness for the defendant, testified as follows:

That he was 48 years old; that he knew nothing about Blake's Pond, but that he had known Manquin Creek for twenty years; that he sold the boots worn by the man who cut the ditch for Mr. Clements on an order of Mr. Clements; that the ditch which Mr. C. V. Clements had cut was 30 yards long, but did not otherwise change the course of the creek; that this ditch was cut near Ridge woods, which is 150 yards up-stream from where the plaintiffs claim that it was cut; that except for taking the bend out of the creek, this ditch did not change the course of the creek; that he

owns up the creek above and adjoining Abrams' place; that the corner of his place and Abrams' place is on the west side of Manquin Creek; that he does not consider that he owns any land on the east side of Manquin Creek as the Abrams' claim that he does; that it was quite a distance from the creek to the old dyke; that he came to Manquin in 1905; that in the spring of 1905 he became acquainted with Manquin Creek; that the creek at that time was running at the same place that it is running at now; that in 1905 he did not see where any change whatever had been made in the course of the creek; that if there had been any change in the creek, he would have been able to detect it and would have detected it.