

Woody VS Abrams Plaintiff

VIRGINIA, IN THE CIRCUIT COURT OF KING WILLIAM COUNTY:

J. M. ABRAMS, JR., et ale,

V.

Plaintiff's Evidence.

C. C. WOODY

On trial of this case the following evidence was introduced on behalf of the plaintiff.

1. Deed from R. H. Florence, Special Commissioner, to J. M. Abrams, D. B. 35, p. 138.
2. ProceSSIONER's Book, pp. 68-69, were introduced.
3. L. D. Robinson, a witness of lawful age, after being first duly sworn, testified that he was surveyor of King William County, and had been a surveyor for a number of years and that he surveyed the lines as claimed by the plaintiffs and defendant ((script) at the insistence of the plaintiffs) and made a plat of same September 10, 1930, a copy of which is filed with the petition in this case. The remains of the dyke as pointed out to witness by Warrenton Butler and E, Bowler, et als, are visible on the ground.
4. Ephriam Bowler, another witness of lawful age, after being first duly sworn testified that he was 80 years of age, that he spent a great part of his life on Pampatike Farm, that he was living on Pampatike at the time that the slaves were freed and left Pampatike during the year of the Johnstown flood; that Pampatike Farm formerly belonged to Col, Carter, and that part of the farm now belongs to Mr. C. C. Woody, and that the property now owned by the Abrams formerly belonged to the Blakes; that he knows the line between Pampatike and the Blake property, now owned by Abrams and that the true boundary lines between these two tracts is the bed of the old creek, which he pointed out to Mr. Robinson, surveyor, and down which Mr. Johnson ran the line shown on the plat dated September 10, 1930, and filed in this case; that the dike follows the bed of the old creek all of the way down on the Pampatike side of the creek opposite the Blake property; that he has worked on this dike many a day and many a year for Col. Carter, and the creek which ran down beside this dike was called Monquin Creek, and that the dike was built to keep the water out of the black land on Pampatike; that the old creek is now dry, but that there used to be water in it nine or ten feet deep in some places; that Col. Carter called the land between the bed of the creek and Blakes Pond, "Blakes Meadow"; that Col. Carter told him that half of the creek belonged to the Blakes and half to Col. Carter; that the old creek never did run into Blake's Pond except during high water, and the channel of the old creek is the true boundary line between Blake's and Pampatike; that the dike is close to this creek; that he could plow to end of row and look into the creek; that he moved from Pampatike in 1889, but rented some of the land after Mr. C. C. Woody's father left Pampatike for several years, and that water was running down the old creek at that time; that the old creek has changed since he stopped working on Pampatike Farm; that he had not been on Pampatike Farm since he stopped working there

until Mr. Abrams (one of the plaintiffs) came after him to show him the lines; that the old creek bed is level in many places; that the old dike is still there and is dry now, and that he does not know how long it has been dry; that he pointed out to Mr. Abrams, one of the plaintiffs, the bed of the old creek, ((script) in cross examination) stated that the creek, as claimed by the defendant as the true boundary line between his property was (WAS was crossed out and made into IS) Abrams' property a large and well defined creek, not and that he could not say how long it had been there and stated that what the witness claims as the "old creek bed" is dry and level in places and that he had not seen the creek before he went there with Mr. Abrams to point out the lines since he stopped working on Pampatike Farm, which was about 30 years ago.; that the outlet at the lower end of Blake's Pond ran into Monquin Creek.

5. J. Hooper Edwards, another witness of lawful age, after having been first duly sworn, testified as follows:

That he was born in 1864 and was raised in the vicinity of Pampatike Farm and has known the property all of his life; that he has always understood the center of Monquin Creek to be the line between Pampatike and Blake's Farm; that the water has stopped running down the creek now, and the first time that I noticed that the creek was dry was when he was hunting with Gena Clements, and he called his attention to it, and he said "Yes, the old Monquin Creek is gone for good" That part of it was running across the black land and the rest going around into Max Spring Swamp. That Gena Clements went to Pampatike Farm in 1902, and he does not know how long he had been there when he noticed that the water had stopped running down the old Monquin Creek; that he had not seen the creek since Gena Clements and himself were hunting until he went there with Mort Abrams, one of the plaintiffs, this year, and that then he got there, Ephriam Bowler was there, and he decided that he would not say where the line was until Ephriam Bowler made his statement, and after Ephriam Bowler made his statement, then he agreed with him as to what he said about the location of the old Monquin Creeks that C. C. Woody came up before he left and he told him where the boundary line was, but Mr. Woody did not agree with him; that the dike is visible and he followed and pointed out the bed of the Monquin Creek as shown on the plat made by L. D. Robinson, September 10, 1930; that the dike is on the Pampatike side of the creek and the ditch along by the side of the dike was to carry the water away; that the old creek bed is now filled up, but you can still see that dike, and the old bed looks higher than the rest of the low grounds; that he is friendly with both sides in the case, and both the plaintiffs and the defendant asked him to show them the line. That Old Gravel run swamp is line between Skidmore's and Blake's.

6. Warrenton Butler, another witness of lawful age, after having been first duly sworn, testified as follows:

That he is 60 years old and was born a little after slavery; known Pampatike over 40 years; his father used to keep up the dike for Col. Carter and he worked on it; that he got his learning on it. That Dr. Carter, son of Col. Carter told him that the water course was the line, and that the creek ran substantially along the dike the distance varying at points; that he knows where the old creek bed is and he went to Pampatike Farm with Mr.

Abrams, one of the plaintiffs, to locate the line; he pointed out the line to Mr. Robinson; in some places the old creek bed is now level and all of it is dry; he knew that Mr. Gena Clements cut a ditch in the corner of Ridge Woods to throw water back on Blakes; that his father kept him on Pampatike Farm for 25 years; Mr. Parrish threw saw dust in the creek about 28 years ago, and that caused it to change its course; that he worked at Parrish's sawmill for about four years; that in some places the creek was very deep and would drown anyone; according to the old heads old creek bed the line. The witness was asked on cross-examination if he had not stated to Mr. W. B. Rouzie that the creek had not changed, and that the present creek was the same Monquin Creek; he declared that he made this statement, but explained it by saying that he made the statement to "throw them off and that he did not want them to know all of his business".

7. Eddie Booker, another witness of lawful, after being first duly sworn, testified as follows:

That he purchased from J. M. Abrams, the father of the plaintiffs, who at that time owned the Blake's tract, all the pine timber on that property; that he out all the pine timber across the present swamp between that and what is now referred to in the evidence in this case as the old creek bed; that he made two bridges across the present swamp in 1919 to get to that part of the timber on Blake's which was located between the present swamp and what is now spoken of as the old creek bed; that no complaint was made by anyone at his cutting about 35,000 or 40,000 feet of timber across on the Pampatike side of the present swamp; that he bought this timber from J. M. Abrams and paid him for it. That he heard something about the creek having changed.

8. Buck Atkins, another witness of lawful age, after being first duly sworn, testified as follows:

That he bought ash timber from Blake's in 1915 when Blake owned 'the farm, and that he out about 50 or 60 cords of ash wood during the months of June and July of that year; Mr. Bob Blake took him around to what he called the old creek bed and told him that that was the line between the Blake and Pampatike farms; that he built a bridge across the present creek and cut across to the black land field; that he out ash timber between the present swamp and what was pointed out to him by Mr. Bob Blake as the old creek bed; that he was on Pampatike Farm about a month ago to examine the creek at the instance of Mr. Abrams.

9. Temple Hilliard, another witness of lawful age, after being first duly sworn, testified as follows:

That he had known Pampatike and Blake's farms all of his life; that when Parrish operated a mill on the read from Fountain Bleau to Manquin, the lumber from that mill was loaded at the river; that he hauled for two years from that mill down the old tramroad, crossing Monquin Creek and going across the end of the black land field; that this was in 1902 or 1903; that there was water in the old Manquin Creek at that time and that the creek followed the dike; that Parrish (the owner of the mill) at first started to

blow the saw dust into Manquin Creek and this continued for about a year and J. P. Woody objected and he stopped putting it in the (STREAM crossed out with CREEK). That he hunted with Cross through this property a few years after 1906; that after he moved to Hanover County he came back to hunt on the property, 4 or 5 years afterwards, and he noticed that the creek had stopped flowing; that the Monquin Creek was overflowing the last year he hauled lumber down the tramroad, that he had seen water ten feet deep in Monquin Creek; that he had hunted beside the Monquin Creek many times; that, (script WHAT) was the old creek bed is now level in places; that he used to hunt on Pampatike with his brother-in-law, John Abrams, who had permission to hunt on the Blake side of Monquin Swamp and, he would stay on the Pampatike side of Monquin Swamp; that there were several dikes running down the same way; that he never saw any cross dikes; that he had always understood that the bed of the old creek was the line between Pampatike and Blakes. That he never saw present creek until recently.

10. Willie Allen, another witness of lawful age, after being first duly sworn, testified as follows:

That he rented a part of Pampatike for 22 years; that he went there 37 years ago and has been away from there 15 years; that the creek followed the dike until it got to the corner; that the creek filled up and stopped running before Gena Clements had ditch cut; that he was always told that the old creek was the line between Pampatike and Blake's; that Clements hired two men to turn the water from the old creek so it would run around through Blake's Pond; that when he was working on Pampatike he used to drink out of Monquin Creek; that the creek ran down close to the edge of the black land; that he used to hunt on Pampatike Farm; and that he killed a wild hog on the island; that the old creek split, and some went through the black land on Pampatike Farm and Clements had a ditch cut to turn the water towards the corner of the Max Spring Pond; that the old creek bed is now level and there is sand in the creek bed. When he went to Panpatike Farm Mr. J. P. Woody was there and the creek dried up after he went there; the old creek followed the dike.

11. J.C. Sweet, another witness of lawful age, after being first duly sworn, testified as follows:

That he now owns a part of the old Skidmore tract which corners with Blake's and Pampatike where the mouth of the old Gravel Run Swamp unites with what, was said to be the old bed of Monquin Creek and which was pointed out to him by Mr. Jackson; that he purchased this property from C. R. Blunt. The following deeds were then introduced: D. B. 37, p. 337, D. B. 36, p. 403; and D. B. 24, p. 65.

At this point, counsel for the plaintiff offered deed for, said tract of land, which is recorded in D. B. 24, p. 15, and counsel for the defendant stated to the Court that he objected to the introduction of the plat referred to in the deeds for two reasons: 1. That the plat had not been recorded; 2. That the plat was not referred to or made a part of any part of the chain of title of the defendant or the plaintiffs; 3. That the plat contained many things not mentioned in the deed. The Court overruled the objection of the defendant and

allowed the plat to be introduced in evidence and counsel for the defendant noted an exception to the ruling of the Court. Witness then continued; that he stopped Woody's men from cutting ash wood on his side of what is spoken of as the old Monquin Creek, and that C. C. Woody told him to collect for this wood which was cut on the property between the bed of the old creek and the present creek.

12. Warner Edwards, another witness of lawful age, after being first duly sworn, testified as follows:

That he now lives in Powhatan County; that he has known Pampatike Farm all of his life; that he hunted with Mr. J. H. Abrams on the Pampatike Farm from 1890 to 1900; that the creek at that time ran along what is known as the black land field close to the dike; that he had permission to hunt on Pampatike, and he was told that he, could not hunt on the Blake side of the creek, as it was posted; that the creek at that time ran down by the black land close to the dike; that he had not been on the property since 1899 until a few days ago; that the dike is still visible, and he pointed out to the Abrams' where the creek used to run down by the dike.

13. J. R. Adams, another witness of lawful age, after having been first duly sworn, testified as follows:

That he worked on Pampatike Farm under 3. P. Woody and Gena Clements for 12 or 15 years; that the Monquin Greek used to run near the edge of the field adjoining the black lands; that when working this field on Pampatike for J. P. Woody, he plowed up to the dike; that the dike went down by the old creek bed; that the creek was well defined and was three or four feet deep; that Mr. Woody always taught us, he meant himself and Mr - Woody's sons, while hunting that if we went over the dike, we would be on Blake's land. Water was running down the old creek as late as 1910, and the swamp has changed since 1910; that Gena Clements cut a ditch to turn the water from the creek and to cause it to go into Max Spring Swamp which runs into Blake's Pond; that he went up there with Abrams (one of the plaintiffs) to show him where the line was, and that he showed him what he always understood to be the line, which is where the old creek used to run down by the dike; that the creek bed is now dry and filled up.

14. Peter Taylor another witness of lawful age, after being first duly sworn, testified as follows:

That he worked on Pampatike Farm in 1903; that he is now 46 years old; that he worked the black land and the creek used to run along down by the dike; that he had shown Mr. Abrams recently where the old creek bed was and did not know until that time that the old creek had dried up; that he could tell the location of the creek by the dike. That the dike was kept up while he was working on Pampatike.

15. T. M. Abrams, another witness of lawful age, after being first duly sworn, testified as follows:

That he is one of the children and heirs at law of J. M. Abrams; that J. M. Abrams owned the Blake's property at the time of his death, having purchased it from the Blake estate and it having been conveyed to him by deed from R. R. Florance, Special Commissioner, D. B. 35, p. 238; that J. M. Abrams died intestate November 5, 1921, leaving as his heirs at law his children, the eleven petitioners in this suit; that Gena Clements and Bob Blake took Mort Abrams, his father, around the lines out 1918 or 1919, and told them old creek was the line, it was plainly visible though dry; that this property was purchased in the spring of 1917 but the deed to it was not made until 1920; that they, himself and his brother, gave Clements permission to build a temporary fence across a part of Blake's meadow in about 1922 in order that he might graze his cattle there; that when Booker was cutting timber on Blakes, he cut across the present creek; that before C. C. Woody cut timber along the creek within a year you could see the line of the old creek and in some places he used the old creek bed for a road; that no one prior to the institution of this suit has ever questioned the title of his father to the bed of the old creek; that Woody moved his sawmill there in the spring of 1930; that he has dug along the bed of the old creek in several places and found pretty creek and; that in other parts of the low grounds, if you dig, you will find mud; that Mr. Bob Blake was at an asylum at the time of the sale of the Blake's property; that he later boarded at Clements and was living at Clements' when he pointed out the lines to them; he later boarded at Cox's and died there; that in some places outside the old creek bed you may find sand, that it is in low places toward Blake's pond; that the old creek bed is now nearly level; that Woody's father lived on Pampatike until 1901 or 1902; that the Abrams have cut firewood since they owned Blakes property across the low grounds to the bed of the old creek beside the dike; that Clements never told them they could cut wood in there; that Dr Bernard Clement's used to hunt on Pampatike and would come to Blakes and start from the house there and hunt across to Pampatike and back to the Blake's home; that there has been no interference with their possession of the property since they bought it in 1917 until Woody cut timber this year.

16. Mordecai Abrams, another witness of lawful age, after being duly sworn, testified as follows:

That he is a son of J. M. Abrams, who bought the Blake's property in 1917; that Gena Clements, who had charge of Pampatike, told him that the creek had changed and that he (sp) present creek was not the line; that the Abrams had given Genie Clements permission to go through their property to get to the black land on Pampatike; that the Abrams had cut the ash wood for firewood on the land between the present creek and the bed of the old creek up to the old creek bed; that one morning when he and Clements were hunting together, Clements took him up the bed of the old creek and showed him the place where he had a ditch cut; that this ditch was out from Monquin Creek proper across to the Max Spring Pond Swamp to turn the water into Max Spring Swamp; that the stobs show that the old creek was dammed back; that in 1918 or 1919 Mr. Bob Blake, Genie Clements, T. M. Abrams and his father, J. M. Abrams, and the witness went around the lines of the Blake property, we went down old Gravel Run Swamp to bed of old creek then up bed of old creek; that they told him that the bed of the old creek, which at that time was dry except that water was standing in a few places, was the line between

Pampatike and Blakes that Clements got permission from the Abrams' to put up a temporary fence on the land in controversy about nine years ago; that at that time there was no fence on the Blake side of the present creek and Clements wanted to graze his cattle in a part of Blake's meadow; that the Abrams have since repaired a fence along the edge of their woods; that the wood cut across the present creek was not cut by permission of Clements; that he was never on Blakes until his father had purchased it in 1917; that the water is turned across from the old creek bed into Max Spring Swamp.

17. Tom Adams, a witness of lawful age, being first duly sworn, testified that he is 67 years of age. That in 1901 he trapped Pampatike and had his traps setting on the diking which went down by the old creek. That when he would go down the dike he could hear the geese in Blake's pond and that one day he crossed the dike and killed a goose about 100 yards from the dike on the Blake side and that when he shot a man hollowed at him and came where he was. It was Mr. Calhoun Blake, one of the owners of the Blake property, and that Mr. Blake carried him to the old creek bed down by the side of the dike and said that this is the line between his property and Pampatike and that witness must stay on the Pampatike side. That he was not the first one who had been made to stay on the Pampatike side of that line by the Blakes.

18. Walter Butler, a witness of lawful age, being first duly sworn, testified that Cleveland Adams told him that he didn't know where the line was at the time that Mort and Mack Abrams and himself were present at the filling station which was a few days prior to this time, That he had never been shown the lines.

19. O. B. Hogan, a witness of lawful age, being first duly sworn, testified that Genie Clements told him in 1909 or 1910; that he had had a great deal of trouble keeping the water from Moncuin Creek out of the black land on Pampatank and that he had cut a ditch from the old creek across to Max Spring swamp to turn the water from the old creek into Max Spring swamp. That this swamp runs into Blake's pond. It is the present swamp.

VIRGINIA,

IN THE CIRCUIT COURT OF KING WILLIAM COUNTY:

J. M. ABRAMS, JR., et als,

v.

Plaintiff's Evidence.

C. C. WOODY

On trial of this case the following evidence was introduced on behalf of the plaintiff.

1. Deed from R. R. Florence, Special Commissioner, to J. M. Abrams, D. B. 35, p. 338.
2. Processioner's Book, pp. 68-69, were introduced.
3. L. D. Robinson, a witness of lawful age, after being first duly sworn, testified that he was surveyor of King William County, and had been a surveyor for a number of years and that he surveyed the lines as claimed by the plaintiffs and defendant ^{at the instance of the plaintiffs,} and made a plat of same September 10, 1930, a copy of which is filed with the petition in this case. The remains of the dyke as pointed out to witness by Warrenton Butler and E. Bowler, et als, are visible on the ground.
4. Ephriam Bowler, another witness of lawful age, after being first duly sworn testified that he was 80 years of age, that he spent a great part of his life on Pampatike Farm, that he was living on Pampatike at the time that the slaves were freed and left Pampatike during the year of the Johnstown flood; that Pampatike Farm formerly belonged to Col. Carter, and that part of the farm now belongs to Mr. C. C. Woody, and that the property now owned by the Abrams formerly belonged to the Blakes; that he knows the line between Pampatike and the Blake property, now owned by Abrams and that the true boundary lines between these two tracts is the bed of the old creek, which he pointed out to Mr. Robinson, surveyor, and down which Mr. Robinson ran the line shown on the plat dated September 10, 1930, and filed in this case; that the dike follows the bed of the old creek all of the way down

on the Pampatike side of the creek opposite the Blake property; that he has worked on this dike many a day and many a year for Col. Carter, and the creek which ran down beside this dike was called Monquin Creek, and that the dike was built to keep the water out of the black land on Pampatike; that the old creek is now dry, but that there used to be water in it nine or ten feet deep in some places; that Col. Carter called the land between the bed of the creek and Blake's Pond, "Blake's Meadow"; that Col. Carter told him that half of the creek belonged to the Blakes and half to Col. Carter; that the old creek never did run into Blake's Pond except during high water, and the channel of the old creek is the true boundary line between Blake's and Pampatike; that the dike is close to this creek; that he could plow to end of row and look into the creek; that he moved from Pampatike in 1889, but rented some of the land after Mr. C. C. Woody's father left Pampatike for several years, and that water was running down the old creek at that time; that the old creek has changed since he stopped working on Pampatike Farm; that he had not been on Pampatike Farm since he stopped working there until Mr. Abrams (one of the plaintiffs) came after him to show him the lines; that the old creek bed is level in many places; that the old dike is still there and is dry now, and that he does not know how long it has been dry; that he pointed out to Mr. Abrams, one of the plaintiffs, the bed of the old creek, ^{on cross examination} and stated that the creek as claimed by the defendant as the true boundary line between his property and Abrams' property ^{is} ~~was~~ a large and well defined creek, and that he could ^{not} say how long it had been there and stated that what the witness claims as the "old creek bed" is dry and level in places and that he had not seen the creek before he went there with Mr. Abrams to point out the lines since he stopped working on Pampatike Farm, which was about 30 years ago.; that the outlet at the lower end of Blake's Pond ran into Monquin Creek.

5. J. Hooper Edwards, another witness of lawful age, after having been first duly sworn, testified as follows:

That he was born in 1864 and was raised in the vicinity of Pampatike Farm and has known the property all of his life; that he has

always understood the center of Monquin Creek to be the line between Pampatike and Blake's Farm; that the water has stopped running down the creek now, and the first time that he noticed that the creek was dry was when he was hunting with Gena Clements, and he called his attention to it, and he said "Yes, the old Monquin Creek is gone for good." That part of it was running across the black land and the rest going around into Max Spring Swamp. That Gena Clements went to Pampatike Farm in 1902, and he does not know how long he had been there when he noticed that the water had stopped running down the old Monquin Creek; that he had not seen the creek since Gena Clements and himself were hunting until he went there with Mort Abrams, one of the plaintiffs, this year, and that when he got there, Ephriam Bowler was there, and he decided that he would not say where the line was until Ephriam Bowler made his statement, and after Ephriam Bowler made his statement, then he agreed with him as to what he said about the location of the old Monquin Creek; that C. C. Woody came up before he left and he told him where the boundary line was, but Mr. Woody did not agree with him; that the dike is visible and he followed and pointed out the bed of the Monquin Creek as shown on the plat made by L. D. Robinson, September 10, 1930; that the dike is on the Pampatike side of the creek and the ditch along by the side of the dike was to carry the water away; that the old creek bed is now filled up, but you can still see that dike, and the old bed looks higher than the rest of the low grounds; that he is friendly with both sides in the case, and both the plaintiffs and the defendant asked him to show them the line. That Old Gravel run swamp is line between Skidmore's and Blake's.

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varying at points; that he knows where the old creek bed is and he went to Pampatike Farm with Mr. Abrams, one of the plaintiffs, to locate the line; he pointed out the line to Mr. Robinson; in some places the old creek bed is now level and all of it is dry; he knew that Mr. Gena Clements cut a ditch in the corner of Ridge Woods to throw water back on Blakes; that his father kept him on Pampatike Farm for 25 years; Mr. Parrish threw saw dust in the creek about 28 years ago, and that caused it to change its course; that he worked at Parrish's sawmill for about four years; that in some places the creek was very deep and would drown anyone; according to the old heads old creek bed the line. The witness was asked on cross-examination if he had not stated to Mr. W. E. Rouzie that the creek had not changed, and that the present creek was the same Monquin Creek; he declared that he made this statement, but explained it by saying that he made the statement to "throw them off and that he did not want them to know all of his business".

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during the months of June and July of that year; Mr. Bob Blake took him around to what he called the old creek bed and told him that that was the line between the Blake and Pampatike farms; that he built a bridge across the present creek and cut across to the black land field; that he cut ash timber between the present swamp and what was pointed out to him by Mr. Bob Blake as the old creek bed; that he was on Pampatike Farm about a month ago to examine the creek at the instance of Mr. Abrams.

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That he had known Pampatike and Blake's farms all of his life; that when Parrish operated a mill on the road from Fountain Bleau to Manquin, the lumber from that mill was loaded at the river; that he hauled for two years from that mill down the old tramroad, crossing Monquin Creek and going across the end of the black land field; that this was in 1902 or 1903; that there was water in the old Monquin Creek at that time and that the creek followed the dike; that Parrish (the owner of the mill) at first started to blow the saw dust into Monquin Creek and this continued for about a year. Carter and J. P. Woody objected and he stopped putting it in the ~~stream~~ ^{creek}. That he hunted with Cross through this property a few years after 1906; that after he moved to Hanover County he came back to hunt on the property, 4 or 5 years afterwards, and he noticed that the creek had stopped flowing; that the Monquin Creek was overflowing the last year he hauled lumber down the tramroad; that he had seen water ten feet deep in Monquin Creek; that he had hunted beside the Monquin Creek many times; that ^{where} was the old creek bed is now level in places; that he used to hunt on Pampatike with his brother-in-law, John Abrams, who had permission to hunt on the Blake side of Monquin Swamp and he would stay on the Pampatike side of Monquin Swamp; that there were several dikes running down the same way; ~~that~~ he never saw any cross dikes; that he had always understood that the bed of the old creek was the line between Pampatike and Blakes. That he never saw present creek until recently.

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That he rented a part of Pampatike for 22 years; that he went there 37 years ago and has been away from there 15 years; that the creek followed the dike until it got to the corner; that the creek filled up and stopped running before Gena Clements had ditch cut; that he was always told that the old creek was the line between Pampatike and Blake's; that Clements hired two men to turn the water from the old creek so it would run around through Blake's Pond; that when he was working on Pampatike he used to drink out of Monquin Creek; that the creek ran down close to the edge of the black land; that he used to hunt on Pampatike Farm; and that he killed a wild hog on the island; that hte old creek split, and some went through the black land on Pampatike Farm and Clements had a ditch cut to turn the water towards the corner of the Max Spring Pond; that the old creek bed is now level and there is sand in the creek bed. When he went to Pampatike Farm Mr. J. P. Woody was there and the creek dried up after he went there; the old creek followed the dike.

11. J. C. Sweet, another witness of lawful age, after being first duly sworn, testified as follows:

That he now owns a part of the old Skidmore tract which corners with Blake's and Pampatike where the mouth of the old Gravel Run Swamp unites with what was said to be the old bed of Monquin Creek and which was pointed out to him by Mr. Jackson; that he purchased this property from C. R. Blunt. The following deeds were then introduced: D. B. 37, p. 337, D. B. 35, p. 403, and D. B. 24, p. 65.

At this point, counsel for the plaintiff offered deed for said tract of land, which is recorded in D. B. 24, p. 15, and counsel for the defendant stated to the Court that he objected to the introduction of the plat referred to in the deeds for two reasons: 1. That the plat had not been recorded; 2. That the plat was not referred to or made a part of any part of the chain of title of the defendant or the plaintiffs; 3. That the plat contained many things not mentioned

in the deed. The Court overruled the objection of the defendant and allowed the plat to be introduced in evidence and counsel for the defendant noted an exception to the ruling of the Court. Witness then continued; that he stopped Woody's men from cutting ash wood on his side of what is spoken of as the old Monquin Creek, and that C. C. Woody told him to collect for this wood which was cut on the property between the bed of the old creek and the present creek.

12. Warner Edwards, another witness of lawful age, after being first duly sworn, testified as follows:

That he now lives in Powhatan County; that he has known Pampatike Farm all of his life; that he hunted with Mr. J. H. Abrams on the Pampatike Farm from 1890 to 1900; that the creek at that time ran along what is known as the black land field close to the dike; that he had permission to hunt on Pampatike, and he was told that he could not hunt on the Blake side of the creek, as it was posted; that the creek at that time ran down by the black land close to the dike; that he had not been on the property since 1899 until a few days ago; that the dike is still visible, and he pointed out to the Abrams' where the creek used to run down by the dike.

13. J. R. Adams, another witness of lawful age, after having been first duly sworn, testified as follows:

That he worked on Pampatike Farm under J. P. Woody and Gena Clements for 12 or 15 years; that the Monquin Creek used to run near the edge of the field adjoining the black lands; that when working this field on Pampatike for J. P. Woody, he plowed up to the dike; that the dike went down by the old creek bed; that the creek was well defined and was three or four feet deep; that Mr. Woody always taught us, he meant himself and Mr. Woody's sons, while hunting that if we went over the dike, we would be on Blake's land. Water was running down the old creek as late as 1910, and the swamp has changed

since 1910; that Gena Clements cut a ditch to turn the water from the creek and to cause it to go into Max Spring Swamp which runs into Blake's Pond; that he went up there with Abrams (one of the plaintiffs) to show him where the line was, and that he showed him what he always understood to be the line, which is where the old creek used to run down by the dike; that the creek bed is now dry and filled up.

14. Peter Taylor, another witness of lawful age, after being first duly sworn, testified as follows:

That he worked on Pampatike Farm in 1903; that he is now 46 years old; that he worked the black land and the creek used to run along down by the dike; that he had shown Mr. Abrams recently where the old creek bed was and did not know until that time that the old creek had dried up; that he could tell the location of the creek by the dike. That the dike was kept up while he was working on Pampatike.

15. T. M. Abrams, another witness of lawful age, after being first duly sworn, testified as follows:

That he is one of the children and heirs at law of J. M. Abrams; that J. M. Abrams owned the Blake's property at the time of his death, having purchased it from the Blake estate and it having been conveyed to him by deed from R. R. Florance, Special Commissioner, D. B. 35, p. 238; that J. M. Abrams died intestate November 5, 1921, leaving as his heirs at law his children, the eleven petitioners in this suit; that Gena Clements and Bob Blake took Mort Abrams, his father, around the lines about 1918 or 1919, and told them old creek was the line, it was plainly visible though dry; that this property was purchased in the spring of 1917 but the deed to it was not made until 1920; that they, himself and his brother, gave Clements permission to build a temporary fence across a part of Blake's meadow in about 1922 in order that he might graze his cattle there; that when Booker was cutting timber on Blakes, he cut across the present creek; that before C. C. Woody cut timber along the creek within a year you could see the line of the old creek and

in some places he used the old creek bed for a road; that no one prior to the institution of this suit has ever questioned the title of his father to the bed of the old creek; that Woody moved his sawmill there in the spring of 1930; that he has dug along the bed of the old creek in several places and found pretty creek sand; that in other parts of the low grounds, if you dig, you will find mud; that Mr. Bob Blake was at an asylum at the time of the sale of the Blake's property; that he later boarded at Clements and was living at Clements' when he pointed out the lines to them; he later boarded at Cox's and died there; that in some places outside the old creek bed you may find sand, that it is in low places toward Blake's pond; that the old creek bed is now nearly level; that Woody's father lived on Pampatike until 1901 or 1902; that the Abrams have cut firewood since they owned Blakes property all across the low grounds to the bed of the old creek beside the dike; that Clements never told them they could cut wood in there; that Dr. Bernard Clements used to hunt on Pampatike and would come to Blakes and start from the house there and hunt across to Pampatike and back to the Blake's home; that there has been no interference with their possession of the property since they bought it in 1917 until Woody cut timber this year.

16. Mordecai Abrams, another witness of lawful age, after being duly sworn, testified as follows:

That he is a son of J. M. Abrams, who bought the Blake's property in 1917; that Gena Clements, who had charge of Pampatike, told him that the creek had changed and that he present creek was not the line; that the Abrams had given Genie Clements permission to go through their property to get to the black land on Pampatike; that the Abrams had cut the ash wood for firewood on the land between the present creek and the bed of the old creek up to the old creek bed; that one morning when he and Clements were hunting together, Clements took him up the bed of the old creek and showed him the place where he had a ditch cut; that this ditch was out from Monquin Creek proper across to the Max Spring Pond Swamp to turn the water into Max Spring Swamp; that the stobs

show that the old creek was dammed back; that in 1918 or 1919 Mr. Bob Blake, Genie Clements, T. M. Abrams and his father, J. M. Abrams, and the witness went around the lines of the Blake property, we went down old Gravel Run Swamp to bed of old creek then up bed of old creek; that they told him that the bed of the old creek, which at that time was dry except that water was standing in a few places, was the line between Pampatike and Blakes; that Clements got permission from the Abrams' to put up a temporary fence on the land in controversy about nine years ago; that at that time there was no fence on the Blake side of the present creek and Clements wanted to graze his cattle in a part of Blake's meadow; that the Abrams have since repaired a fence along the edge of their woods; that the wood cut across the present creek was not cut by permission of Clements; that he was never on Blakes until his father had purchased it in 1917; that the water is turned across from the old creek bed into Max Spring Swamp

17. Tom Adams, a witness of lawful age, being first duly sworn, testified that he is 67 years of age. That in 1901 he trapped Pampatike and had his traps setting on the diking which went down by the old creek. That when he would go down the dike he could hear the geese in Blake's pond and that one day he crossed the dike and killed a goose about 100 yards from the dike on the Blake side and that when he shot a man hollowed at him and came where he was. It was Mr. Calhoun Blake, one of the owners of the Blake property, and that Mr. Blake carried him to the old creek bed down by the side of the dike and said that this is the line between his property and Pampatike and that witness must stay on the Pampatike side. That he was not the first one who had been made to stay on the Pampatike side of that line by the Blakes.

18. Walter Butler, a witness of lawful age, being first duly sworn, testified that Cleveland Adams told him that he didn't know where the line was at the time that Mort and Mack Abrams and himself were present at the filling station which was a few days prior to this time. That he had never been shown the lines.

19. C. B. Hogan, a witness of lawful age, being first duly sworn, testified that Genie Clements told him in 1909 or 1910; that he had had a great deal of trouble keeping the water from Moncuin Creek out of the black land on Pampatank and that he had cut a ditch from the old creek across to Max Spring swamp to turn the water from the old creek into Max Spring swamp. That this swamp runs into Blake's pond. It is the present swamp.