

NEW JERSEY

Court of Errors and Appeals.

BETWEEN

ANNA R. MCGRATH,
Complainant and Respondent,
and

WILLIAM F. NORCROSS,
Defendant and Appellant.

} On Appeal
from Chancery.
June Term,
1906.

Supplemental Brief for Respondent.

Counsel for appellant, at the oral argument, while considering the power of the Court of Chancery to frame an issue at law so as to control the burden of proof, suggested that the uniform practice was to make the applicant for the issue the plaintiff therein, and that therefore his client would be in a worse position than if defendant in an action at law. The suggestion is not well founded.

The practice is to put the burden of proof where it belongs.

Daniell's Ch. Pl. & Pr. 1111.*

If necessary, a double issue will be directed.

A striking case is *The Freemen and Stallingers of the Parish of Sunderland v. The Bishop of Durham*, 1

Drewry 184, 61 English Reprint Reports 422, decided in 1852.

A railway company had taken certain land in the parish of Sunderland, and had paid its value into court. The money was claimed by the corporation of the parish and by the bishop, respectively, each claiming to be owner of the land. An issue at law to try the title had been directed, with the parish corporation as plaintiff. The trial judge instructed the jury as follows: "Now, gentlemen, this is the evidence on the one side and the other. You will have to judge for yourselves. The question is, is the evidence adduced on behalf of the bishop of a nature so powerful that, notwithstanding the long series of acts of ownership, so unequivocal, so public and so notorious on the part of the plaintiffs, you think the title is in the bishop, and that those acts, notwithstanding their publicity and notoriety, were merely the acts of usurpers? If you think so, you must find for the defendant; if you think not, then you must find for the plaintiffs. If your minds are equally balanced, and you cannot make them up, inasmuch as the burden of proof is on the plaintiffs, you must find for the defendant." The jury found a verdict for the defendant, but they delivered their verdict in these terms: "We find for the defendant in accordance with his Lordship's direction, neither party having made out their title to our satisfaction."

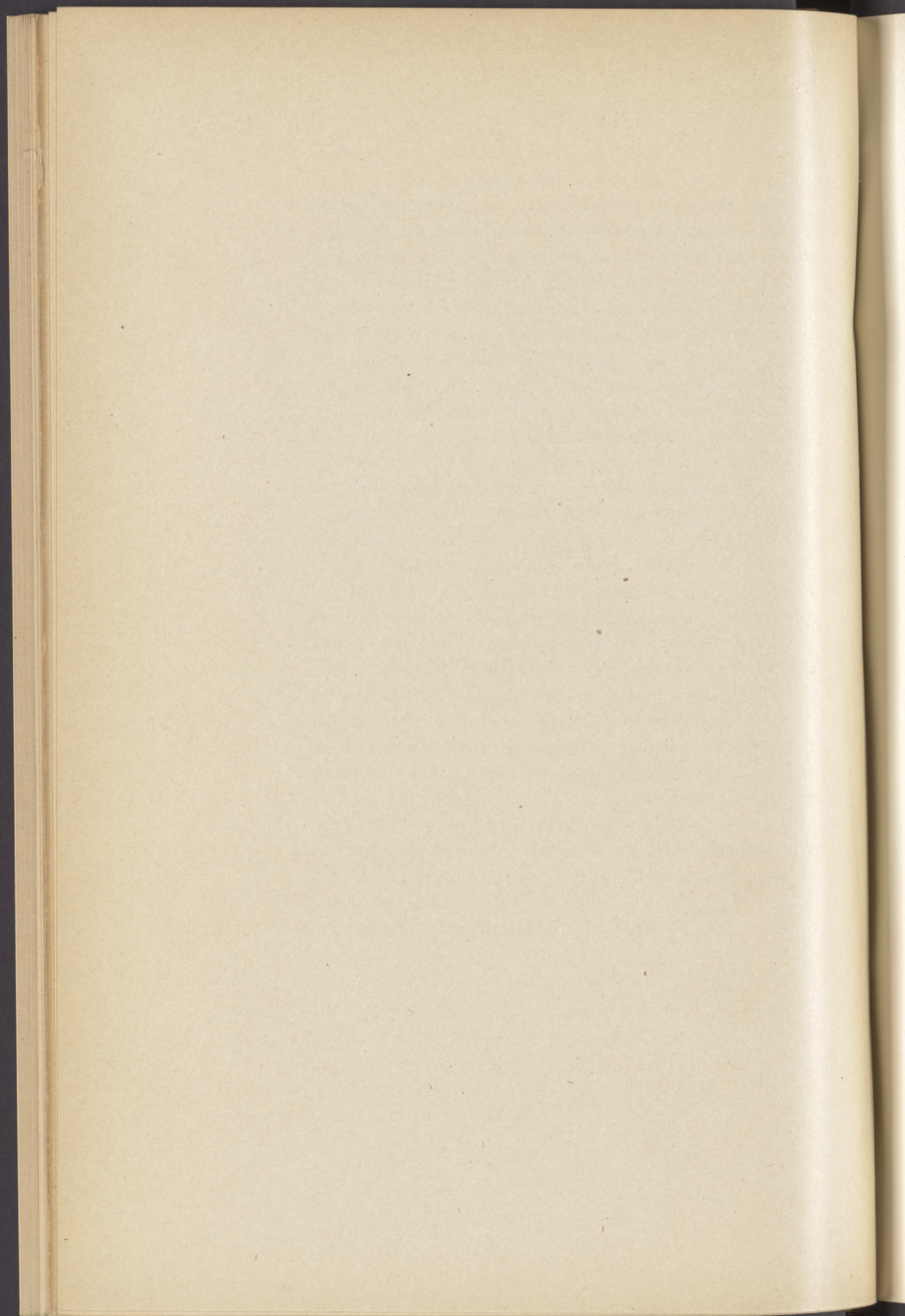
Before the Court of Chancery it was contended for the freemen and stallingers that they should have the decree on the evidence, or a new trial because of misdirection; for the bishop it was contended that he should have a decree on the verdict or on the evidence. *KINDERSLEY, V. C.*, held that there had been no misdirection and declined to weigh the evidence because there had been no issue directed on the question of possession. He would give no effect to the verdict, because it rested on the arbitrary way the issue had been ordered. He said that had the bishop been made plaintiff in the issue,

the jury would evidently have found for the freemen and stallingers. He concluded as follows:

“But though I cannot concur in the reasons upon which it is contended that there ought to be a new trial of the issue, yet I am satisfied that I have no alternative but to send the case again to a court of law, on this simple ground, that the trial which has been had has not been attended with any such results as this court can act upon. I do not, however, think that I ought simply to send the same issue to be tried again. The course which it appears to me to be the best calculated to produce such a result as would enable this court to dispose of the money is this—to direct two issues, the one to try the right, and the other to try the fact of possession. In the first issue I shall make the Bishop of Durham the plaintiff; that is, he shall affirm, and the corporation shall deny that the land in question was, on the seventeenth of February, 1849, the soil and freehold of the Bishop of Durham. And in the second issue I shall make the Corporation of the Freemen and Stallingers the plaintiff; that is, the corporation shall affirm and the bishop shall deny that on the first of February, 1849, the corporation was in possession of the soil and freehold of the land, as being the owners thereof, or in receipt of the rent of such soil and freehold as being entitled thereto.”

It is quite plain, therefore, that the Court of Chancery will properly place the burden of proof in an issue directed for a trial at law.

GILBERT COLLINS,
Of Counsel with Respondent.



NEW JERSEY
Court of Errors and Appeals.

BETWEEN

ANNA R. MCGRATH,
Complainant and Respondent,

and

WILLIAM F. NORCROSS,
Defendant and Appellant.

*On Appeal from
Chancery.*

Brief for Respondent.

I.

Appellant's complaint that his petition for an *action* at law was denied, deserves consideration only if an *issue* at law under the fifth section of the Act to Quiet Titles will not afford him a constitutional trial by jury. That question is before this Court on re-argument of *Brady v. Carteret Realty Company*. Briefs were submitted last term. I was of counsel in the cause, and have nothing further to add to what I there said in support of the constitutionality of the provision. There was one element, however, in that cause, viz., waiver, as I claimed, that does not exist in this one, and, therefore, the question is now more squarely presented. I am inclined to concede that unless the Court shall

hold that a proper construction of Section 5 implies that the "result of such issue" means such result after proceedings in review incident to verdicts in *actions* at law, the provision is not an adequate substitute for the trial by jury guaranteed by the Constitution.

II.

On the merits of this case I am content to stand on the clear and comprehensive opinion of the learned Vice Chancellor.

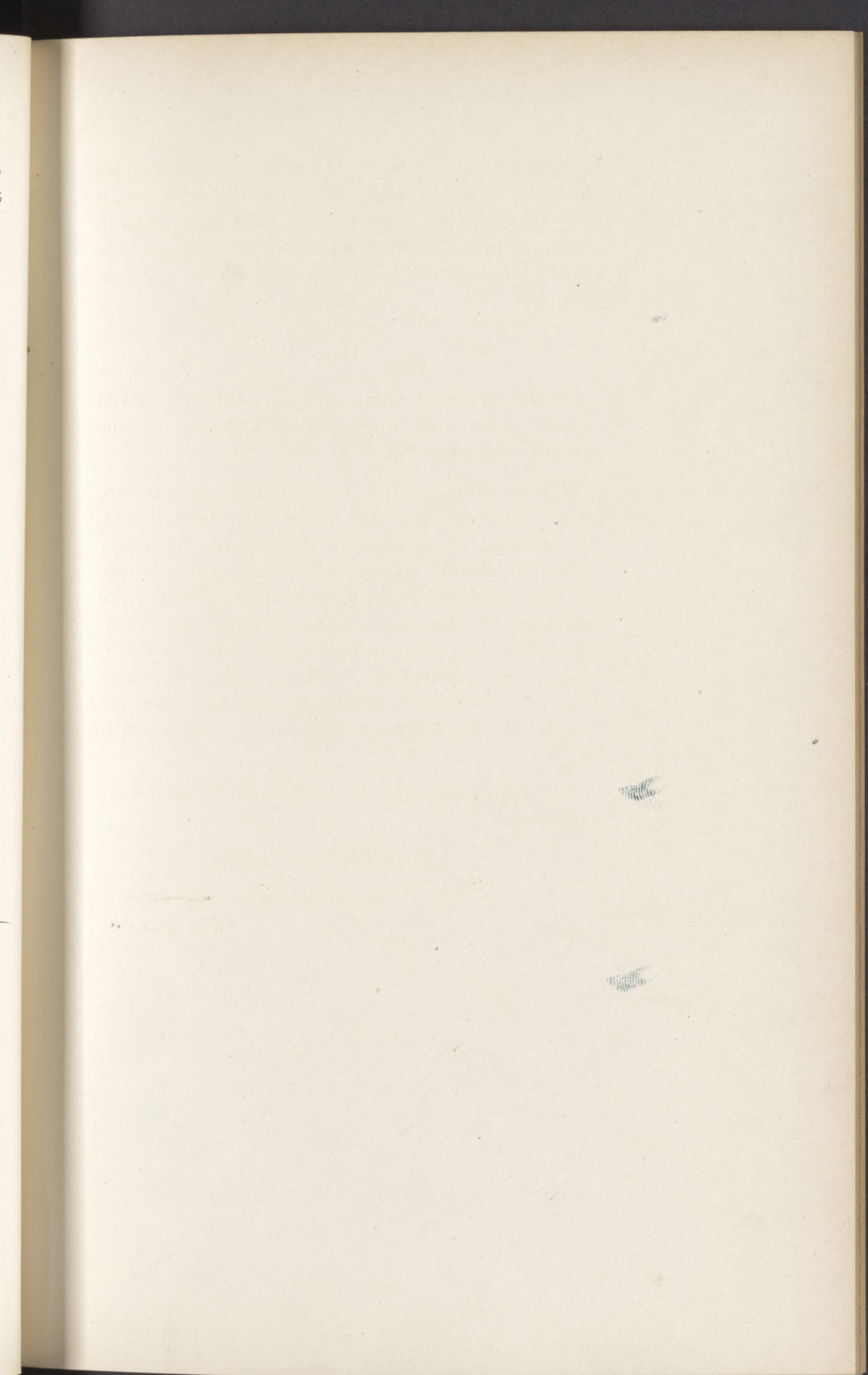
If it be thought that his holding at page 218, line 17, et seq., was too broad, his decree must, nevertheless, be upheld; for the positive testimony of Mr. Middleton, an experienced surveyor (case, pp. 32, 146), that the land in suit is included within the outbounds of the deeds under which the complainant claims title, was not met by any competent evidence to the contrary. The testimony of Norcross was mere hearsay, and Mr. Haines, the Surveyor General of West Jersey, was simply non-committal.

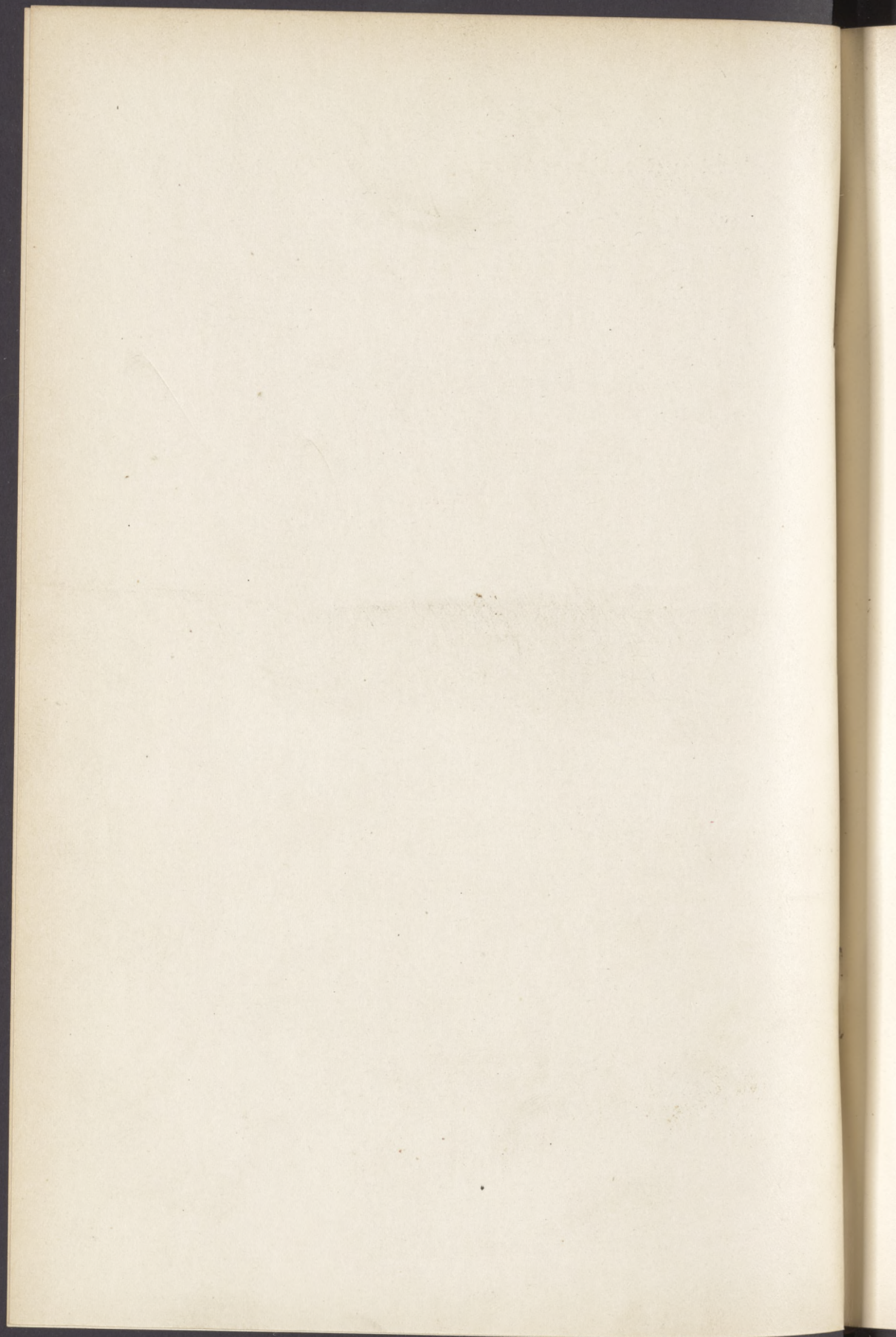
The decree appealed from should be affirmed, with costs.

GILBERT COLLINS,

Of Counsel with ~~Appellant~~.

Respondent





NEW JERSEY COURT OF ERRORS AND APPEALS.

No.

JUNE TERM, 1906.

Between

ANNA R. McGRATH,

Complainant and Respondent,

and

WILLIAM F. NORCROSS,

Defendant and Appellant.

BRIEF FOR APPELLANT.

THOMAS E. FRENCH,
Solicitor.

The complainant filed a bill to quiet title under the statute as amended.

The amended act was approved March 12, 1901, and in a few weeks this bill was filed. The act was procured to be passed to enable this bill to be filed.

The original act, P. L. 1870, page 20, General Statutes, page 3486, provided that when any person is in peaceable possession of lands in this State, claiming to own the same, and his title thereto or any part thereof is denied or disputed, &c., and no suit shall be pending to enforce the validity of such title, claim or encumbrance, it shall be lawful for such person so in possession to bring and maintain a suit in chancery, &c.

The amendment of 1901, P. L. 1901, page 58, added to the section these words :

“And whenever any lands within this State shall not, by reason of their extent, or by reason of such lands being wild or wood or waste or uninclosed or unimproved lands, be in the actual peaceable possession of the owner or person claiming to own the same, the owner or person claiming to own the same in fee under a deed or other instrument, duly recorded within this State, who shall have paid the taxes upon such lands and to whom or to whose grantors the taxes upon such lands shall have been assessed for five consecutive years immediately prior to the commencement of suit, shall be presumed to be in peaceable possession of such lands within the meaning of this act; *provided* no other person be in possession thereof; and it shall be lawful for such person so presumed to be in possession to bring and maintain a suit in Chancery to settle the title of said lands and to clear up all doubts and disputes concerning the same, and such person so presumed to be in possession shall be entitled to all the benefits of and subject to all the provisions of this act.”

The intention of the amendment evidently was to extend the benefits of the act. The class to be benefited was the owner or person claiming to own lands which should not by reason of their extent and character be in his actual peaceable possession; that owner or person claiming to own the same in fee under a deed duly recorded within this State, who has paid taxes, &c., is to be presumed to be in peaceable possession within the meaning of this act. PROVIDED NO OTHER PERSON IS IN POSSESSION THEREOF. It is lawful for such person to maintain a suit in chancery to settle the title of said lands, and such person is entitled to the benefits and subject to the provisions of the act.

I.

The appellant contends that the amendment of 1901 did not authorize this bill to be filed, and if it did it is unconstitutional, because, by the proofs in the Court of Chancery, it appears that the property in question is known as the Iliff survey of 700 acres surveyed to Edmund Iliff and by him conveyed to Thomas Denny, April 9, 1743, (Deed Exhibit D11, page 191); that Norcross has from then down complete chain of paper title and all the possession that could be had of the lands.

The tract in question was resurveyed by Daniel Baker for George West about 1820. Baker found the old trees marked by him when it was first surveyed, and marked the lines and corner trees so they could be known.

While Joseph E. West owned the land, in 1837 or 1838, he stopped Samuel Richards from cutting on it. (Page 69.) West cut himself and watched it. (Pages 69 and 70.)

Daniel E. Estell acquired title in 1850. He filed bill June 1, 1850, to restrain Treen, Moore, Stephen Colwell and Walter Bell from cutting and obtained injunction (page 210), and also brought suit in trespass (page 164); neither suit seems to have been tried or disposed of.

Estell cut the timber and carted it. (Page 73.) Norcross obtained title in 1867 from Estell's executors. In 1869 or 1870 the Colwells, ancestors of McGrath, cut. Norcross stopped the cutting and stopped them from taking the logs away by throwing the skids off the wagons and chopping up the logs. (Pages 51, 75, 76, 77, 78.)

This resulted in a trespass suit of Stephen Colwell vs. William P. Norcross, in 1869, which does not appear ever to have been tried.

The declaration described the premises in question and Norcross obtained an order to stay Colwell from cutting. (Pages 210, 211.)

Peter Voorhees, attorney for Norcross, tried to get Colwell's attorney to try the case. (Page 87.)

Since 1870 there has been no cutting by anybody but Norcross. (Pages 79-80.) He has cut the timber, dug stone, kept the lines open and marked the south and west lines by stakes, a chain and half or two chains apart, about four feet high, blazed on the side next to the line. (Pages 79, 80, 81.) Visited the property two or three times a week (page 83); warned people off (pages 24, 27, 28, 83, 85, 112, 113, 116, 118, 119); cut the wood every winter (pages 86 and 114); tore signs down (page 117).

The complainant, Mrs. McGrath, claims title through surveys to West Jersey Society (one for 78,060 35-100 acres, being and including survey called a re-survey; the other for 33,078 acres, included within the 78,060 35-100 acres survey), which she claims covers the premises in

question. In the return of this re-survey (pages 172-173) it is stated that it appears that 7,913 acres within the bounds was formerly surveyed to the persons after named "Edmund Iliff in eight tracts 3,520 acres." The survey itself contains the following (page 189): "But after excepting out the following surveys included within the bounds thereof formerly surveyed to the persons hereinafter named of a prior date, viz.: Edmund Iliffe in eight surveys, three thousand five hundred and twenty acres, &c., there will remain, &c."

This including survey was conveyed by the West Jersey Society to Charles Shoemaker and others, December 15, 1802, and by them to Joseph Ball and Samuel Richards April 6, 1808. (Page 212.)

In 1805 Shoemaker and others made a quit claim and settlement of lines, the eighth tract of which included the premises in question and was released and quit claimed to the heirs and representatives of Colonel Richard Somers, Norcross' predecessors in title. (Pages 203-208.)

When this quit claim was recorded, Colwell and Bell attempted to restrain the recording of it and to set it aside, by bill filed October 25, 1847. A decree was made dismissing the bill, March 25, 1851. (Pages 208 and 209.)

Andrew J. Bozarth, complainant's uncle, has known of Norcross' claim over twenty years (page 20), and has taken Mrs. McGrath over the land he supposes a dozen times. (Page 21.) Mrs. McGrath says she has been over it lately and has been over it several times (page 30); she knew of the pending suit of Colwell vs. Norcross. (Top page 40.)

The whole controversy seems to be over the fact that the Iliff 700 acre survey is not found of record and prob-

ably by some oversight was not recorded. This state of affairs caused the act of 1789, Gen'l Stat., page 1973, to be passed.

The complainant is out of possession and apparently without paper title.

The defendant is in possession and with paper title. Possession and paper title are united in defendant.

Clearly the complainant's remedy, if any, is an action at law by ejectment. That action is not cognizable by the Court of Chancery. If the complainant is allowed to retain this bill the jurisdiction of the Supreme Court is taken away by the act and the case falls within *Jersey City vs. Lembeck*, 4 *Stew.*, 255, where Chief Justice Beasley, speaking for this Court, says, at page 265, referring to the Supreme Court and the Court of Chancery: "The Constitution has made each what it is, and such as it was made it must be and remain until destroyed or modified by the hand by which it was established. It is hardly necessary to say that, to impart to a court of conscience any of the ordinary common law powers, would be to effect a radical change in both tribunals, and that the same consequence would follow from the transfer to a court of law of any matters of equitable cognizance. The various provisions of the Constitution itself plainly negative the legislative right to interchange at pleasure the powers which inhere, by virtue of their primary organizations, in the various courts."

The Court of Chancery attempts in this case to order an issue framed in which the defendant, Norcross, shall have the burden of proving his title and possession in a law court. The Court of Chancery retains control of the issue, may accept or reject the verdict and order a new trial, ousting the Supreme Court entirely of its jurisdic-

tion by ejectment. This action of ejectment is the complainant's adequate remedy at law.

Vice Chancellor Van Fleet, in *Southmayd vs. Elizabeth*, 2 *Stew.*, 203-205, in an opinion affirmed in this Court, at page 650, says, speaking of the act to compel the determination of claims to real estate:

"The main design of the statute, as I understand it, is to put it in the power of any person who is in the peaceable possession of lands, as owner, to compel any other person who asserts a hostile right or claim, or who, it is reputed, holds such right or claim, to come forth, upon demand by suit, and disclaim, or show his right or claim, and submit it to judicial determination."

Or as Justice Depue, speaking for this Court in *Sheppard vs. Nixon*, 16 *Stew.*, 627, 632, puts it:

"I also agree with the Chancellor that this act was designed for the relief of a class of persons who, being in peaceable possession, had no means of contesting the adverse claim by a suit in due course of law."

The act was only for the benefit of those who were in peaceable possession, peaceable as distinguished from disputed or contested.

Powell vs. Mayo, 9 *C. E. Green*, 179-181.

The possession required by the act is possession in fact, as distinguished from that constructive possession which in ejectment suits arises in virtue of the legal title.

Sheppard vs. Nixon, 16 *Stew.*, 627-632.

II.

The amendment of 1901 did not change the character of possession required, peaceable possession in fact; it did provide that certain owners should be presumed to be in possession within the meaning of the act, provided no other person be in possession thereof.

The complainant is not the owner mentioned in the amendment.

If she is, the payment of taxes for five years on unimproved lands by a stranger to the title and the making of the deed for it will oust the Supreme Court of its jurisdiction of ejectment, allow the Court of Chancery to try the case and compel the real owner to prove his title in a manner satisfactory to the Court of Chancery.

The complainant did not pay taxes on this particular tract of land at any time. She paid taxes on 17,000 acres, 7,000 acres woodland adjoining West Jersey Railroad and Society line, 10,000 acres north side and along West Jersey Railroad, formerly Anna Cox (page 162.) She claims the premises in question are included in the 7,000 acres, but there is no proof the premises in question ever were assessed to her or that the assessor ever recognized her as the owner. Proof of the assessment and payment of tax on a large tract of land owned by one person, which may include within its boundaries a certain smaller tract of land owned by another person, does not prove that the person paying the taxes on the larger lot paid the taxes on the smaller lot, or that the taxes on the smaller lot were assessed to the owner of the larger lot. There is no proof of the boundaries or land assessed for the taxes paid by complainant.

The complainant's deed does not describe the premises in question, but a large tract containing 18,062 acres, which she claims includes the premises in question.

The deed by its description does not include the premises in question.

The beginning point in the deed (page 155) is the southwest corner of the survey of 33,078 acres and runs thence north, then east, then south and then west to the beginning, all east of the west line of that survey.

The survey of 33,078 is Exhibit D8, page 181; it begins at a corner pine and runs north 80 degrees east 340 chains; then south 10 degrees east 1,040 chains to a pine near a branch of Babcock's creek; thence south 80 degrees west 340 chains to a pine standing on the west side of said Egg Harbor river (that is the southwest corner); thence north 10 degrees west 1,040 chains to beginning.

The return of this survey is at page 167, Exhibit D1, with map attached. It shows no survey to Iliff included.

The survey for 36,244 acres which, with the 33,078, were re-surveyed to make the 78,060 35-100 acres, is Exhibit D9, page 183, adjoins and lies east of the 33,078; it includes five surveys to Edmund Iliff, amounting to 800 acres.

The return of the re-survey, Exhibit D2, page 168, map attached to the return at page 175.

The premises in question are all west of the west line of the survey of 33,078 acres.

The appellant claims that the re-survey followed the lines of the two surveys that run east and west and the east line of the 36,244 acre survey and took in the additional land that lay west of the 33,078 acre survey and that the Iliff survey of 700 acres and two others were in this additional land.

1. No Iliff survey was excepted from the 33,078. Five Iliff surveys, amounting to 800 acres, were excepted from the 36,244 acre survey; eight Iliff surveys, amounting to 3,520 acres, were excepted from the re-survey. The premises in question are near the west line of the re-survey.

2. The southwest corner of the survey of 33,078 was a pine tree marked with twelve notches and the letter S, standing on the west side of the Egg Harbor River. The south line of the re-survey crosses the Egg Harbor river, and then crosses South river five times, South river being west of the Egg Harbor river.

3. The combined south lines of the two surveys are 340 plus 380 chains, 720 chains; the south line of the re-survey is 868 chains and added length of 148 chains. The call of the second corner of the re-survey is for a corner shown to the surveyors to be a corner of the Society and appeared to them to be the corner, as they found the line trees answering each way. Nothing is said in the description of the line forming the west line of the re-survey to indicate that it is the west line of the survey of 33,078.

4. Henry S. Haines, surveyor general, page 138. The survey seems to have been extended.

5. In the deed from Denny to Somers, June 17, 1786, Exhibit D12, page 194, a reference is made to the line of the resurvey lately made and the recital is "Containing seven hundred acres, more or less, which survey formerly belonged to Edmund Iliff and is one of the eight tracts excepted out of the Society's re-survey for him, and was conveyed by the said Iliff to the aforesaid Thomas Denny, &c. An inspection of the return of the re-survey, at page 174, will show that the two parties to this deed are

II

the deputy surveyors who made the re-survey and had knowledge of the facts stated in the recital.

The other reference to the beginning corner of complainant's deed, Exhibit C1, is that it is the third corner of the re-survey; that is, the southeast corner of the re-survey. (Page 134.)

III.

A suit is pending to enforce or test the validity of the title of Norcross. There has been continued litigation between the Colwells and the owners of this 700 acre survey since 1850, more than fifty-five years.

Estell filed his bill against Colwell and others June first, eighteen hundred and fifty. (Pages 126 and 210.) Estell began a trespass suit against the same parties, in which he recovered a judgment by default, which judgment was opened to let in a plea. Orders were made to speed the cause afterwards. The cause seems not to have been tried or disposed of. (Pages 128, 164, 165, 166.)

Stephen Colwell brought an action of trespass against this appellant, March 24, 1869, which was not tried or otherwise disposed of, although the attorney for appellant urged the trial. (Pages 87, 127, 210, 211.) The complainant knew of this suit. (Top of page 40.)

IV.

Norcross, the appellant, is a person in possession within the proviso of the amendment. He has paper title from the 9th day of April, 1743, the deed from Iliff to Thomas

Denny, to date. It appears by the evidence that from 1820 to date the owners in appellant's title have acted as owners of the survey, surveyed it, cut it, kept others from cutting on it. The appellant has exercised all the acts of ownership of which the land was susceptible. His possession started with the survey and continued to date. His possession need not be actual possession. The possession attached to his paper title is sufficient. If the amendment applies to any case at all, it is where the complainant has some sort of title, and no actual possession, because of the character of the lands, and the defendant has no possession of any kind, either actual or constructive, and sets up claims that cannot be litigated in any other way than by virtue of the act. If the defendant has the paper title and possession as appellant has, the only remedy for complainant is ejectment.

The order should be reversed.

THOMAS E. FRENCH,
Solicitor for and of Counsel with Appellant.

N. J. Court of Errors & Appeals

No. JUNE TERM, 1906.

Between

ANNA R. McGRATH,

Complainant and Respondent,

and

WILLIAM F. NORCROSS,

Defendant and Appellant.

APPEAL FROM DECREE OF THE CHANCELLOR.

CASE.

THOMAS E. FRENCH,
Solicitor for Appellant.

COLLINS & CORBIN,
Solicitors for Respondent.

INDEX.

Amended Bill.....			I
Answer.....			6
Answer to Notice.....			10
Appeal.....			225
Decree.....			223
Exhibit C 1.....	155	Exhibit D 11.....	191
“ C 2.....	156	“ D 12.....	194
“ C 3.....	158	“ D 13.....	197
“ C 4.....	158	“ D 14.....	198
“ C 5.....	159	“ D 15.....	199
“ C 6.....	159	“ D 16.....	199
“ C 7.....	160	“ D 17.....	200
“ C 8.....	160	“ D 18.....	201
“ C 9.....	161	“ D 19.....	201
“ C 10.....	161	“ D 20.....	201
“ C 11.....	161	“ D 21.....	202
“ C 12.....	162	“ D 22.....	202
“ C 13.....	162	“ D 23.....	203
“ C 14.....	162	“ D 23A.....	203
“ C 15.....	163	“ D 23B.....	208
“ C 16.....	163	“ D 24.....	210
“ C 18.....	164	“ D 25.....	210
“ D 1.....	167	“ D 26.....	211
“ D 2.....	168	“ D 27.....	211
“ D 3.....	174	“ D 28.....	211
“ D 4.....	176	“ D 29.....	212
“ D 5.....	178	“ D 30.....	212
“ D 7.....	180	Notice.....	9
“ D 8.....	181	Opinion.....	213
“ D 9.....	183	Petition of Appeal.....	226
“ D 10.....	185		

COMPLAINANT'S WITNESSES.

Bozarth, Andrew J.....	18	Cross-ex.....	30
Cross-ex.....	22	Re-called.....	39
Re-called.....	146	Cross-ex.....	39
Cross-ex.....	148	McGrath, Robert Hunter,	
Gilbert, Henry A.....	23	Jr.....	40
Cross-ex.....	25	Cross-ex.....	43
Haines, Henry S.....	128	Middleton, Frank.....	31
Cross-ex.....	130	Cross-ex.....	35
James, Henry C.....	138	Re-called.....	144
Cross-ex.....	139	Offer of Exhibits.....	14-18
McGrath, Mrs Anna R.....	28	Veal, Joseph L.....	148

DEFENDANT'S WITNESSES.

Applegate, Edmund L. B.		Cross-ex.....	92
W.....	63	Re-called.....	151
Cross-ex.....	66	Pierce, Josiah.....	57
Foster, George W.....	120	Cross-ex.....	60
Middleton, Frank.....	46	Pumler, John H.....	46
Norcross, William S.....	67	Cross-ex.....	54

IN CHANCERY OF NEW JERSEY.

On Bill to Quiet Title. Amended Bill.

10

To his Honor, William J. Magie, Chancellor of the State of New Jersey:

Complaining, shows unto your Honor, your oratrix, Anna R. McGrath, of the city, county and State of New York, by way of amended bill, that by two certain surveys made to the West New Jersey Society, one return dated June 9, 1748, and inspected and approved the 4th day of August of said year and recorded in the Surveyor General's office at Burlington, in Book E of Surveys, page 30, etc., and the other return dated the 24th day of May, in the year 1773, and inspected and approved the 7th day of August, 1783, and recorded in the Surveyor General's office at Burlington, in Book T of Surveys, pages 45 to 50, the first of which surveys included 33,078 acres, the second of which included 78,060 35-100 acres, the following described tract of land, with other lands which were included in said survey by various deeds and other evidences of title from the said West New Jersey Society became vested in Samuel R. Colwell by deed from Sarah R. Colwell, dated the 29th day of March, 1873, and recorded the 29th day of April of said year, in the Clerk's Office of Atlantic county, in Book 45 of Deeds, page 298, etc.

20

30

Oratrix further shows, that by the last will and testament of the said Samuel R. Colwell, dated the fifth day of March, 1873, and probated the twenty-seventh day of

- February, 1874, in the Surrogate's Office of the county of Atlantic, in Book B of Wills, page 81, she became vested with the title of an equal undivided one-third part of said two certain surveys, which include the land hereinabove referred to, and which is described as that tract or parcel of land and premises in the township of Hamilton, county of Atlantic and State of New Jersey, beginning at a white oak tree on the southwest side of South River, on the side of a hill, and runs southwesterly
- 10** seventy-eight degrees one hundred and forty-three chains to a pine tree; thence (2) north twelve degrees west sixty chains to Beaver Pond; thence still the same course about one hundred chains further to a large branch of South River; then down the said river to the place of beginning, being seven hundred acres more or less; that by deed dated the first day of July, 1876, and recorded the fourteenth day of August of said year, in Book 53 of Deeds, page 580, oratrix conveyed, among other things, to Charles R. Colwell her one undivided
- 20** third part of the premises herein particularly described, and thereafter, by deed dated the ninth day of December, 1879, and recorded the eighteenth day of said December, in Book 73 of Deeds, page 498, said Charles R. Colwell and Sarah B., his wife, conveyed to oratrix, among other things, said premises, by virtue of which deed and conveyance the title to said premises became vested in fee, absolute in oratrix; that afterwards and while said title remained in oratrix she intermarried in February of 1882 with one Robert D. Cox, and thereafter, on the tenth day of February, in the year 1892,
- 30** oratrix, together with her then husband, Robert D. Cox, by writing, under seal, granted and conveyed to the Mizpah Agricultural and Industrial Company, a corporation of the State of New Jersey, eight thousand acres of land, which include the premises herein particularly described, and as a part consideration accepted from said corporation a purchase money mortgage of

forty-four thousand dollars covering said premises, and which said mortgage was by writing, under seal and duly recorded, assigned to the State Trust Company, a New York corporation; that afterwards the said Mizpah Agricultural and Industrial Company, by deed under its corporate seal, conveyed to the Hebrew Agricultural Association, a corporation of New Jersey, four thousand acres of the eight thousand conveyed to it by oratrix, and which said conveyance included a part of the land herein particularly described.

Oratrix further shows, that in January of 1893 she obtained a decree of divorce from her then husband, Robert D. Cox, under proceedings instituted by her in this Honorable Court, and that thereafter she intermarried with Robert Hunter McGrath, Jr., her present husband.

Oratrix further shows, that afterwards the said the State Trust Company filed its bill in this Honorable Court to foreclose the mortgage made by the Mizpah Agricultural and Industrial Association, and that such proceedings were had thereunder; that afterwards a decree was entered foreclosing the equity of redemption of the parties in interest and a sale made by the sheriff of the county of Atlantic, who thereafter made execution and delivered two certain deeds, one dated the 25th day of January, in the year 1895, and recorded in Book 188 of Deeds, folio 237, and the other dated the tenth day of May, 1895, and recorded in Book 191 of Deeds, folio 311, by which the title to the premises particularly described with other lands became vested in said State Trust Company, and that thereafter, on the tenth day of February, in the year 1897, the State Trust Company granted and conveyed, by deed in writing, under seal, to oratrix, among other things, the premises herein particularly described, which said deed is recorded in Book 213 of Deeds, folio 242. All of which conveyances and evidences of title or certified copies thereof from and through the said West New Jersey Society are in

10

20

30

the hands of oratrix, ready to be produced when and where this Honorable Court may direct.

10 Oratrix further shows, that the land herein particularly described is extensive, wild, wood, unenclosed and unimproved and by reason thereof she is not in the actual peaceable possession thereof, but she is the owner in fee under said deeds and instruments of title, recorded as aforesaid, has paid the taxes thereon for five consecutive years immediately prior to the commencement of this suit, and which land has been assessed for taxes to her and her grantors for five consecutive years immediately prior to the commencement of this suit and that no other person is in possession thereof.

20 Oratrix further shows, that her title to the land so described is denied and disputed by William F. Norcross, who is the defendant in this suit, and that said defendant claims to own said lands, or have some interest therein, and that no suit or action of any kind whatever is pending to enforce the validity of such claim; and your oratrix charges that such claim so made by said Norcross is entirely without foundation, unjust and vexatious, and that by reason of such claim oratrix's property and said land is affected, and the same cannot be sold as it otherwise would were not such claim made. That your oratrix applied to said defendant to release and relinquish his said claim, or to bring in some court of law a suit which would test the validity thereof, and the said defendant refuses to do either.

30 In consideration whereof and forasmuch as your orator is relievable only in a court of equity, where matters of this sort are properly, and, according to the statutes of this State in such case made and provided, cognizable and relievable.

To the end, therefore, that the said defendant may, without oath, to the best of his knowledge, information and belief, full, true, correct and perfect answer make to all and singular the matters aforesaid, and more particularly that he may in manner aforesaid answer and de-

clare specifically what title or claim to said land, or any part thereof, or any interest therein, he makes or claims, and to what part or what interest, and further how and by what instrument such title or claim is derived or was created, and that by the determination and final decree of this Court the rights of the parties to this suit in and to the land hereinabove set forth and every part thereof may be fixed and settled, and that oratrix may be decreed to have a perfect title, and the said defendant to have no estate, interest or any encumbrance on said land, or any part, and that his claim to the same is unjust, vexatious and void, and that your oratrix may have such further and other relief in the premises as the nature of the case may require, and as she shall be entitled to pursuant to the statute in such case made and provided. 10

And further, that the said defendant, his agents, servants and employes, may be enjoined from entering upon said lands and from cutting the timber therefrom or committing any acts of waste thereon. 20

May it please your Honor, the premises considered, to grant to your oratrix, not only the State's writ of injunction, issuing out of and under the seal of this Court, enjoining and restraining said defendant from entering upon said land and cutting timber therefrom and committing waste thereon, but also a writ of subpoena, issuing out of and under the seal of this Honorable Court, under a certain penalty therein to be specified, to appear before your Honor and answer make to all and singular the premises, and further to stand to, and abide by and perform such decree as to your Honor shall seem meet and as shall be agreeable to equity and good conscience. 30

And your oratrix, as in duty bound, will ever pray, etc.

THOMSON & COLE.
Solicitors of Complainant.

Filed October 3, 1901.

E. C. STOKES,
Clerk.

Answer.

IN CHANCERY OF NEW JERSEY.

	Between		
	ANNA R. McGRATH,	}	
10	Complainant,		ON BILL, &c.
	and		ANSWER.
	WILLIAM F. NORCROSS,	}	
	Defendant.		

The answer of William F. Norcross, defendant, to the bill of complaint of Anna R. McGrath, complainant.

20

This defendant, answering, says that he denies that on or about the tenth day of February, eighteen hundred and ninety-seven, or at any other time, said complainant purchased of State Trust Company, or any other corporation, or individual, a fee simple or any other estate or interest in the lands described in said bill or any part thereof.

30

And this defendant, further answering, denies that any deed therefor conveying any title to the same is in complainant's possession, and denies that complainant has, since the twenty-fourth day of May, eighteen hundred and ninety-seven, or at any time before or since, been in the peaceful possession of said lands and denies that she acquired, bought or received a good or any title to said land in fee simple or otherwise, and defendant denies that said complainant has always claimed, or now claims, or ever claimed to own the same accordingly, and alleges that if any such deed has been made it would convey no

title, interest, possession or right to possession to the said complainant; and further, that said Trust Company never had any title, interest or possession in or to said land or any part thereof, and could not convey or dispose of the same.

And this defendant, further answering, says he admits that he claims and has claimed and is reputed to own said land, and further says that he has a perfect title in fee simple and is peaceably possessed thereof, claiming to own the same in fee under deeds and other instruments duly recorded in this State; that he has paid the taxes upon said land, and that such taxes have been for five consecutive years, immediately prior to the commencement of this suit, assessed to this defendant, and that this defendant has occupied and used said lands for the period of twenty years before the commencement of this suit, and has used the same for the only purpose for which said land can be used. 10

This defendant, further answering, says that he denies that no suit or action is pending to enforce or test the validity of the title or claim, and denies that the land described in said bill is waste land, or is improved, and denies that the complainant has any actual or other possession of the same, under the deed mentioned in said bill or otherwise, and denies that complainant has paid the taxes on said lands for more than five consecutive years immediately preceding the commencement of this suit, or at any other time, and denies that the taxes on said land have been assessed to complainant during the whole of said period or at any other time, and denies that no other person than the complainant has been or is in possession of the lands, and charges the facts to be that the defendant has been in actual possession of said lands and every part thereof for more than twenty years last past, and that this defendant has been entitled to the possession thereof, and has used the same for every purpose for which the land is capable of being used, and has at all times prevented the said complainant from obtaining any 20 30

possession of said lands, and from exercising any acts of ownership over or on the same.

And this defendant, further answering, says that he denies that complainant has applied to him to release or relinquish his said claim or title, or to bring in some court of law a suit which would test the validity thereof.

10 And this defendant, further answering, says he claims an absolute title in fee in and to the whole of said lands and every part thereof. That said title was created by a survey to Edmund Iliff, for the seven hundred acres mentioned in and excepted from a re-survey for seventy-eight thousand and sixty acres made to West Jersey Society May twenty-fourth, twenty-fifth, twenty-sixth and twenty-seventh, seventeen hundred and seventy-three, and returned May fifth, seventeen hundred and seventy-four, and delivered by the several conveyances from the said Edmund Iliff and his successors in title to this defendant.

20 And this defendant submits to this Honorable Court, that all and every of the matters and things in said complainant's bill mentioned and complained of are matters which may be tried and determined by law, and with respect to which the said complainant is not entitled to any relief in this court, and said defendant is without right to file this bill with respect to said matters.

All which matters and things this defendant is ready to aver, maintain and prove, and humbly prays to be hence dismissed with his reasonable costs in this behalf most wrongfully sustained.

THOMAS E. FRENCH,
Solicitor for and of Counsel with Defendant.

30

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } ss.

WILLIAM F. NORCROSS, being duly affirmed, on his affirmation says, that the matters and things set forth in the above answer so far as relates to his own acts

are true, and so far as relates to the acts of others he believes them to be true.

W. S. NORCROSS.

Affirmed and subscribed before me this eleventh day of June, A. D. 1901.

J. S. RISLEY,
Surrogate.

Filed June 12, 1901.

E. C. STOKES,
Clerk.

10

On Bill to Quiet Title. Petition and Notice.

IN CHANCERY OF NEW JERSEY.

20

Between

ANNA R. McGRATH,

Complainant,

and

WILLIAM F. NORCROSS,

Defendant.

ON BILL, &c.

ON PETITION.

30

Gentlemen: Take notice, that I shall move on the petition, a copy of which is hereto attached, before the Chancellor, at the Chancery Chambers, in Camden, on Monday, the sixteenth day of September, nineteen hundred and one, at eleven o'clock in the forenoon, or so soon there-

after as counsel can be heard thereon, that he grant the prayer of said petition.

Dated August 29th, 1901.

Your obdt. servant,

THOMAS E. FRENCH,
Solicitor for Defendant.

To THOMPSON & COLE,
Solicitors for Complainant.

10

IN CHANCERY OF NEW JERSEY.

Between

ANNA R. McGRATH,

20

Complainant,

ON BILL, &c.

and

PETITION.

WILLIAM F. NORCROSS,

Defendant.

To the Honorable William J. Magie, Chancellor of the State of New Jersey:

30

The petition of William F. Norcross, the defendant in the above stated cause, respectfully shows that on the twentieth day of April, nineteen hundred and one, the above named complainant filed her bill in this court under the provisions of an act, entitled "An act to compel the determination of claims to real estate in certain cases and to quiet the title to the same," approved March 2d, 1870, and the supplements thereto; that in said bill the com-

plainant alleges that she has been, since the twenty-fourth day of May, eighteen hundred and ninety-seven, in the peaceable possession of and claims to own in fee simple a certain tract of land in the township of Hammonton, county of Atlantic and State of New Jersey, described in said bill as :

“Beginning at a white oak tree on the southwest side of South river, on the side of a hill, and runs southwesterly seventy-eight degrees, one hundred and forty-three chains to a pine tree; thence (2) north twelve degrees west, sixty-six chains to Beaver pond; then still the same course, about one hundred thousand chains further to a large branch of South river; thence down the said river to the place of beginning, being seven hundred acres, more or less.”

And further alleges in said bill that your petitioner claims, and is reputed to own, said land or some interest therein, and that no suit or action of any kind whatever is pending to enforce or test the validity of or title to such claim; that the land in question is extensive wild wood and waste land, uninclosed and unimproved, of which complainant is in actual and peaceable possession under a deed mentioned in said bill; that she has paid the taxes on said land for more than five consecutive years immediately preceding the date of filing of the bill, and that no other person has been or was at the time of the filing of said bill in the possession thereof.

And your petitioner further shows, that he has answered said bill, denying that the complainant, on the tenth day of February, eighteen hundred and ninety-seven, purchased a fee simple or any other estate in the lands described in said bill, or any part thereof, denying that any deed therefor conveying any title to the same is in complainant's possession, and that complainant has, since the twenty-fourth day of May, eighteen hundred and ninety-seven, or at any time before or since, been in the peaceable possession of said lands, and denying that she acquired, bought or received a good or any title to

said lands in fee simple or otherwise; that she always claimed or now claims to own the same accordingly, and setting forth that if any such deed had been made, it would convey no title, interest, possession or right to possession to the complainant; and further, that the complainant's grantor never had any title, interest or possession in or to such land or any part thereof, and could not convey or dispose of the same.

- And this defendant further denied that no suit or action is pending to enforce or test the validity of the title or claim; denied that the complainant had any actual possession of the same by the deed mentioned in the bill or otherwise; denied that complainant had paid the taxes on the said lands for five consecutive years immediately preceding the date of the filing of said bill, or at any other time; denied that the taxes on such lands have been assessed to the complainant during the whole of said period, or at any other time; and setting forth that he, the defendant, has a perfect title in fee simple to said lands, is in peaceable possession thereof, claiming to own the same in fee simple; that he has paid the taxes on said land; that such taxes have been for five consecutive years immediately prior to the commencement of this suit assessed to him, and that he has occupied and used said lands for the period of more than twenty years before the commencement of this suit and used the same for the only purpose for which said lands could be used; that he is in actual possession of such lands and every part thereof, and has at all times prevented the complainant from obtaining any possession of the land and from exercising any acts of ownership over or on the same.

And your petitioner further shows, that this defendant and his predecessors in title have occupied and used said lands and cut the timber therefrom as it ripened and grew for more than sixty years last past, and that during all that time complainant's predecessors in title have at various times and without success endeavored to assert their title to said lands in the courts.

And your petitioner submits, that he being in possession of and actually occupying said land, using the same for every purpose for which the said land can be used, paying the taxes thereon, the complainant should be directed to bring an action at law against this defendant to try the title to said lands.

And your petitioner further shows, that numerous questions of fact and also a pure question of legal title to said premises is raised by the pleadings and are such as are peculiarly cognizable by and proper for a court of law to decide, and that your petitioner is entitled by law and the Constitution of this State to have them passed upon by a court of law and a jury. 10

And your petitioner therefore prays that your Honor will be pleased to direct that the above named plaintiff bring an action at law against defendant to determine said title to said land, and your petitioner will ever pray, &c.

THOMAS E. FRENCH,
Solicitor for and of Counsel with Petitioner. 20

STATE OF NEW JERSEY, }
COUNTY OF ATLANTIC, } ss.

WILLIAM F. NORCROSS, the petitioner named in the foregoing petition, being duly sworn, on his oath says, that the matters and things set forth in the foregoing petition are true so far as they relate to the acts and deeds of deponent, and so far as they relate to the acts and deeds of others he believes them to be true.

W. F. NORCROSS. 30

Affirmed and subscribed before me this thirtieth day of August, A. D. 1901.

JOHN S. RISLEY,
Surrogate.

Filed September 5, 1901.

E. C. STOKES,
Clerk.

IN CHANCERY OF NEW JERSEY.

Between

ANNA R. MCGRATH,

Complainant,

10

and

WILLIAM F. NORCROSS,

Defendant.

ON BILL, &c.

20 Transcript of testimony, &c., given at the hearing in the above cause on Monday, January 13, 1902, at the Chancery Chambers, in the city of Camden, before his Honor, Martin P. Grey, one of the Vice Chancellors of this State.

MR. C. L. COLE, of the firm of THOMPSON & COLE,
for Complainant.

MR. THOMAS E. FRENCH, for Defendant.

30 At the opening of the cause counsel for defendant states that the answer in the cause was filed before the filing of the amended bill.

Counsel for both sides say that they assent to the taking of the answer so filed as an answer to the amended bill.

Mr. Cole for complainant offers in evidence original deed dated December 9, 1879, from Sarah R. Caldwell

and Charles R. Caldwell to Anna R. Caldwell, acknowledged on the 11th day of December, and recorded on the 18th day of the same month, in the Clerk's office of Atlantic county, in Book 73 of Deeds, folio 498. This deed conveyed, or purports to convey, among other things, 18,062 acres of land, and includes the land in question. The beginning point is "At the most south-westerly corner of a survey of 33,078 acres."

(Marked Exhibit C1.)

10

Counsel for complainant also offered in evidence certified copy of a deed dated January 2, 1892, from Anna Richard Cox and husband to the Mizpah Agricultural and Industrial Company, acknowledged the 10th day of February of said year, and recorded February 12 of the same year, in Book 161 of Deeds, page 141. This deed conveys 8,052 acres, which is part of the land described in C1; it includes the land in question, and is located in Hamilton township, in Atlantic county.

(Marked Exhibit C2.)

20

Counsel for complainant also offered certified copy of mortgage dated January 2, 1892, from the Mizpah Agricultural and Industrial Company, to Anna Richard Cox, for \$44,000, acknowledged the second day of January of the same year, and recorded on the 12th day of February of the same year, in Book 31 of Mortgages, page 403. This conveys the same property as in deed from Cox to Mizpah Agricultural and Industrial Company, heretofore marked Exhibit C2.

(Marked Exhibit C3.)

30

Also, offered certified copy of assignment of mortgage, Anna Richard Cox to the State Trust Company, acknowledged 9th day of February, 1892, and recorded the 12th day of the same month, in Book 6 of Assignment of Mortgages, page 421. This assignment assigns

the mortgage from the Mizpah Agricultural Company to Cox, Exhibit C3.

(Marked Exhibit C4.)

10 Also, offered a certified copy of a final decree in Chancery in the cause between the State Trust Company, complainant, and the Mizpah Agricultural and Industrial Company, defendants; decree for the foreclosure of part of the premises between the mortgage C3 described. It is dated August 3, 1894.

(Marked Exhibit C5.)

Also, certified copy of final decree in Chancery in the case of the State Trust Company, complainant, and the Mizpah Agricultural and Industrial Company and others, defendants, dated February 28, 1895. It is a decree for the foreclosure of the residue of the property described in Exhibit C3.

(Marked Exhibit C6.)

20 Also, offered in evidence original deed dated January 25, 1895, Smith E. Johnson, Sheriff of the county of Atlantic, to the State Trust Company, acknowledged the 25th day of January, recorded February 1st of the same year in Book 188 of Deeds, page 237. This deed conveys the land described in the final decree, Exhibit C5.

(Marked Exhibit C7.)

30 Counsel for complainant also offers in evidence an original deed, dated May 10, 1895, from Smith E. Johnson, Sheriff of the county of Atlantic, to the State Trust Company, acknowledged the 11th day of May of the same year, recorded May 22 of the same year, in Book 191 of Deeds, page 311, and conveys the premises described in Exhibit C6, the final decree.

(Marked Exhibit C8.)

Counsel for complainant also offers in evidence an original deed dated February 10, 1897, from the State Trust Company to Anna R. McGrath, acknowledged the 19th day of May, 1897, recorded the 24th day of May of the same year, in Book 213 of Deeds, folio 242. This deed conveys the land described in the two sheriff's deeds, excepting 800 acres, and it includes the land in question.

(Marked Exhibit C9.)

10

Also, offered in evidence a receipted tax bill, from the Collector of Hamilton township, paying taxes on 7,000 acres of land in said township, assessed to said Anna McGrath, for the year 1896, and a like receipted bill assessing 10,000 acres to Anna McGrath for the same year.

Mr. French: I object to the admissibility of both of those bills, unless it is first shown that the 7,000 and the 10,000 acres include the land in question.

20

Mr. Cole: It is only a question of method of proof.

Mr. French: And I desire to make the same objection to all these tax bills; of course, if it is removed afterwards.

The Vice Chancellor: I will admit them on the expectation that counsel will connect them; of course if they are not connected, they have no probative force. Is there any other objection to them in addition to the lack of identification, as yet?

30

Mr. French: I suppose they are proper receipts of the payments. I will waive any objection of that kind.

(The receipts were pinned together and marked Exhibit C10, for identification.)

Counsel for complainant also offers like receipted tax bill for 17,000 acres assessed to Anna R. McGrath for the year 1897.

(Marked Exhibit C11.)

Also, offered in evidence like receipted tax bill, assessing 17,000 acres of land to Anna R. McGrath, for the year 1898.

(Marked Exhibit C12.)

10

Also, offered in evidence like receipted tax bill, assessing 17,000 acres to Anna R. McGrath, for the year 1899.

(Marked Exhibit C13.)

Also, offered in evidence like receipted tax bill, assessing 17,000 acres of land to Anna R. McGrath, for the year 1900.

(Marked Exhibit C14.)

20

ANDREW J. BOZARTH, sworn for complainant.

Direct examination.

By Mr. Cole:

Ques. Where do you live?

Ans. Mays Landing.

30

Ques. How long have you lived there?

Ans. Twenty-one years.

Ans. Are you familiar with the land in Hamilton township generally?

Ans. Yes, sir.

Ques. Do you know Anna R. McGrath?

Ans. Yes, sir.

Ques. Do you know William F. Norcross?

Ans. Yes, sir.

Ques. Have you been in the employ of Anna R. McGrath?

Ans. Yes, sir.

Ques. For how long

Ans. Twenty-one years.

Ques. To do what?

Ans. Well, I first went there to coal off burned timber, and look after the property also.

10

Ques. What property?

Ans. Anna R. McGrath's.

Ques. In what township?

Ans. It was in Hamilton township, I think it is.

Ques. Have you been in her employ for this number of years, every year following one another?

Ans. Yes, sir.

Ques. Do you know the character of land in Hamilton township reputed to be owned by her?

Ans. Yes, sir.

20

Ques. What is the character of it?

Ans. Timber land.

Ques. All of it?

Ans. Yes, sir.

Ques. Any of it enclosed?

Ans. No.

Ques. Are there any dwellings on this land, any buildings?

Ans. I don't think there is.

Ques. Have you been over this land that she is reputed to own?

30

Ans. Yes, sir.

Ques. How often?

Ans. I could not tell you how often; I have been over some parts of it every month, and sometimes twice and three times a month.

Ques. During all these years?

Ans. Yes, sir.

Ques. Did you ever hear Mr. Norcross himself make a claim of ownership to any of this land, or hear that he had made a claim of ownership?

Ans. Yes.

Ques. When?

Ans. Oh, well, I could not tell you when.

Ques. About?

10 Ans. Well, I heard him, I don't know that I heard him say directly after I went down, but I heard others say that he claimed over on the Bear Head tract.

Ques. That is, you mean after you went down on this ground?

Ans. Yes.

The Vice Chancellor: Does he mean that, or does he mean when he went to that neighborhood; he said he went there 21 years ago.

20 Ans. Yes; that is right.

Ques. How long was it after you went in the employ of Mrs. McGrath that you heard this?

Ans. Well, it might have been a year, or it might not have been that long.

Ques. You don't know the year, then?

Ans. No; I do not.

Ques. Is this Bear Head tract that you spoke of a part of the tract that is reputed to be owned by Mrs. McGrath?

Ans. Yes, sir.

30 Ques. Do you know how it gets that name?

Ans. No.

Ques. Have you been over this tract yourself that you call the Bear Head tract?

Ans. Many a time.

Ques. When you went over it, were you then in the employ of Mrs. McGrath?

Ans. Yes.

Ques. And in going over it, were you going over it for her?

Ans. Yes; some of the times I was and other times I was over it looking for deer; hunting for deer.

Ques. Do you know whether Mrs. McGrath or her husband has been over this tract?

Ans. Yes, sir.

Ques. Have you taken them over it?

Ans. Yes, sir. **10**

Ques. More than once?

Ans. Yes, sir.

Ques. How many times probably in the last—

Ans. I suppose a dozen times.

Ques. Have you ever heard Mr. Norcross claim title to this Bear Head tract?

Ans. Mr. Norcross himself?

Ques. Yes.

Ans. Yes.

Ques. When was that?

Ans. Well, now, I can't tell you exactly when that was. **20**

Ques. About how long ago?

Ans. I suppose—

Ques. Has it been more than a year ago?

Ans. Yes.

Ques. Where did you hear him make claim to it?

Ans. I think it was in Mays Landing.

Ques. What is the extent in acreage of the ground in Hamilton township that she is reputed to own?

Ans. It is timber land.

Ques. No; what is the extent of it; how many acres? **30**

Ans. It was eighteen thousand when I went down, eighteen thousand and something.

The Vice Chancellor: That who is reputed to own?

Mr. Cole: McGrath.

Ques. Is any of this land improved?

Ans. No, sir.

By the Vice Chancellor :

Ques. What does it consist of?

Ans. Timber.

Ques. Of what size?

Ans. Well, all sizes, from saplings on up to trees fifty
10 foot high.

Ques. The body of it, how many years growth is it?

Ans. I could not tell you how many years growth.

Ques. Does that vary in the number of years growth?

Ans. Oh, yes.

Ques. What kind of timber is it?

Ans. Pine, cedar and oak.

Cross-examination.

By Mr. French :

20

Ques. You are the brother of Mrs. McGrath's mother?

Ans. I am.

Ques. Were you in charge of her property when a man
named Foster was in charge?

Ans. Was I?

Ques. Yes.

Ans. Well, partly, yes. I was looking around, too, when
Foster was cutting wood there.

Ques. What was Mr. Foster's name?

Ans. George.

30

Ques. Who was he employed by?

Ans. He was employed by, I think, Mr. Cox.

Ques. The husband of Mrs. Cox?

Ans. Yes, sir.

Ques. What did he do?

Ans. He cut wood; I don't know as he was employed;
he just bought timber and cut it for himself.

Ques. Did you ever see him cutting the timber?

Ans. Did I—partly.

Ques. That is all.

HENRY A. GILBERT, sworn for the complainant.

Direct examination.

10

By Mr. Cole:

Ques. What is your business?

Ans. Real estate.

Ques. Do you know Mr. Norcross?

Ans. I do.

Ques. Do you know Mrs. McGrath?

Ans. I do.

Ques. Do you know the location generally of land in Hamilton township reputed to be owned by Mrs. McGrath?

20

Ans. I know the location of part of it only.

Ques. Were you ever agent for Mrs. McGrath for the sale of this land?

Ans. Yes, sir.

Ques. Have you ever been on it?

Ans. Yes, sir.

Ques. What part of it were you on?

Ans. I have been over one, two tracts of it; one extending nearly Millville station, I can't tell the points of the compass, but back along the Millville road, Cumberland avenue they call it, to a point they call Beach avenue That is the only way I can describe it.

30

Ques. When were you on these tracts?

Ans. I have been on them two or three times; let us see, the last time, I believe, must have been a year or two ago.

Ques. What is the character of the land that you were on?

Ans. Part of it was very small timber, with a few scattered large pine. There are also a few little clumps of cedar in there.

Ques. Who was with you?

Ans. The man that was with me was named William Moore, and a man named Martin, the last time I was there.

10 Ques. Was any part of this land that you were on improved?

Ans. No; none of that was improved.

Ques. Any of it enclosed?

Ans. No; I think not, not around there.

Ques. On either of those occasions while you were on those tracts did you see Mr. Norcross?

Ans. Mr. Norcross came and ordered me off the land.

Ques. What did he say to you?

Ans. He made a great many bluffs and threats which I didn't take much stock in.

20 Ques. What did he say?

Ans. He told me to get off.

Ques. Did he tell you why he wanted you to get off?

Ans. He said he owned the land.

Ques. When was that?

Ans. I judge that was about a year ago; I am not quite positive as to date.

Ques. Now, where were you each of those tracts, as near as you can tell?

Ans. That was on the tract that we designate as tract

30 35. It was a place, I think the local name of it is Beaver Dam. If I remember rightly, I think that is what they call it.

Ques. Where did you get this number from?

Ans. It is designated on our maps, which we have surveyed.

Ques. You mean the maps of your firm, by "our maps?"

Ans. Yes, sir; of our firm.

Ques. You mean you had these particular tracts surveyed?

Ans. Yes, sir, part of them; part of them had been surveyed previous to our taking them, but we still continue to handle them that way.

By the Vice Chancellor:

Ques. What do you mean by your taking them?

Ans. Why we sold the land. 10

Ques. That is you are in charge of the sale?

Ans. Yes, sir; we sell the land for Mrs. McGrath.

Cross-examination.

By Mr. French:

Ques. Can you locate the place you were when Mr. Norcross ordered you off?

Ans. I can locate it either on a map, or can go direct to it. 20

Ques. Was it what is known as the Doughty Tavern road?

Ans. I could not tell you that; you see our streets are laid off on the map and named; I could locate it from that.

Ques. How near was it to Beaver Dam?

Ans. Some little distance off, I believe, right from the Beaver Dam itself, but that is on a line, as I remember, and it is in a swamp, a little cedar swamp, and I remember that there was a little causeway of corduroy going across. 30

Ques. A little road?

Ans. Yes, sir.

By the Vice Chancellor:

Ques. Your familiarity is with your map of the property for sale?

Ans. Yes, sir.

Ques. And not on the ground.

Ans. More than on the ground; yes, sir.

Further cross:

Ques. But you remember the locations as you have described them here?

Ans. Yes, sir.

10 Ques. What did Mr. Norcross say to you?

Ans. Mr. Norcross said that he owned the tract of land, which I disputed, and I offered to drive him to Mays Landing, and if he could show me the deed on record, or give me any satisfactory proof—

Mr. French: Objected to. That is what you offered; I asked you what Mr. Norcross said to you.

Ans. That is what I am coming to.

20 Mr. French: I object to that; you are stating what you said to Mr. Norcross.

Ans. I don't know how to lead up to it.

Ques. I want you to state what he said.

Ans. He refused to show me anything on record or give me any information at all, and even went so far and told me if I didn't get off that he would split my head open with an axe.

30 By the Vice Chancellor:

Ques. What were you there for?

Ans. For the purpose of putting in possession a man named William Moore, the land that he bought. A man named William Moore.

Ques. How did Mr. Norcross happen to be there?

Ans. I don't know, with the exception that possibly Mr. Moore notified him.

Further cross:

Ques. You don't know that?

Ans. No, sir.

By the Vice Chancellor:

Ques. What were you doing when you and Mr. Norcross came to this colloquy. 10

Ans. Mr. Moore asked me to put him in possession of his land as Mr. Norcross had ordered him off. I then saw Mr. McGrath in New York, and he then told me to put him in possession, as he undoubtedly owned the land.

Ques. As who undoubtedly did?

Ans. Mrs. McGrath, and he instructed me to put him in possession.

Ques. To put Moore in possession of the land? 20

Ans. Yes, sir.

By Mr. Cole:

Ques. Was Moore grantee of McGrath?

Ans. No; the grantee was a man named Martin, and he took an assignment, or rather he bought the chopping right from this man Martin.

By the Vice Chancellor: 30

Ques. Then the putting in possession of Moore was to take Moore there and have him cut timber?

Ans. Yes, sir.

Ques. That you call putting in possession?

Ans. That is all he wanted to do.

Ques. That is the extent of putting into possession?

Ans. Yes, sir.

Further cross:

Ques. Did he cut timber?

Ans. He cut one tree down, which Mr. Norcross demolished as soon as he did it.

By the Vice Chancellor:

10 Ques. That is the way the dispute occurred?

Ans. The dispute occurred before the cutting occurred.

Ques. Then after the dispute with Mr. Norcross, Moore cut some timber?

Ans. Yes, sir.

Further cross:

Ques. Only one tree?

20 Ans. Yes, sir; which Mr. Norcross immediately cut up into match wood.

By Mr. Cole:

Ques. Did you say when that was?

Ans. I should judge, as near as I can remember it—I can refer to my books and find the exact date—but about, I should judge, about a year ago, somewhere around there.

30 MRS. ANNA R. MCGRATH, sworn for the complainant.

Direct examination.

By Mr. Cole:

Ques. Are you the Anna R. ^{Caldwell}~~McGrath~~ named in the deed of December 9, 1897, from Sarah R. Caldwell and others?

Ans. I am.

Ques. Are you the Anna Richard Cox named in the mortgage from the Mizpah Agricultural and Industrial Company?

Ans. I am.

Ques. And you are the Anna R. McGrath named in the deed offered in evidence and also the complainant in this case?

Ans. I am.

Ques. Have you seen the tax bills that have been offered in evidence assessed to you. You are the Anna R. McGrath named in those bills? **10**

Ans. I am.

Ques. Have you seen the tax bills assessing to you 17,000 acres of land?

Ans. Yes.

Ques. Do you own any other lands in Hamilton township than that assessed by these receipts or under these receipts?

Ans. No.

Ques. Have you heard the claim of Mr. Norcross to land in Hamilton township that you claim to own? **20**

Ans. I have.

Ques. Did you ever yourself have a talk with Mr. Norcross about his claim, personally?

Ans. No; never.

Ques. Have you been over the lands described in these several deeds and mortgages?

Ans. Over and over and over; I suppose three or four times a year.

Ques. Is the land which is described in the bill in this case, and which is claimed by Mr. Norcross, improved land? **30**

Ans. No; it is wild land, unimproved.

Ques. Is any of it enclosed?

Ans. None of it.

Ques. What is on the land?

Ans. A few trees, some pine, cedar.

Ques. Any dwellings or houses?

Ans. No houses.

Ques. Does your testimony, respecting the character of this land, &c., refer to the seven hundred acres of land claimed by Mr. Norcross?

Ans. It does; I have been over that lately, and have been over it several times.

10 Ques. Then you know, do you, the location of the land that Mr. Norcross claims to own?

Ans. I do.

Ques. Do you claim to own that ground?

Ans. I claim to own it.

Ques. How?

Ans. By deeds from Charles R. Caldwell and his mother.

Ques. The deed offered in evidence here?

Ans. The deed offered in evidence and by paying the tax for twenty years.

20 Cross-examination.

By Mr. French:

Ques. The only taxes that you have paid are the bills produced here covering the 17,000 acres?

Ans. I have paid taxes for twenty-one years, I think, on all those lands, 18,000 acres, including what Mr. Norcross claims.

30 Ques. But that is the only tax bill on the 18,000 acres; there is no separate bill for those 700 acres?

Ans. Oh, no; that is included in my claim.

Ques. What part of the tract were you on when you claimed you were over this 700 acres; what part of the 700 acres?

Ans. I was over the part that Mr. Norcross claims.

Ques. But it is a large tract; do you know where the Doughty road is?

Ans. Yes.

Ques. Did you go along that road?

Ans. Yes, sir.

Ques. How far north or south of it did you go?

Ans. I could not tell you that; I have depended upon Mr. McGrath for all such information.

Ques. That is all.

10

FRANK MIDDLETON, sworn on the part of the complainant.

Direct examination.

By Mr. Cole:

Ques. What is your business?

Ans. Surveyor.

Ques. How long have you been a surveyor?

20

Ans. About eight or ten years.

Ques. Do you know Mr. Norcross?

Ans. Yes, sir.

Ques. And Mrs. McGrath?

Ans. Yes, sir.

Ques. Do you know the location of land in Hamilton township, Atlantic county, reputed to be owned by Mrs. McGrath?

Ans. I do.

Ques. Have you been over the land?

30

Ans. Several times.

Ques. During what period of years?

Ans. The first time I was over there was some time between 1876 and 1881.

Ques. And when next?

Ans. The next was soon after 1890, probably about 1892.

Ques. And when next?

Ans. Very soon after the second period I was there again, and the last time was within the last few days.

Ques. Have you heard of a claim made by Norcross to a part of the land reputed to be owned Mrs. McGrath?

Ans. I have.

Ques. How much land is there in the claim made by Norcross?

Ans. Somewhere about 1,800 acres.

10 Ques. Have you seen the description of the land as set out in the bill in this case, described as the 700 acre piece?

Ans. Yes, sir.

Ques. Have you examined the records to ascertain if there is a record of a deed to Norcross for that acreage?

Mr. French: We admit that there is not; the deed is unrecorded.

20 Ques. Have you examined the record to ascertain if there is a deed on record to some one, other than Anna R. McGrath, the complainant, which conveys, or purports to convey, the 700 acres referred to in this bill?

Ans. Yes.

Ques. In whose name is the deed as grantee?

Ans. I don't now remember who it is.

Ques. Have you examined the deed from Sarah R. Caldwell to Anna R. McGrath, dated December 9, 1879, Exhibit C1 in this case?

Ans. Yes.

30 Ques. Have you examined the description?

Ans. Yes.

Ques. Does the description in that deed carry the 700 acres claimed by Norcross?

Ans. It includes it.

Ques. Have you been upon the 700 acres claimed by Norcross or any part of it that is claimed by Norcross?

Ans. Yes.

Ques. What is the character of it?

Ans. Wild land, ordinary South Jersey wild land.

Ques. Do you know of Anna R. McGrath, or have you examined the records to ascertain if Anna R. McGrath holds title to any lands in Hamilton township other than that described in the deed, Exhibit C1?

Ans. Nothing outside of the boundary lines of that deed.

Ques. I show you a map, and ask you if you have seen that before. The map is designated map of Morton tract in Hamilton township, Atlantic county, N. J., surveyed by Fowler and Loomis, 1880, on tracing cloth? 10

Ans. Yes, sir.

Ques. Are you familiar with the map?

Ans. Yes, sir.

Ques. What does that map show?

Ans. It shows the 18,000 acres described in the deed from Sarah R. Caldwell and others to Mrs. McGrath.

By the Vice Chancellor:

20

Ques. By what name?

Ans. Anna R. Caldwell, I think.

Further direct.

Ques. Does that map divide the 18,000 acres in any way?

Ans. No, sir; except by a railroad, the West Jersey Railroad, you might say.

Ques. Can you tell generally the number of acres on either side of the railroad? How is the railroad indicated? 30

Ans. By red lines over which is marked W. J. and A. R. R.

Ques. How many acres of ground are on either side of that railroad?

Ans. There is about 7,000 on the south and 11,000 on the north.

Ques. Within which acreage is the tract claimed by Norcross?

Ans. The southerly portion.

Ques. Or the 7,000 acres?

Ans. Yes, sir.

10 Ques. Referring now to the tax receipt for 1896, assessing 7,000 acres of land, part of the Mizpah tract, formerly Anna Cox, does that include that tract of 7,000 acres that you referred to south of the railroad?

Ans. Undoubtedly. I would like to add that this portion of the 18,000 bounded by the railroad, shown on this map, was at one time sold, and afterwards re-conveyed to Mrs. McGrath.

Ques. Now, showing you the tax bill for the year 1899, and calling your attention to the following language, "7,000 acres of wood land, adjoining W. J. Railroad and Society line," does that include the 700 acres now claimed by Norcross?

20 Ans. Yes.

Ques. I show you the tax bills for 1900, 1898 and 1897, and ask if what you have stated respecting the 7,000 acres of the Norcross claim applies as well to the 7,000 acres on those bills?

Ans. It does; yes.

Ques. Now, Mr. Middleton, having the map before you, can you designate on that map the 700 acres claimed by Norcross, and which you say is included within the McGrath deed?

30 Ans. It is already designated on here roughly in lead pencil line. Beginning on the south side of South river, and running along the society line, my recollection is that the distance is 143 chains, and then—

The Vice Chancellor: Can you not so designate it by so reading it off as if it were a description in a deed?

Ans. Beginning on the southwest side of South river, running westward about 143 chains and northward to a branch of South river—the local name, I believe, is Brier branch, it is on all my old maps so—and down said branch, and down South river to the place of beginning.

Ques. And is that shown on the map by lead pencil and within which there are the words "Norcross's claim"?

Ans. That is right.

Ques. Can you fix the southerly boundary?

Ans. It is the southerly Society line.

10

(The map referred to was offered in evidence and marked Exhibit C15.)

Cross-examination.

By Mr. French:

Ques. When you say the south boundary is the Society line, you mean of the Society re-survey and not of the original Society survey.

20

Ans. Of the re-survey.

Ques. You say the Norcross claim was included in the assessment for the 7,000 acres; you don't know that. You don't know what the assessors assessed, do you; you simply know that they assessed 7,000 acres, and the 7,000 acres are south of the railroad?

Ans. And bounded by the railroad, I suppose.

Ques. But as to whether they consider that she owned all the Norcross claim or not, you don't know?

Ans. Not for a fact.

30

Ques. Will you point out on that map C15, the most southwesterly corner of the survey for 33,078 acres made to the West Jersey Society. Understand, that is not the re-survey. The bill in this case states that by two surveys made to the West Jersey Society, one return dated June 9, 1748, inspected and approved on the 4th of Au-

gust of the same year, and recorded in Book E, page 30, and the other return dated the 24th day of May, 1773, and inspected and approved on the 7th day of August, 1783, recorded in the surveyor general's office in Book T, pages 45 to 50; the first survey includes 33,078 acres, and the second of which included 78,060.35. Will you point me out on this map the southwest corner of the 33,078 acres?

10 Ans. My recollection is that the two are identical, in the re-survey and the 33,000

By the Vice Chancellor:

Ques. That is, that the southwesterly corner of the re-survey and the 33,000 acres are identical?

Ans. Yes.

Further cross.

20 Ques. Now, as a matter of fact, was not the 33,078 acres almost entirely east of the Great Egg Harbor river, the west part of it extending just a short distance beyond the westerly line of the Great Egg Harbor river?

Ans. I have never known the corner to be in any other place than where it is on the ground, and as represented by this map.

By the Vice Chancellor:

30 Ques. You are speaking now of the corner?

Ans. Yes, sir.

Further cross.

Ques. But that is the corner of the re-survey?

Ans. Yes.

Ques. But I am speaking now of the survey of 33,078 acres, the original survey then included in the re-survey?

Ans. I have always regarded them as one and the same, the same corner; the re-survey merely defines the point of the survey.

Ques. Then you are not certain about that?

Ans. I would not locate it in any other way.

Ques. You are not certain that the southwest corner of the survey of 33,078 is identical with the southwest corner of the re-survey?

Ans. I am so certain that I would not locate it any other way.

Ques. I show you a certified copy of the return of Henry Young, Deputy Surveyor, and ask you to inspect that survey and return. It is certified in December and January, in the year 1848, by "me, Henry Young." Just inspect that survey and the map, and see if that is, in your opinion, the survey mentioned in that beginning corner.

10

(Return marked Exhibit D1 for identification.)

Ans. I have seen both of those surveys, but I have never seen this before; I can't identify this as being the survey. I can only say that I have examined both surveys several times, and have always regarded the southwest corner of the re-survey as that of the southwest corner of the survey.

20

Ques. The Society re-survey included two prior surveys made by the Society, didn't they?

Ans. I think so; that is my recollection.

Ques. And one is said to be 33,078 acres, and the other 36,244 acres?

30

Ans. Yes.

Ques. Witness being shown paper marked Exhibit D2 for identification, and claimed to be a copy of the return of the survey, is asked if he recognizes that as a copy of the re-survey?

Ans. The certificate attached by the surveyor general says that it is so; I have no doubt it is.

Re-direct.

Ques. After having examined the two certified copies of these surveys handed you by counsel for the defendant, what have you to say about the beginning point of the survey and re-survey?

10 Ans. Nothing specially as to the beginning point, but the map attached to the last document shown me, D2, shows the two surveys that are included within the re-survey. The line down through a little to the west of the middle of the map shows where those two surveys join, and that the southwest corner of the 33,000 survey is identical with the southwest corner of the re-survey.

Ques. I don't know whether we have it clear or not; have you examined the records to ascertain if there are any other 7,000 acres of land south of this West Jersey Railroad line, in Hamilton township, other than the 7,000 acres reputed to be owned by Mrs. McGrath. Do you understand that?

20 Ans. There is a little misapprehension there. There are no other 7,000 acres of land in Hamilton township belonging to Mrs. McGrath other than that represented by this map, Exhibit C15.

Ques. Now to get the 7,000 acres do you have to include the claim of Mr. Norcross?

Ans. You certainly would.

Ques. That is the land claimed by Norcross?

Ans. Yes, sir.

Re-cross:

30

Ques. Now west of the pencil line on C15, to the West Jersey Society line, is land not included within the 700 acres description, claimed by Norcross, is there not?

Ans. There are several ^{thousand} acres west of the land claimed by Norcross, and east of the most westerly line, that Mrs. McGrath claims.

Ques. And that westerly line is the westerly line of the Society's re-survey?

Ans. It is.

ANNA R. McGRATH, recalled.

Direct examination.

By Mr. Cole:

10

Ques. Is there any suit pending other than the one here being tried, to test the title to this land in question, that is claimed by Mr. Norcross?

Ans. None that I know of.

Cross-examination.

By Mr. French:

20

Ques. You don't know of a pending suit of Caldwell against Norcross in the Supreme Court, with relation to trespassing upon this land, do you?

Ans. I beg your pardon, I don't understand your question.

Ques. Do you know of the pending suit of Caldwell vs. Norcross in about 1870 for trespassing on this land?

Ans. I did not know that there were any claims against this tract of mine within a few years ago by Norcross.

30

By the Vice Chancellor:

Ques. The question is asked, you whether you knew of a pending suit brought by one Caldwell against Norcross for alleged trespass upon the land in question?

Ans. I knew there was a suit brought by Caldwell against Norcross. I didn't know much about it, because at that time it was none of my business.

Further cross:

Ques. Nor of the old trespass suit of Estelle vs. Caldwell for trespass on this land?

Ans. I knew nothing of that.

10 Ques. Neither of which were determined?

Ans. (Not answered.)

Re-direct.

Ques. You have not instituted any suit to try and test this title other than this, have you?

Ans. No.

Ques. Then I ask you whether there has been any suit against you to try and test the title?

20 Ans. No.

ROBERT HUNTER McGRATH, JR., sworn for the complainant.

Direct examination.

By Mr. Cole:

30 Ques. You are the husband of the complainant?

Ans. I am.

Ques. You know Mr. Norcross?

Ans. I do.

Ques. Are you familiar with the land described in the several deeds, mortgages, &c., offered in evidence?

Ans. I am.

Ques. Have you been on the land described in the deed from Caldwell to Caldwell, Exhibit C1?

Ans. Yes; I have been all over it.

Ques. Have you been on the ground, the land that is specifically described in the complainant's bill, and the land which Norcross has claimed to own?

Ans. Yes.

Ques. That is the land referred to as the 700 acre tract?

Ans. Yes. 10

Ques. What is the character of the land?

Ans. It is wild land; pine timber and a few acres of cedar; it is entirely unimproved.

Ques. Any buildings on it?

Ans. None at all.

By the Vice Chancellor:

Ques. Any fencing on it?

Ans. None. 20

Ques. What does it produce?

Ans. It produces this pine timber and the taxes.

Ques. Anything else?

Ans. Nothing.

Ques. Wholly uncultivated in all its parts, is it?

Ans. Yes; I think so.

Further direct.

Ques. Do you know who has paid the taxes on the land specifically described and known as the 700 acre tract which is claimed by Norcross? 30

Ans. Yes.

Ques. For the past five years?

Ans. Yes.

Ques. Who?

Ans. Mrs. McGrath.

Ques. Do you know to whom it has been assessed for the five years prior to the institution of this suit?

Ans. To Mrs. McGrath.

Ques. Were the taxes that have been paid, paid for the five years consecutively prior to this date, or the date of the filing of this bill?

Ans. Yes; very much longer than that. I have paid the taxes myself since 1892 for Mrs. McGrath.

10 Ques. The tax bills offered in evidence refer to 10,000 acres and 7,000 acres; within which acreage is the land in question claimed by Norcross?

Ans. The 7,000 acres. We regard the tract as divided by the railroad.

Ques. Has Mrs. McGrath title to any other land in Hamilton township than by the deed from Caldwell to Caldwell, C1?

Ans. She has not.

Ques. Have you examined the assessor's book of Hamilton township?

20 Ans. I have.

Ques. Through what period of years?

Ans. I have examined the assessor's book—no, pardon me, I have examined the collector's duplicate.

Ques. Of Hamilton township?

Ans. Yes.

Ques. For what years?

Ans. I don't think I have ever seen the original assessor's book.

Ques. For what years?

30 Ans. During 1900, 1901, 1898, '97 and '96.

By the Vice Chancellor:

Ques. What book do you refer to as the assessor's book, other than the duplicates which have been made up by the assessors and handed to the collector?

Ans. I don't know that there is any other book.

Ques. The book you saw was in the possession of the collector?

Ans. Yes, sir.

Ques. Or constable, which was it?

Ans. Collector.

Further direct.

Ques. Of that township?

Ans. Yes, sir; Hamilton township; then back of 1896 10
I examined a number of old books ranging from 1880
up to 1886 or 1887, for odd years; they were stored away
but I got access to them through the Township Commit-
tee.

Ques. Has the assessment for the land described in Ex-
hibit C1 always been made as they are made in the bills
here in evidence?

Ans. Well, before the sale of this lower half, this 7,000 20
acres, in 1892, the tax bills and the assessments were one,
and they covered the whole 18,000 acres. Since 1892
there has been a division; 10,000 acres and the 7,000 or
8,000 on the south of the railroad.

Ques. Did you examine the records with a view of as-
certaining whether there was any land assessed to Nor-
cross, the defendant, south of this line and within the
bounds of the deed in evidence?

Ans. I did.

Qus. Did you find any such?

Ans. I did not.

Cross-examination. 30

By Mr. French:

Ques. The only reason you have for saying that the
700 acres is included in the 7,000 is that it is 7,000 acres
south of the railroad, and must take the 700 in to make
the 7,000 acres, does it not?

Ans. No; I should say not.

Ques. Did you go with the assessors when they assessed this land?

Ans. I beg your pardon. You didn't limit that to the assessment; I think you asked me whether the only reason I had for including the two pieces of land—

Ques. Previous question read.

10 Ans. Well, as I understand that question, it does not refer to the taxation, and I answer it by saying that I have other reasons for saying that the 700 acres of land is included in the 7,000 acre tract south of the railroad, than the alternative that you put.

Ques. Have you ever seen a description of the land assessed, other than that named in the tax bill?

Ans. No.

Ques. In examining these tax records, did you see any assessment of any land to Norcross?

20 Ans. Yes; my impression is that I have seen one or two small pieces of land assessed to him in Hamilton township; one was something less than an acre, a dwelling house, and the other was, as I remember it, a small plot 5 or 10 acres. I have never seen anything that approximates 700 acres or 100 acres.

(At this point a recess was taken.)

ROBERT HUNTER McGRATH, JR.

30 Redirect.

By Mr. Cole:

Ques. The tax bills offered in evidence show an assessment against 7,000 acres of land, while the deed, Exhibit C9, from the State Trust Company to Anna R. McGrath, conveys 8,000 acres of land, south of the West

Jersey Railroad; will you explain if you can the discrepancy between the acreage in the deed, and that as appears by these tax receipts.

Ans. That is explained by the deeds, the conveyance made by Mrs. McGrath to the Mizpah Company in 1892, under her name Anna R. Cox, conveying ~~8,500~~ 8050 acres of land to the company, and that amount of land was covered by a mortgage. Shortly after the deed and the mortgage had been delivered, the Mizpah Company obtained a release of 127 and some odd tenths acres from the operation of the mortgage, and in 1895 the Trust Company, after they had acquired title at foreclosure, conveyed Robert D. Cox 800 acres on the extreme easterly corner of this tract. That makes in all roughly 930 acres, and after the title came back to Mrs. McGrath, I simply notified the assessor that we had about 7,000 instead of about 8,000, so that we are now assessed for 7,000 instead of 8,000. 10

Ques. And the deed from the State Trust Company makes reference to these exceptions, does it?

Ans. Those exceptions are shown in the body of the deed, which you hold in your hand. 20

Cross-examination.

By Mr. French:

Ques. Then the assessment of 7,000 acres by the assessors was in pursuance to your instructions?

Ans. I presume I called their attention to it.

Ques. That is all. 30

Complainant rests.

THE CASE FOR THE DEFENDANT.

FRANK MIDDLETON, recalled for defendant.

Direct examination.

By Mr. French:

10 Ques. Is the beginning corner and the first corner of the survey the same corner?

Ans. They are usually so considered.

Ques. That is all.

Ans. Occasionally there is a discrepancy. The beginning corner is usually called the first corner; the end of the first course is usually called the second corner; occasionally there is a miscall.

20

JOHN H. PUMLER, sworn for the defendant.

Direct examination.

By Mr. French:

Ques. Where do you live?

Ans. I live just below Mays Landing about 7 miles, near Esterville.

30 Ques. How long have you lived in that neighborhood, I mean in the neighborhood of Mays Landing.

Ans. About Mays Landing and Esterville since I first came there in that neighborhood, was in 1862, on Christmas Day.

Ques. Have you lived there ever since?

Ans. Well, around about that neighborhood; sometimes I would go away a little ways, and then I would move back again about that section.

Ques. What occupation have you followed since you lived there?

Ans. Well, I followed cutting wood, burning charcoal, teaming, farming.

Ques. Do you know a tract in the neighborhood of Mays Landinng called the Bear Head tract?

Ans. I do.

Ques. Just describe the tract you know as the Bear's Head tract.

Ans. Well, the tract of land that I know called the Bear's Head tract, it lays, South River being one line, and up towards Doughty's Tavern, I call it, and which it is— **10**

Ques. What direction is it?

Ans. Well, I guess about west something like that; that is, another line runs across, runs over that way and turns over along the water, about the water line somewhere.

Ques. How far does it go over the water line?

Ans. I don't exactly, but I should think the best end of a mile. **20**

Ques. The next line, the west line, how does that go?

Ans. That goes sort in that direction.

By the Vice Chancellor:

Ques. Don't say that direction; tell where it goes by the compass?

Ans. I don't know anything about the compass much; I never was with the surveyors. **30**

Further direct:

Ques. Does it run north or south?

Ans. Well, it runs kind of to the norther.

Ques. Does it go through any pond?

Ans. Yes, sir; it goes across a swamp and a pond in that, that I know as Beaver Pond.

Ques. Then at the north end of the line it runs into some branch; what do you call that?

Ans. Green Branch.

Ques. And then down Green Branch to South River to the beginning?

Ans. Well, it strikes South river.

Ques. That is the tract you know?

Ans. Yes, sir.

10 Ques. Is there any road goes through the middle of that tract?

Ans. Somewhere near the middle.

Ques. What is that road?

Ans. We call that the Doughty road.

Ques. From between what places does it run?

Ans. From Mays Landing to Doughty's Tavern.

Ques. Mays Landing is at the east end of that road, and Doughty Tavern is the west end of that road, is it?

Ans. Yes, sir.

20 The Vice Chancellor: Is not the Doughty Tavern road a road of notorious character, a road that every one knows.

Mr. French: I suppose so.

By the Vice Chancellor:

Ques. How old is the Doughty Tavern road?

Ans. Older than I am.

30 Ques. It is an old well known road; been used there for almost time immemorial?

Ans. All I can tell, it was long before I can remember. I don't know anything about it, only from my remembrance.

Ques. It has always been there, the Doughty road, so far as you know the country?

Ans. Yes, sir.

Further direct.

Ques. What is your first recollection of the Bear Head tract?

Ans. While I was working around there for parties, my first going to Bear Head tract to know where Bear Head was, as we call it, was somewhere about 1865.

Ques. 1865?

Ans. Yes, sir; somewhere about that; David Champion was coaling on it, cutting timber and coaling.

10

Ques. Did you know William F. Norcross at that time?

Ans. I have seen him maybe two or three or four different times.

Ques. This man sitting behind him?

Ans. Yes, sir; that is the man.

Ques. Was there any trouble from Mr. Champion coaling on this tract through Mr. Norcross?

Ans. On later there was.

Ques. How much later?

Ans. Well, I think somewhere about three to four years, about '69, I should not wonder, as near as I can tell you.

20

Ques. What happened in '69?

Ans. In '69, Mr. Norcross came up there and he—now, this I didn't see.

Ques. Don't tell what you didn't see.

Ans. But I seen the logs where he had cut them, but I didn't see them cut off.

Ques. What do you mean by logs?

Ans. I mean the logs where Caldwell had drug them together and he cut the logs in two.

30

Ques. Down logs?

Ans. Yes, sir; they were not trees, they were logs; what I called logs is a tree cut down, eight, twelve, fourteen or sixteen feet cut off, and that is a log, and while it is whole it is a tree.

Ques. You saw the logs which Norcross had cut in two?

Ans. I seen them where they were drug together and cut in two.

Ques. You didn't see Norcross cut them?

Ans. No; I didn't see Norcross cut them.

By the Court:

Ques. What Caldwell are you referring to as having cut them in two?

10 Ans. Richard Caldwell.

Ques. Who is his father?

Ans. I don't know, but I think Stephen Caldwell.

Ques. Who was a brother of Charles R. Caldwell?

Ans. Charles R. Caldwell's brother.

By Mr. Cole:

Ques. How was Sarah Caldwell related to Charles R. Caldwell?

20 Ans. That is his mother, that is all I know about it; I heard it said that Sarah R. Caldwell is Charles Caldwell's mother.

Ques. And also the mother of S. Richard Caldwell?

Ans. Yes, sir.

Further direct.

Ques. You were working for David Champion at that time?

Ans. Yes, sir.

30 Ques. That is, in 1869?

Ans. Yes, sir.

Ques. What were you doing for him?

Ans. Burning charcoal.

Ques. Whereabouts?

Ans. On the road from Mays Landing going up into this Bear Head tract; after we passed South river

bridge, there is a road turns to the left and goes up a little ways, there you come to a branch which I call the Bear Head branch, and across that branch, just over the branch, is where I was coaling, between Bear Head branch and the Walker line.

Ques. Is the branch you call the Bear Head branch the branch that runs through Beaver Pond?

Ans. Yes, sir; that is it.

Ques. There is another name for it known as Tarkill branch. That was on this Bear Head tract?

10

Ans. Yes, sir.

Ques. How long did you keep coaling there in 1869?

Ans. I coaled along till, as near as I can remember, some time in September.

Ques. How did you come to stop?

Ans. Well, a little before I quit, Mr. Norcross, it seems, had warned David Champion to stop, or told him to stop, or something of that kind, and he came to a halt; what I mean we stopped working for a few days, and finally we went on to work again. What they done I don't know.

20

Ques. How long did you continue when you went to work again?

Ans. I worked then after that maybe a month, maybe not quite a month.

Ques. Then did you stop again?

Ans. Then I stopped and went to work for another man, and they went on and coaled up the balance of the wood.

Ques. By coaling up the balance of the wood, you mean only wood that was cut down?

Ans. They stopped the chopper and didn't cut any more that I know of, and after I left I could not say. But in my time, while I was there, they stopped the chopper.

30

Ques. And they coaled up what was chopped?

Ans. Yes, sir.

Ques. And stopped chopping?

Ans. Yes, sir.

Ques. Have you ever worked on this land since?

Ans. Yes, sir.

Ques. Who have you worked for?

Ans. Mr. Norcross.

Ques. What have you done?

Ans. I cut a frame for the Ocean City Excursion house.

Ques. How much did that amount to; how long were you cutting?

Ans. In all from two weeks to a month.

10 Ques. Who hauled the frame away after you cut?

Ans. Frank Dixon, Humphrey Dixon and John Madden.

Ques. Who are they employed by?

Ans. John Madden was employed by Maria Ruggins; he drove a team for her.

Ques. Who ordered this frame cut and carted?

Ans. It was Anderson Bougeois hired the teams; he paid for the teams, for the carting, and that was carted.

Ques. Who did Anderson Bougeois buy timber of, do you know?

20 Ans. As much as I know, he bought it of Mr. Norcross.

Ques. Who superintended the cutting of it out?

Ans. Mr. Norcross was there every day to my knowledge that I worked there, and kind of said, well, looked up a tree, and cut this or cut that.

Ques. Did you ever cut and cart any fire wood out of there?

Ans. Yes, sir.

Ques. Whom did you cut and cart that for?

30 Ans. I cut and carted it for myself, off of Mr. Norcross; that is, I sold it whenever I could sell a little.

Ques. Who for?

Ans. anybody who wanted to buy.

Ques. Who did you sell it for?

Ans. I got it off of Mr. Norcross.

Ques. You bought it off of Mr. Norcross?

Ans. I had a right from Mr. Norcross to cut it.

Ques. Do you remember anybody cutting just west of this west line of the Bear Head tract about fourteen years ago?

Ans. Yes, sir.

Ques. Who was that?

Ans. William Turp.

Ques. Were you at work for him?

Ans. No, sir; I was not working for him.

Ques. Did you see him there?

Ans. Yes, sir; saw him and his men there at work; saw them cutting. **10**

Ques. Who were they at work for?

Ans. These men were working for Bill Turp and Turp was buying this timber off of Mrs. Cox.

Ques. The plaintiff in this suit?

Ans. I believe so, as much as I know; that is the woman.

Ques. In their cutting, did they ever cut across the west line of this Bear Head tract?

Ans. No, sir. **20**

Ques. Could you distinguish this west line of this Bear Head tract from the land that lies west of it?

Ans. Yes, sir.

Ques. How?

Ans. It is a bigger growth of timber.

Ques. Is there or not a road along this west line?

Ans. All the way along on it for quite a distance, from the Doughty road into Beaver Pond.

Ques. Did you ever cut for Josiah Price, near this land? **30**

Ans. I never cut for Pierce.

Ques. Pierce?

Ans. I mean, but I burned coal for him.

Ques. Where was that?

Ans. That was up to the west of this line.

Ques. West of the west line?

Ans. Yes, sir.

Ques. And between what road?

Ans. On both sides of the road that runs from the Doughty road to Green Branch.

Ques. But you never cut on this Bear Head tract?

Ans. No, sir.

The Vice Chancellor: I understood him to say that he had cut on the Bear Head tract.

10

Mr. French: I mean at the time he coaled for Pierce.

Ques. At the time you were coaling for Pierce, you didn't cut on the Bear Head tract?

Ans. No, sir.

Ques. And the only time you did cut on the Bear Head tract for any person other than Norcross, was in 1869 or 1870, when you worked for Champion?

Ans. Then I worked on the Bear Head tract.

20

Ques. When was it you cut the frame for the Ocean City people?

Ans. '87.

Cross-examination.

By Mr. Cole:

Ques. The road you refer to as the Doughty Tavern, is the road leading from Millville to Mays Landing?

30

Ans. Yes, sir; the Doughty Tavern, and then from Doughty Tavern to Millville.

Ques. It is one road continuous from Mays Landing to Millville?

Ans. I don't know whether you can call it that or not, because it comes to an end right there at Doughty Tavern, and you have got to turn either one way or the other.

By the Vice Chancellor:

Ques. It is not a stright line?

Ans. No.

Ques. But it is a continuous road?

Ans. Yes, sir.

Further cross.

Ques. Can you go any other way; don't you have to go over that road to get to Millville? **10**

Ans. No; you don't have to; there are other roads.

Ques. Right there near that place?

Ans. Not a great ways from that. There is a road that leads right from Bear Head across and out to Grassy Pond, and by Beaver Dam and out to Cumberland.

Ques. Did you ever hear this Doughty Tavern road called by any other name?

Ans. I have, I think now lately.

Ques. What is it called? **20**

Ans. I think they call it Cumberland avenue, or something like that.

Ques. Did you ever hear it called the Millville road?

Ans. I have heard people call it the Millville road; yes, sir.

Ques. Do you know for whom Champion was working in '69, to your own knowledge. Not by what somebody told you, but to your own personal knowledge; for whom Champion was working in 1869, when you cut timber. **30**

Ans. Well, I hardly know how to answer you that, because I know nothing only what somebody told me.

Ques. All this testimony you have been giving is what somebody told you?

Ans. When I told you somebody told me so, that is; but when I told you anything I know, I know it.

Ques. Then you don't know for whom Champion was working except what somebody told you?

Ans. How should I?

Ques. Answer. Do you know it any other way; were you present when somebody engaged him?

Ans. Did I ever hear Caldwell and him make any bargain?

Ques. Do you know by any mode for whom he was cutting other than by being told?

10 Ans. No; he was cutting timber, that is all I know, and said he bought it.

Ques. Who said?

Ans. David Champion said he bought it of Mr. Caldwell.

Ques. This was on the same tract where you cut in 1887 for Mr. Norcross?

Ans. Yes, sir; on the Bear Head tract.

Re-direct.

20 Ques. Don't the Campbell road lead to the Millville road, too?

Ans. Yes, sir; you can go that way; people often does go that way; I have gone that way myself.

Ques. This is hardly proper cross-examination, but I neglected to ask the witness—

The Court: Go on.

30 Ques. When you were working for Norcross, did anybody interfere with you or forbid you cutting?

Ans. No, sir.

Ques. Had you any instructions, when you were working for Pierce, to respect Mr. Norcross's line?

Ans. No; the wood was cut, and I was coal burning it, and, of course, I had nothing to do with overseeing the choppers, the men that cut wood or chopped it, and, of course, that was out of my reach.

JOSIAH PIERCE, sworn for defendant.

Direct examination.

By Mr. French :

Ques. Where do you live?

Ans. Mays Landing.

Ques. How long have you lived in the neighborhood of Mays Landing?

Ans. Well, it has been about twenty-two years since I went there, nearly. 10

Ques. What have you been doing for the last twenty-two years?

Ans. I have been working charcoal, chopping wood and teaming.

Ques. Do you know the tract known as Bear Head tract that Mr. Pumler talked about?

Ans. Yes, sir.

Ques. How long have you known that tract?

Ans. I have known that tract, what is known as Bear Head, for thirty-five years. I have lived all around Mays Landing and been in the charcoal business. 20

Ques. Do you remember the circumstances about skids being cut and the logs being cut?

Ans. Yes, sir.

Ques. Were you present when they were cut?

Ans. No, sir.

Ques. You only know it by hearsay?

Ans. Yes, sir ; I happened along right afterwards.

Ques. What did you see? 30

Ans. I seen skids were cut and the logs were cut in two.

Ques. Do you remember a man named Turp cutting timber in this neighborhood?

Ans. Yes, sir.

Ques. Where was that?

Ans. He cut it up on the Dogtown road, on the opposite side of the road where I cut.

Ques. On the Bear Head tract?

Ans. No; but beyond the west line of the Bear Head tract.

Ques. North or south of the Doughty Tavern road?

Ans. South, I think; yes.

Ques. Just a little south of the Doughty Tavern road?

Ans. Yes, sir.

Ques. When did Turp cut?

Ans. I don't remember what year he cut in.

10 Ques. How long ago, about?

Ans. I should judge that has been somewhere around thirteen years; that was the year that I cut there.

Ques. You didn't cut there where he cut?

Ans. No; just the road between.

Ques. You cut north of the Doughty Tavern road?

Ans. Yes, sir.

Ques. When Turp cut, did he cut over the west line of the Bear Head tract?

Ans. No, sir.

20 Ques. How near to the west line of the tract did he cut?

Ans. I think right close up to it.

Ques. When did you cut?

Ans. The year before.

Ques. And you cut north of the Doughty Tavern road?

Ans. Yes, sir; I cut from the Doughty Tavern road to the Green branch.

By the Vice Chancellor:

Ques. How much did you cut?

30 Ans. I suppose I cut two thousand cords that winter.

Ques. What did you do with the wood that you cut?

Ans. Made charcoal out of it.

Ques. Right on the spot?

Ans. Yes, sir.

Ques. What did you haul, the wood or charcoal?

Ans. We wheeled the wood and then they made the charcoal and hauled it to Mays Landing, and shipped it off in the vessels to New York.

Further direct.

Ques. What instructions had you with respect to the west line of the Bear Head tract?

Ans. I have known that ever since I have been around there.

Mr. Cole: The question is, what instructions you had about the cutting, as to the line of the Bear Head tract?

Ans. I knew that line before I cut there.

10

By the Vice Chancellor:

Ques. Did you have any instructions about it?

Ans. Yes, sir; I knew it was Mr. Norcross's line.

Further direct.

Ques. Who told you that?

Ans. I met the gentleman there himself.

20

Ques. Had anybody told you?

Ans. Yes, sir.

Ques. Who?

Ans. I can't recall that.

Ques. Who were you cutting for?

Ans. Andrew Bozarth, H. L. Heath.

Ques. Did they say anything about this line?

Ans. Yes, sir.

Ques. That you were not to cut over it?

Ans. Yes, sir. And I asked them if we were to cut over that line, and they said no, and we never did, never cut up to it.

30

Ques. Do you remember the year of the blizzard; that was in 1888?

Ans. Yes, sir; I think it was.

Ques. Was this cutting before or after that time?

Ans. Before.

Ques. How much before?

Ans. Why, I don't think a great while.

Ques. A year or two?

Ans. Yes, sir.

Ques. And it was about that time that this cutting was?

Ans. Yes, sir.

Ques. Did you ever cut on the Bear Head tract for Mr. Norcross?

10 Ans. Yes, sir.

Ques. When?

Ans. I suppose it was about seven years ago or eight; I cut a barn frame.

Ques. For Mr. Norcross?

Ans. Yes, sir.

Ques. Did anybody interfere?

Ans. No, sir; I cut it for Mr. Norcross' son, Washy.

Ques. Is the west line of the Bear Head tract so that you could distinguish it from the adjoining line on the west; can you tell where the line is?

20 Ans. I think I can.

Ques. From anything that there is on the ground?

Ans. Yes, sir.

Ques. What indicates the line?

Ans. Sticks up, pines blazed, knocked the bark off.

Ques. On which side of the line is the timber the tallest?

Ans. On the Bear Head side, the east side.

Ques. What is on the west line?

30 Ans. Nothing but the ground oaks, scrub brush you might call it.

Ques. It has been cut off?

Ans. Yes, sir.

Cross examination.

By Mr. Cole:

Ques. For whom were you working when you cut timber on or near the Bear Creek tract?

Ans. When I first cut timber on the Bear Creek tract?

Ques. Yes.

Ans. I chopped for David Champion, the first I cut on the Bear Head tract; following that Mr. Norcross stopped him.

Ques. He was working for Caldwell; was he not?

Ans. No; he was buying from Caldwell.

Ques. And Norcross you say stopped him?

Ans. Yes, sir.

Ques. When did you next cut on the Bear Head tract; or when was that that Norcross stopped Champion from working? **10**

Ans. Somewhere around seventy, I think.

Ques. When did you next work on what you call the Bear Head tract?

Ans. The next then I done on the Bear Head tract is what I cut for the frame.

Ques. For Norcross, about seven years ago?

Ans. Yes, sir.

Ques. What was that that you cut? **20**

Ans. The barn frame.

Ques. How long were you on the ground?

Ans. About two weeks.

Ques. Now you say you worked for Mr. Pierce about thirteen years ago?

Mr. French: This is Mr. Pierce.

Ques. I mean you cut off the tract that you say is to the west?

Ans. We don't call that the Bear Head tract; we were coaling; we cut to this west line and then we didn't come up to the line quite. **30**

Ques. For whom were you working there?

Ans. Andrew Bozarth and William Heath.

Ques. What were your instructions when you were doing the work on this tract of land; what were you told to do?

Ans. I was told to cut the timber.

Ques. Was it while you were cutting the timber that you had this conversation that you say you had with Mr. Bozarth about respecting the Norcross line?

Ans. Yes, sir.

Ques. How long had you been working there?

Ans. We commenced on that piece in the fall.

Ques. How long had you been working there when you had this conversation?

10 Ans. I suppose we had been working somewhere around in March or the last of February, when we had the conversation about the line into Jim Baker's Hotel.

Ques. How came you to have that conversation?

Ans. I knew this was Billy Norcross' line, this west line; I have hunted there through the piece many and many a time.

Ques. If you knew it was Mr. Norcross' line, why did you ask Mr. Bozarth if you should go over on him?

Ans. Well, the tract was there.

20 By the Vice Chancellor:

Ques. What tract?

Ans. The Bear's Head.

Ques. Who was the "there."

Ans. Well, we got talking about this line, and they allowed it was there.

Ques. Who was allowing the tract was there?

Ans. That was Mr. McGrath.

Ques. Who was Bozarth acting for?

30 Ans. Mrs. McGrath.

Further cross.

Ques. So that Bozarth told you of this while he was acting for Mrs. McGrath, that this Bear Head tract belonged to Mrs. McGrath?

Ans. They claimed it.

Ques. Yes, they claimed it; that is what I want to know.

Ans. Yes.

EDMUND L. B. W. APPLGATE, sworn on the part of the defendant.

Direct examination.

10

By Mr. French:

Ques. Where do you live?

Ans. Mays Landing.

Ques. How long have you lived in that neighborhood?

Ans. About 14 or 15 years—about 15, I guess.

Ques. Do you know the Bear Head tract?

20

Ans. Yes, sir.

Ques. Did you ever live anywhere near it?

Ans. I lived nine years at the old Doughty place, that was the nearest.

Ques. How far was that from the Bear Head tract?

Ans. I suppose three or four miles.

Ques. What business have you followed the last 14 or 15 years?

Ans. Teaming part of the time; farming.

Ques. Did you ever do any teaming from this Bear Head tract?

30

Ans. Yes, sir.

Ques. Who did you team for?

Ans. I carted at first for Mr. Wells, I think, hired me, and he bought the stone of—

Ques. Mr. Norcross?

Ans. Yes, sir.

Ques. What was that that you carted?

Ans. Stone.

Ques. Where was that dug?

Ans. On the other side of South river, I suppose half a mile up in the woods.

Ques. Half a mile away from South river?

Ans. South; no, west of the South river and south of the Doughty road.

Ques. What kind of a stone was it?

10 Ans. Well, it was common stone.

Ques. This red iron sand stone?

Ans. Well, it was pretty plain kind of stone; it was not sand, it was all full of gravel.

Ques. What was it used for?

Ans. It was used for the foundation of those new walls at the cotton factory.

Ques. Then it was carted for Mays Landing Water Power Company?

Ans. Yes, sir.

20 Ques. And used for foundation purposes?

Ans. Yes, sir.

Ques. How long were you carting it?

Ans. I suppose maybe two weeks.

Ques. Did anybody interfere with you?

Ans. No, sir.

By the Vice Chancellor :

Ques. What sort of stone was that; the sort of stone that shows rusty when it gets wet?

30 Ans. Yes; I guess maybe it does.

Further direct.

Ques. Did you ever cut anything from, or cart any lumber from there?

Ans. I never cut anything on the premises. I help cart a frame for Albert Smallwood's house.

Ques. Who did you cart for?

Ans. I carted it for Albert and he bought it for Mr. Norcross.

Ques. When was that, before or after the stone was dug?

Ans. I don't know now which I did cart first.

Ques. Rather close together in time?

Ans. Let me see; I think I carted the stone first, and about a year afterwards I think I carted the frame.

Ques. How long were you carting the frame?

Ans. Well, I could not tell you exactly, but it might have been eight or ten days; it might have been two weeks, somewhere along there.

Ques. Nobody interfered with you?

Ans. No, sir.

Ques. Who was reputed to own the land west of Bear Head tract; how did you know that land?

Ans. All I know about that line, that upper line, when my father lived at the old Doughty place we didn't do anything, us boys, nor he didn't, through the winter time, but hunt on Bear's Head; we used to bear hunt; we used to have bear dogs and the way the name Bear's Head came around, I suppose, we could generally start a bear around that place, in the course of a mile or so, about half the time maybe start them right in the swamp, Beaver Dam.

Ques. Does this west line of the Bear Head tract run through any pond that you know of?

Ans. Right through Beaver Dam pond, and goes across where there is an old road; it goes from the Doughty place. I think I have heard my father talk about that line when we have been hunting, but I would not be certain of it, you know, but it was the main talk when we were down there.

Ques. You know that line, do you?

Ans. I could go right where the line crosses the Doughty road.

Ques. Is there anything that distinguishes that from the rest of the Doughty tract?

Ans. Yes, sir; it is cut right up to this line.

By the Vice Chancellor:

Ques. Which one has the smaller timber on it now?

10 Ans. Above, where it has been cut off. This Bear Head tract, it is old timber been standing there; it was standing there when we lived at the Doughty place, and I was only eleven years old when we moved there, and we lived there nine years, and it has never been cut off since, and the timber was pretty near as big then as it is now. The fire has been through it and deadened the growth, time after time, and good part of it, the big trees, has fallen down and part of it, the heart, is standing.

Ques. Did you ever hear anything about the dispute over this land?

Ans. Yes, sir.

20 Ques. How long have you known of this dispute?

Ans. Ever since we lived at the Doughty place; Dan Estelle owned the Doughty place, and my father rented it off him.

Ques. Who owned the Bear Head tract at that time?

Ans. Dan Estelle claimed to own it.

Cross-examination.

By Mr. Cole:

30 Ques. You say you heard of the dispute as to the ownership?

Ans. Sir?

Ques. You say you heard of the dispute as to the ownership; who else did you hear owned it besides Estelle?

Ans. Caldwell.

Ques. How far from a road was it that you hauled this stone?

Ans. I suppose it is, from the Doughty road, it might be a quarter of a mile.

Ques. How far from where you hauled the stone was the nearest house at that time, the nearest dwelling?

Ans. From there?

Ques. From the place where you got the stone?

Ans. Mays Landing.

Ques. How far is it?

Ans. About four miles, four and a half.

Ques. How far was the nearest house from where you hauled the timber or the frame? 10

Ans. About the same, a little mite further, the timber. Right on the Doughty road, on both sides of the road. Mr. Norcross went up there with his choppers.

Ques. This is a wild section of the country where you were working?

Ans. Yes, sir.

Ques. No houses any nearer than four miles?

Ans. I don't think there is.

20

WILLIAM S. NORCROSS, being conscientiously scrupulous of taking an oath, being duly affirmed according to law, testified as follows:

Direct examination.

By Mr. French:

Ques. Where do you live? 30

Ans. Mays Landing.

Ques. How long have you lived in that neighborhood?

Ans. Well, I was born and raised just above there, not a great ways, but I been in Mays Landing ever since I was about sixteen or seventeen years old.

Ques. How old are you?

Ans. I was born in 1828.

Ques. What occupation have you followed since you are a man?

Ans. Well, I was in the stage business for several years, then I went into the lumber business, coaling business and wood business.

Ques. Ever have anything to do with surveying and carrying chains?

Ans. Yes, sir.

10 Ques. Much or little?

Ans. Well, considerably in time, one time and another.

Ques. What extent are you familiar with the location of corners and lines in the neighborhood of Bear Head tract?

Ans. Well, I am pretty familiar with all the lines and corners around there.

Ques. How did you get familiar with them?

Ans. By being with the surveyors.

20 Ques. When did you first know the line known as the west line of the Bear Head tract?

Ans. I was on there with your grandfather and my father when I was a boy.

Ques. How old were you then?

Ans. I suppose maybe 9 or 10 years old; took me there to mind the horses when he was going to run the tract, but the line was so well defined that he concluded not to run it.

Ques. Do you know the occasion of his being there?

30 Ans. He was there; sent there by Mr. Samuel Richards, old man Samuel Richards.

Ques. What was being done on the west side of that line?

Ans. He had sold a piece of timber to Edmund Smith.

Ques. Who was he?

Ans. He carried on the Cumberland works.

Ques. Was the Cumberland Furnace tract, how near was that to that west line?

Ans. Westward of it; about three-quarters of a mile.

Ques. What was between the east line of the Cumberland Furnace and the west line of the Bear tract?

Ans. There was a strip in there between the Cumberland Works and the Bear Head tract that Richards claimed, and he sold it to Edmund Smith, and Edmund Smith's choppers got a little over on the Bear Head tract.

10

Ques. How far did they get over on it?

Ans. Just a short distance.

Ques. What do you mean by that?

Ans. I suppose fifteen or twenty acres cut over.

Ques. Then what happened?

Ans. Then they were notified; Mr. West had notified Richard that they were over on him cutting, and Mr. Richards sent your grandfather there.

Ques. Did they cut any more?

Ans. No, sir; they cut right by that line to South river.

20

Ques. That was about 1837?

Ans. Yes, sir; '37 or '38.

Ques. What was the next time you went to this west line, to know it?

Ans. After that I was there with Mr. West.

Ques. What Mr. West?

Ans. Joseph E. West; he came into Mays Landing and I rode up there with him in a wagon; he was going to see some choppers.

Ques. Who was cutting there then?

30

Ans. He was cutting there; they were cutting under his directions; I don't know who the parties were cutting.

Ques. Who took you up there?

Ans. Joseph West.

Ques. Where were the choppers cutting?

Ans. Below the Beaver Dam, on a piece of swamp.

Ques. On the Bear Head tract?

Ans. Yes, sir.

Ques. When next did you see it?

Ans. Then I was there once or twice after that, we just drove up; he drove up there to see if there was anybody cutting; then after that it was sold and I attended the sale.

Ques. What sale?

10 Ans. It was levied upon by Estelle and sold at Sheriff's sale, and I attended the sale when Mr. Trean kept the hotel at that time.

By the Vice Chancellor:

Ques. What do you mean by levied upon by Estelle; was he plaintiff in the suit, or the Sheriff who did the levying?

20 Ans. Mr. Estelle went security for Mr. West, and they sued and got judgment against West and Estelle, both.

Mr. Cole: I really have no objection, but I think it is not competent.

30 The Vice Chancellor: It is only competent upon the point of identity. He can prove, and may prove, if there be an element of sale, to show that this land was sold, whether rightfully or wrongfully I do not say, but it does identify the transaction. I should not take this as proof of the judgment. I will allow the testimony, not because the witness is testifying to the contents of the record, to prove it, but it does show what was done under that record. Proceed.

Ans. The property was sold and levied upon, and sold, and Mr. Estelle bought it.

Ques. What do you mean by the property?

Ans. That was the Bear Head tract.

Ques. It was sold as you understood it as what?

Ans. As the Bear Head tract; it was owned by West and levied upon.

Ques. Then, as you understood it, that was a sale of West's property under judgment procured by Estelle, and the purchase was made by Estelle?

Ans. The judgment was procured—I forget the parties. 10

Ques. Somebody against Estelle and West?

Ans. Yes, sir; and this tract was levied upon as West's property, and sold; I attended the sale for the purpose of buying it, but I didn't buy it.

Further direct.

Ques. Go on.

Ans. And Mr. Hogan, a man named Mr. Hogan, bought it—he was Mr. Estelle's clerk in the store—he bought it. 20

Ques. He bought it in?

Ans. Yes, sir; and it was conveyed to him and he afterwards conveyed it to Mr. Estelle.

The Vice Chancellor: I suppose you understand that this is all under objection as to these facts, which will have to be proved in another manner.

Mr. French: I have the deed. 30

Ques. The Bear's Head tract was what was sold and bought by Hogan?

Ans. Yes, sir.

Ques. Was there another sale of that property that you attended?

Ans. Yes, sir, afterwards; after the death of Mr. Estelle the property was sold and I attended that sale.

Ques. A public sale?

Ans. Yes, sir; it was offered at public sale, but it was not sold, but I attended that.

Ques. Is that a part of the advertisement of the sale?

Ans. Yes, sir.

Ques. This was after Mr. Estelle's death?

Ans. Yes, sir; by his executors, Mr. Hogan and Mr. Wales.

10 Ques. (Slip of printed advertisement of sale dated Tuckahoe, May 22, 1860, printed signature E. L. B. Wales, John Hogan, executors, shown witness.) Is that part of the advertisement you refer to?

Ans. Yes, sir.

(Marked Exhibit D3.)

(Mr. French now offers as exhibits the two surveys that were marked Exhibits D1 and D2 for identification, and the same were marked Exhibits D1 and D2.)

20 Ques. Which piece on Exhibit D3 is the Bear's Head tract?

Ans. No. 5.

Ques. Just read what it says.

Ans. Tract of wood land known as the Iliff tract, or the Bear's Head tract of land, containing about seven *hundred* acres. The growth on this is old and the timber said to be very valuable. It is chiefly pine.

Ques. That was the tract?

Ans. Yes, sir.

30 Ques. Whose writing is that changing the "Kiff" to "Iliff"?

Ans. I don't know about that.

Ques. That was as the advertisement was set up?

Ans. Yes, sir.

Ques. That No. 5 tract is the same tract that you have been speaking about?

Ans. Yes.

Ques. Had you been on that tract prior to this sale?

Ans. Oh, yes.

Ques. What acts of ownership by anybody had been done on that tract that you know of?

Ans. By Estelle; I was there with Estelle several times during his lifetime.

Ques. What did he do there during his life?

Ans. He was carting off some timber, was selling some; I don't know which; they were carting it off; I forget, they were carting off, and he went up to see the parties who were working there. I think it was for him; I think they were some of his teams. 10

Ques. Who bought that tract on Exhibit D3, No. 5?

Ans. That was not sold; I attended the sale; I think I bid on it, but they concluded not to take the bid; I don't know what it was.

Ques. Did you subsequently buy that tract?

Ans. Yes, sir.

Ques. Who did you buy it from? 20

Ans. Dr. Wales and Mr. Hogan.

Ques. (Witness being shown deed dated 10th of September, 1867, made between Edmund L. B. Wales, of Cape May, and John Hogan, of Atlantic county, executors of the last will and testament of Daniel L. Estelle, of the first part, and William Norcross, of Atlantic county, and Uriah Norcross, of Camden, of the second part, acknowledged the tenth day of September, 1867, is asked): Is that the deed that was made to you for the tract?

Ans. Yes, sir; that is the deed; that is Dr. Wales' writing. 30

By the Vice Chancellor:

Ques. Who was Uriah Norcross?

Ans. My brother.

Ques. Did he drive a stage in Camden about forty or fifty years ago?

Ans. That was my uncle.

(Deed offered in evidence and marked Exhibit D4.)

Further direct.

Ques. Did you subsequently buy your brother's interest?

10 Ans. Yes, sir.

Ques. (Witness being shown paper dated October 6, 1885, being deed from Uriah Norcross to William F. Norcross, acknowledged October 6, 1885, before B. W. Bennett, commissioner, is asked): Is that the deed conveying you the interest of your brother in the Bear Head tract?

Ans. Yes, sir; that is the deed.

(Deed offered in evidence and marked Exhibit D5.)

20 Ques. Now, then, you bought this tract of land by this deed in 1867?

Ans. Yes.

Ques. What did you do after your purchased it?

Ans. Just before I purchased it, Richard R. Caldwell—

Ques. Richard Caldwell's son, do you mean?

Ans. Yes, sir; just a little before that they commenced cutting.

Ques. Who do you mean by they?

Ans. That is, Caldwell.

30 Ques. Mr. Richard Caldwell?

Ans. Yes, sir; and I went there to forbid them; and drove the teams out, and would not let them take out any logs.

By the Vice Chancellor:

Ques. Who were the "they" you forbid?

Ans. Mr. Richard Caldwell.

Ques. Was Mr. Richard Caldwell personally present?

Ans. No; his choppers were in there.

Further direct.

Ques. Was this the time of the trespass suit in 1869?

Ans. Yes, sir.

Ques. That was shortly after you purchased?

Ans. Yes, sir.

Ques. That was the time Champion was cutting there that Mr. Pumler and Pierce have talked about? **10**

Ans. Yes, sir; they went out—

Ques. They had been cutting there and you drove them out?

Ans. Yes, sir.

Ques. Did they come back to cut again?

Ans. Yes, sir; after that.

Ques. When was the first time that they went there and you drove them out; what year?

Ans. Shortly after I purchased it; it was in 1868 when I purchased it. **20**

Ques. '67 the deed bears date?

Ans. Yes, sir.

Ques. And on that cutting you drove them out?

Ans. Yes, sir.

Ques. Now, then, they came back again?

Ans. Yes, sir.

Ques. When?

Ans. I forget; I could not say; I think it was some-time after that.

Ques. Two or three years? **30**

Ans. No; it was less time than that.

Ques. A year?

Ans. I think somewhere about that; perhaps a year.

Ques. Now, then, what happened after they came back again?

Ans. I drove them out again?

Ques. Did they go away?

Ans. The teams went away, and Caldwell came himself next day in the woods, and ordered his teams to load, and then is when I threw the skids off.

Ques. That day you threw the skids; where was the place where they were cutting?

Ans. They were cutting just above South river bridge, between the Doughty road and the Tarkill branch.

10 Ques. That was south of the Doughty road?

Ans. Yes, sir.

Ques. Was it on a part of this Bear Head tract?

Ans. Yes, sir.

Ques. Who was there that you recollect?

Ans. Well, he had a driver by the name of William Nick—had a nickname, Cook Nick. He had another man named Harries, I forget what his first name was. Then we had another—I think there were four teams. I forget the other two drivers now.

20 Ques. Was Mr. Caldwell there himself?

Ans. After the second day he came in himself.

Ques. That was Samuel Richard Caldwell?

Ans. Yes, sir.

Ques. While he was there, what happened?

Ans. While he was there, I was there, and the team came in ahead of him, and they were not loading, and he wanted to know why they didn't load, and I said I would not leave them, and he told them to go on to load, and when he did that, I chopped the skids off the wheels and cut them in two.

30 Ques. Did they go away that day?

Ans. Yes, sir.

Ques. Did they come back the next day or so?

Ans. No; didn't come back for sometime after that.

Ques. Then suit was brought for trespass?

Ans. Yes, sir.

Ques. Against you?

Ans. Yes, sir.

Ques. Wasn't there some trouble about ironing the skids?

Ans. Yes, sir; when they came in again he sent in a man named Campbell, who was manager there and had ironed the skids. Then he had a man named Harris, who worked for me at one time, and they stopped on the way somewhere and got some liquor, and he was drunk, and he got out of the wagon and me and him was walking together, and I said, Isaac—

10

Ques. Said to whom?

Ans. I said to him, "Isaac, what do you come here for, to get into trouble?" He said, "No." Well, I said "if you don't want to get into trouble, you must not go in there." And I said "you must remember I saved your life at one time in my store at South river." He was knocked down by a man with an —

Ques. Never mind about that; what happened here?

Ans. He had his iron skids, and in order to keep the men from getting hurt, it was big heavy ship timber, I shoved the skids off, and I seen they were going to put the log on, and I got on the log and cut it all the way within about six feet on each side.

20

Ques. So as to destroy it as ship timber?

Ans. Yes, sir.

Ques. That is the log Mr. Pumler talked about?

Ans. No; that was another log.

Ques. Then what happened after that?

Ans. Then they went out that day again without any logs, and I think another week or ten days, they quit for some time, but I forget exactly how long after that there was a suit brought for trespass.

30

Ques. By whom?

Ans. By Mr. Abraham Browning, brought a suit for Mr. Caldwell.

Ques. Against whom?

Ans. Me.

Ques. For what?

Ans. Trespass.

Ques. Was that ever tried?

Ans. No, sir.

Ques. What Court was it in?

Ans. In the Supreme Court, and then he got an order; I kept right on; and then he got an order, I could not say how long after that, to stay waste; I don't know what his order meant, because I was not taking anything off; I was moving them off.

10

Ques. Then you got another order to stay waste?

Ans. Yes, sir; I got a cross one.

By the Vice Chancellor:

Ques. What courts were these orders made in?

Ans. In the Supreme Court, where the case was.

Ques. Do you now whether the orders to stay waste; were they in the Supreme Court?

20

Ans. I think they were.

Further direct.

Ques. Mr. Pumler talked about a log being cut?

Ans. That was along down the Doughty Tavern road. They undertook to throw them on—

Ques. That was before or after the suit was brought?

Ans. Before. I could not say whether it was before the suit was brought; it was before the order was served on me to stay waste, and they had a lot of men there to take these logs and throw them on. I had nobody with me but a boy sixteen or seventeen years old. So I jumps up on the logs, there was about twelve or fourteen, and I cut one after the other in two until I defaced the whole pile there. So they went out that day without any logs.

30

Ques. They were used for ship timber?

Ans. No; more for smaller stuff.

Ques. After that, has there ever been any cutting on the Bear Head tract by anybody but yourself?

Ans. No, sir.

Ques. When the trespass suit was brought, did you ever have a survey made of the Bear Head tract?

Ans. Yes, sir.

Ques. Who did you have to survey?

Ans. John Clement and Frank Earle.

Ques. Are they living?

10

Ans. Neither one.

Ques. Did they make a map for you?

Ans. Yes, sir.

Ques. Is this map they gave you as the result of their survey?

Ans. Yes, sir.

(Map referred to marked Exhibit D6 for identification.)

Ques. (Witness being shown map marked Exhibit D6 for identification, is asked): Is that the map they gave you? 20

Ans. Yes, sir.

Ques. How is this Bear Head tract designated on that map?

Ans. Here is where it starts.

Ques. How is it designated?

Ans. Edmund Iliff, survey of 700 acres.

Ques. That is the piece that is the Bear Head tract?

Ans. Yes, sir. 30

Ques. Did you assist in the making of that survey?

Ans. Yes, sir.

Ques. Did you run the south and west lines?

Ans. Yes, sir.

Ques. After that survey was made, what did you do with this south and west line?

Ans. I kept them open; here at the southwest corner was a pine.

Ques. What was there at the northwest corner?

Ans. Here was a branch.

Ques. Of South river?

Ans. Yes, sir.

Ques. Was there anything to mark where it came to the branch?

Ans. Yes, sir.

10 Ques. What was it?

Ans. There was a gum and there was a stone.

Ques. Is there a stone there now?

Ans. Yes, sir.

Ques. What was there to mark the corner on South River, the southeast corner?

Ans. There was a scion from the old white oak.

Ques. What do you mean by a scion?

Ans. Supposed to be six or eight feet high; it has been burned down, killed by fire, and it came up again.

20 Ques. What did you do besides keeping this line open to mark the lines?

Ans. Perhaps some weeks I was there two or three times a week.

Ques. Did you put any stakes in this line?

Ans. Yes, sir.

Ques. How many did you put in there?

Ans. I could not say; I think I put them all along, maybe sometimes I would be a chain and a half or two chains apart.

30 Ques. All along the south and west line?

Ans. Yes, sir.

Ques. What character of stakes were they that you put up in those two lines?

Ans. Sometimes an oak stake and sometimes a pine stake, what the surveyors use.

Ques. Were they little bits of stakes down to the ground or how tall?

Ans. About this high.

Ques. About four feet out of the ground?

Ans. Yes, sir.

Ques. What was done with the top of the stakes?

Ans. Blazed them.

Ques. Which side?

Ans. Blazed them, if you ran this way, blazed them this side.

Ques. On the side next to the tract, or next to the line?

Ans. Say, for instance, if you put a stake here, blazed it on that side. 10

Ques. On the outside?

Ans. No; the side next to the line.

Ques. You set up those stakes on the south and west line?

Ans. Yes, sir.

Ques. And from a chain to two chains apart?

Ans. Something like that; yes.

Ques. Did you ever let those stakes go down since 1870?

Ans. The fires have come there and they would get dry and burn off, and I put them up again, sometimes rode down and put them up again, and I always put them up by the other stakes that were in there. 20

Ques. You mean you put up the successors by the previous ones there?

Ans. Yes, sir.

Ques. Did you ever let them get down from the time when they were first put up until now?

Ans. Oh, no.

Ques. You mean they are there yet?

Ans. Yes, sir; and then, of course, when this fire went through they killed everything, seems everything was killed, like young timber or brush, and then I would have to open the line. 30

Ques. These stakes on the north and west lines are standing there to-day about four feet high and about a chain to two chains apart?

Ans. Yes, sir.

Ques. And have been standing there continuously since 1870?

Ans. Yes, sir.

Ques. Marking clearly the west and south lines of Bear Head tract?

Ans. Yes, sir; they would get down at times, and they would be down some little time, and I would put them up again.

10 Ques. How long would they be down?

Ans. I could not tell you how long.

Ques. What would be down, the stakes?

Ans. No; along here.

Ques. Along the west line?

Ans. Yes, sir; there are pines standing there to-day.

Ques. In other words, the old blazed trees along the west line, that were the original line of the Iliff survey, are there to-day?

Ans. Yes, sir; some are there, and were there the day your grandfather had me there when I was a boy.

20 Ques. Can you recall one tree that was there when you were nine years old?

Ans. There is one there.

Ques. One south of the Tarkill branch?

Ans. In the west line just north of the Tarkill branch; that is one of the old pine trees that marks the west line of the survey.

By the Vice Chancellor:

30 Ques. I see on the map, Exhibit D6, a place or road which runs through the west line, but is not extending either far outside or inside?

Ans. That is the Doughty Tavern road running from Mays Landing to Doughty Tavern.

Ques. Its full line is not shown on the map?

Ans. No; they haven't carried it on there.

Ques. But it runs all the way through?

Ans. Yes, sir; clear through from Doughty Tavern to Millville.

Further direct.

Ques. The part colored yellow and designated West Jersey Society survey is the part that has been referred to as the Weymouth land, between Cumberland and the Bear Head tract, is it?

Ans. Yes, sir.

10

Ques. And that further west of that yellow is known as the Cumberland Furnace tract?

Ans. Yes, sir; piece designated west of the New Jersey Society survey is the piece that Edmund Smith was cutting on when I was nine years old, just cut over a little on the Bear Head survey.

Ques. How frequently have you been on the Bear Head tract looking after it since you purchased it?

Ans. Sometimes I would be up there twice, sometimes three times a week, and I have been up there, when they were trying to cut on it, every day in the week, and I don't know—since I have owned it.

20

Ques. Except the cutting that resulted in the trespass suit, have you ever permitted anybody to cut any timber or do anything on that tract?

Ans. No, sir.

Ques. Have you had any experience with warning people off the tract or keeping them off?

Ans. Since then?

Ques. Yes.

30

Ans. No, sir.

Ques. Didn't you have some trouble with a man coming there to build a house?

Ans. Yes; there was a man came there to build a house, and I drove him off; at least he came there and put up a house, and I went there and found he was building a

house; and I told him to stop, and he stopped; and then I went up in a few days again and asked him when the man was coming there to move in it; and I went up there in a day or two and the man was there again; I asked him what he was doing there, and he said the man had come, and he wanted the door put up. And I asked him where he was, and he said he was at Mill May, and he said "I think he will be here pretty soon." I started on and met the wagon coming with a few goods on, and I hailed the man and he said he was the man that was going to move there; and I met this man and asked him if he was the man that was going to move there, and he said yes; and I said, "That belongs to me, you can't go in"; and he said, "I am from way West, what am I going to do; I have no place to go, and am a stranger here, and I don't want to settle down in the woods." So by talking to him a while afterwards I consented that he might go in until he fixed a place for himself somewhere else. Then when I went up the next day or two, I made arrangements with him to sell him five acres, and he agreed to take it.

10

20

Ques. Where his house was?

Ans. Yes, sir.

Ques. Did he ever pay you for the five acres?

Ans. No.

Ques. What was the result of that?

Ans. When I went to see him a few days before, he tore the house down. I went to see him again about the payment of the five acres, and he said he was poor and had no money. Then I said you will have to get out. So when I went up again the house was gone; it was

30

nothing but a shanty.

Ques. But he left a small shed or stable made of slabs?

Ans. No; split logs. I let him cut the stuff, split the logs and put it up.

Ques. And that is there now?

Ans. Yes, sir.

Ques. He left is there?

Ans. Yes, sir.

Ques. When was this?

Ans. That must have been, I don't know, about four years ago, I should judge.

Ques. Can you see this stable from this Doughty Tavern road, this stable of split logs?

Ans. Yes, sir.

Ques. It is right on the open?

Ans. Yes, sir.

Ques. There is a space of four or five acres cleared out? 10

Ans. No; there is about a couple of acres. You saw, of course, the space cleared out, but he was not cleared way back. I had cut timber out of the back part. He just cut near the road.

Ques. This is in full view of the Doughty Tavern road?

Ans. Yes, sir.

Ques. And is a sort of tumble down stable of split logs?

Ans. Yes, sir.

Ques. And it has been there for four or five years? 20

Ans. Yes, sir.

Ques. It was put there by your permission?

Ans. Yes, sir.

Ques. And is there?

Ans. Yes, sir. I mean by split logs about four or five inches.

Ques. How high is that building?

Ans. Six or seven feet, so that you can get the horse under it.

Ques. About ten feet square; something like that?

Ans. Yes, sir; about that. 30

Ques. There is a part of a fence timber cut out, too?

Ans. Where he cut little holes and cut around it.

Ques. I think you said you had been there two or three times a week since you purchased it and kept everybody off of it?

Ans. Yes, sir.

Ques. To what extent have you used the land?

Ans. I cut most every winter; I have cut fire wood there and allowed other people to cut fire wood and sold this stuff.

Ques. What was that frame, for the Ocean City Excursion House?

Ans. Yes, sir.

Ques. How much stuff did it take for that frame?

Ans. I could not say about that, I forget; several thousand and feet.

Ques. Were you some little time in cutting it?

Ans. Yes, sir.

Ques. Ever interfered with?

Ans. No, sir.

Ques. There was a frame for the Smallwood house?

Ans. Sold Mr. Smallwood the frame, and I superintended the cutting of it.

Ques. You had that cut?

Ans. Yes, sir.

20 Ques. You were there at that time?

Ans. Yes, sir; took the bill and went through and picked out the tres.

Ques. Did anybody interfere with you in doing that?

Ans. No, sir.

Ques. Did you ever take any stones off that land, the Bear Head tract?

Ans. Yes, sir.

Ques. Whereabouts?

Ans. Just below there, a short distance.

Ques. Below where?

30 Ans. Below South river bridge.

Ques. West of South river bridge?

Ans. Yes, sir.

Ques. North or south of the Doughty road?

Ans. South; between that and Tarkill branch.

Ques. How much stone did you dig there?

Ans. I forget how much; two teams were carting there for some two or three weeks; I told them what they wanted.

Ques. Did anybody interfere with you about that stone?

Ans. No.

Ques. Have you ever, except the one year that resulted in this trespass suit that has been spoken of, has there ever been any interference with you as to the cutting of timber on this land?

Ans. Not at all.

10

By the Vice Chancellor:

Ques. You spoke of the trespass suit brought in the Supreme Court against you; was that ever tried?

Ans. No, sir.

Ques. Was it settled?

Ans. No, sir; Browning brought suit against me.

Ques. He was the lawyer for the plaintiff?

Ans. Yes, sir.

20

Ques. The suit was brought, however, by Caldwell?

Ans. Yes, sir.

Ques. Wasn't that ever tried?

Ans. No, sir; he gave notice once for a trial to Peter Voorhees, who was my lawyer, and we got ready, and then he countermanded the notice, and then he never gave any notice after that. Peter tried to get him to try it.

Further direct.

30

Ques. With respect to the taxes on the Bear Head; where were they assessed when you paid them in 1867?

Ans. It was assessed in Weymouth township.

Ques. Why?

Ans. Mr. Estelle was having it assessed in Weymouth township.

Ques. Was the bulk of Mr. Estelle's land in Weymouth township?

Ans. Yes; pretty much all.

Ques. Did you pay any taxes on this tract in Weymouth township?

Ans. Once.

Ques. Then after that what happened?

Ans. Then after that I discovered it was in Hamilton township, and I gave it in to the Assessor of Hamilton township.

10

Ques. Do you own any land in Hamilton township except Bear Head tract?

Ans. I own an interest in a small house—Mr. Thompson and Mr. Baker and myself; and Thompson wanted to live in that house and the property was assessed to him and he paid the taxes and took it out of the rent.

Ques. Have you been able to find the tax receipts for Hamilton township?

Ans. No; I am very careless about tax receipts; in fact sometimes I didn't get any.

20

Ques. I show you tax receipt of Hamilton township for 1892, \$20.12, William F. Norcross. Was any other property in Hamilton township assessed to you except this Bear Head tract?

Ans. No, sir.

Ques. Who was the house and lot in Mays Landing assessed to?

Ans. That was assessed at that time—then I moved to Weymouth township, and after Thompson died it was assessed to James Baker.

30

Ques. And this tax bill of 1892 in Hamilton township, here shown you, don't apply to any other tract than the Bear Head tract?

Ans. No.

Ques. I show you another tax bill that was dated at the bottom, 1894, number of acres seven, and ask to what tract that tax bill applies?

Ans. The Bear Head tract.

Ques. It says seven acres?

Ans. I don't know why they made that mistake.

Ques. Do you own any land in Hamilton township of 700 acres that is worth \$1250?

Ans. No, sir; don't own any tract worth that there except the Bear Head tract.

Ques. This bill of 1894, did you pay that?

Ans. Yes, sir.

Ques. Did you get a receipt?

10

Ans. Yes, sir.

Ques. Did you get another receipt besides this?

Ans. No, sir.

Ques. Did you apply to the collector to give you a receipt?

Ans. He gave me that when I paid my taxes.

Ques. This is marked up here duplicate; didn't he give you this lately?

Ans. No, sir; when I paid my taxes.

Ques. Have you paid taxes on this Bear Head tract since you have owned it, in Hamilton township?

20

Ans. Yes, sir; I have paid taxes on the Bear Head tract.

Counsel for defendant offered in evidence the three tax bills, 1892, 1894, 1901, which were pinned together.

Mr. Cole: We will object to tax bills of 1891 as well as the tax bill of 1894. There seems to be nothing on those bills to identify them.

30

The Vice Chancellor: He undertakes to supplement them by proof. He says he paid them.

Mr. Cole: The bill was filed April 20; it was before the bringing of the suit.

Mr. French: I will take them out.

Ques. Did you pay the tax of 1900?

Ans. Yes, sir.

Ques. Who did you pay it to?

Ans. The collector.

Ques. Who is he?

Ans. 1900?

Ques. Yes.

Ans. I don't know; I don't know whether Sutton was or not.

10 Ques. What land did you own in Weymouth township in 1871?

Ans. I didn't own any land in Weymouth township. I paid taxes on the Bear Head tract in Weymouth in 1871.

Ques. Did you get a receipt?

Ans. Yes, sir.

Ques. Is that the receipt you got from Weymouth township in 1871?

Ans. Yes, sir.

By the Vice Chancellor:

20

Ques. Why did you have to pay taxes on Bear Head, which, in fact, was located in Hamilton township; why did you pay it in Weymouth?

Ans. I don't know why they assessed it there; in the first place, the Estelles, and afterwards I made the change; the Estelles lived in Weymouth township.

Ques. That was then, in your judgment, assessed because the township line didn't seem to be well defined?

Ans. I suppose so.

30

Mr. French: I renew the offer of the tax bills of '92, of '94, Hamilton township, and the '71 in Weymouth township.

Mr. Cole: I object to them, unless they go no further than showing receipted bills for the years mentioned for assessment against Norcross. In other words, I don't

want to be charged with admitting that the bills themselves admit that, that the assessment here is against the property in question. Of course, that is a matter of proof.

The Vice Chancellor: The bill is used by the witness to swear, as verbal testimony, that he had no other property there to pay tax on.

Ques. What has become of the tax receipts for the other years? 10

Ans. I don't know; I suppose I carried them around till they wore out or something.

Ques. Did you have tax receipts for the other years for taxes paid on the Bear's Head?

Ans. Yes, sir.

Ques. From what township?

Ans. From Hamilton township; only had one from Weymouth township.

The Vice Chancellor: I think the tax bills, when supplemented by proof by the witness by parole, should be admitted. They are not at all conclusive, even if they are produced, but I think they are admissible in evidence. 20

(Marked Exhibit D7.)

Further direct.

Ques. You say there was a suit in trespass brought against you by Stephen Caldwell in the Supreme Court? 30

Ans. Yes, sir.

Ques. And that you obtained an order to stay waste in that suit?

Ans. Yes, sir.

Ques. Who served that order on Stephen Caldwell?

Ans. I did.

Ques. Where did you serve it on him?

Ans. In Philadelphia, in Locust street.

Ques. Did you have any conversation with him at the time you did serve that on him?

Ans. I did.

Ques. What did he say and what did you say with respect to the Bear Head tract?

10 Ans. Stephen Caldwell seemed to be surprised when I served that order on him; wanted to know what it was for, and I told him there was a suit brought against him for trespass. He said, "How can that be; I never ordered a suit against you?" I said, "I suppose your son Richard brought it, and Browning together." He said, "I will see to that, and see about it; see what right they had to bring a suit, for I never ordered any suit brought." That is when I seen him in Philadelphia.

Ques. At that time did he say anything about the ownership of the Bear Head tract?

Ans. I don't think he said anything about that.

20 Ques. Said nothing about who owned the Bear Head tract?

Ans. No; I don't think he did—I don't think the question came up, whereabouts the cutting was done. Oh, yes; I think I told him over South river it was done.

Ques. What did he say about it?

Ans. I think that is about the sum and substance about it, that he would see to it, that he didn't never order any suit brought.

Cross-examination.

30

By Mr. Cole:

Ques. Stephen R. Caldwell is dead?

Ans. Dead; yes, sir.

Ques. You say there was an order served on you restraining you from cutting?

Ans. Yes, sir.

Ques. What became of that order?

Ans. I had a copy of it home.

Ques. What was done with it?

Ans. That order was rescinded.

Ques. And this cutting you did was after the order was rescinded?

Ans. No, sir; before this cutting was done, before they brought suit to stay waste.

Ques. Haven't you been cutting since the order was rescinded? **10**

Ans. Yes; I done cutting since the order was rescinded; after I drove them off I done this cutting, and when they got an order to stay waste, of course, I stopped.

Ques. Did you ever see this Edmund Iliff survey?

Ans. No; I never had a copy of the survey.

Ques. Did you ever see the return?

Ans. No; I don't know that I ever did.

Ques. Did you ever hunt for it?

Ans. No; I never hunted for it.

Ques. How long had you known Joseph West before you took title to this land? **20**

Ans. Ever since I—he knew me before I knew him—before I was old enough to know him; ever since I knew anybody.

Ques. This Joseph West was a resident of Atlantic county?

Ans. Yes, sir.

Ques. Had you ever heard that the deed that he made through which you claimed title to this Bear Head tract was a forged deed? **30**

Ans. No, sir; you neither.

Ques. I didn't ask you what I heard; I asked you what you heard.

Ans. No, sir.

Ques. Now, you say you employed whom to make this map, D6?

Ans. John Clements and Frank Earle.

Ques. From whom did you get it?

Ans. John Clements.

Ques. Did you see any of this work done on the map?

Ans. I didn't see any work done on the map.

The Vice Chancellor: Mr. French does not expect to establish title by the map.

10 Mr. French: No; it is only for illustration.

Ques. When did you first go on this land, or have any one go on it for you, after you took title?

Ans. I went right on myself, right away after I took title.

Ques. How long was it after that when Mr. Caldwell's cutters were there?

Ans. They were then there cutting, when I bought it; had been cutting a short time, not long.

20 Ques. And they came back from day to day, how long?

Ans. After I went there to stop them?

Ques. Yes.

Ans. They didn't come back from day to day; I went there to stop them from loading logs, and then I think it was a day or two before they came again.

Adjourned until February 5, 1902, at 10 o'clock A. M.

Adjourned until March 26, 1902, at 10 o'clock A. M.

30 (Last Exhibit C15, page 23; D7, page 82.)

CAMDEN, N. J., March 26, 1902.

The hearing in the above cause was continued pursuant to various adjournments. Appearances as heretofore noted.

WILLIAM S. NORCROSS.

Cross-examination continued.

10

By Mr. Cole:

Ques. Why is it you did not record your title deeds to this land?

Ans. No cause at all; I have other deeds, several of them, that are not recorded.

Ques. Then it is your custom not to record your deeds?

Ans. It is.

Ques. Have you any purpose in that?

20

Ans. No, sir; the deed was just as good to me not being recorded as it was recorded.

Ques. Did you ever see the original deed dated April 9, 1743, from Edmund Iliff to Thomas Denny through which you claim?

Ans. Yes, sir.

Ques. Have you it with you?

Ans. No, sir; I brought it from Somers Point; it is in possession of Mrs. Keen, and her cousin Jesse Somers procured for Daniel E. Estelle, and I was staying at that time, and Mrs. Jesse Somers sent the papers to Mays Landing to Mr. Potts to have them recorded.

30

Ques. How long ago is it since you had them recorded?

Ans. That was in '47, I think.

Ques. Haven't seen it since?

Ans. No; I don't know whether he returned it to Estelle or returned it to Somers.

Ques. I understand you have paid taxes on this 700 acre tract in question for years, continuously, since you owned it?

Ans. Yes, sir.

Ques. And have always had a tax bill for it?

10 Ans. I had a tax bill, and paid the taxes, but it appears some of the assessors got it in different shape; at that time I had no other land in Hamilton township to be assessed. I had a small interest in a small piece of property with William Thompson, Joseph Thompson's father, and Baker, and myself; he got us to buy in with him, and he moved in the property; it was a small property situated back of the main street.

Ques. I don't care anything about the details; the fact is you have paid continuously from the time you owned it, paid taxes in either Hamilton or Weymouth township?

Ans. What I was going to say is, when Thompson moved there he paid the taxes and took it out of the rent, and when he died Baker paid the tax.

20 Ques. But you got the tax bill, didn't you?

Ans. No; not at that time.

Ques. I ask you about the tax on this 700 acre tract; didn't you get the tax bill against that?

Ans. I got the tax bill, that was for the 700 acres, but it was in different shape somehow or other, through the assessor; I don't know how it was.

Ques. Do you mean it was in different shape and it was not assessed in your name?

Ans. It was not assessed as 700 acres.

30 Ques. And was not assessed in your name?

Ans. But I paid the taxes on it all the same.

Ques. Was it assessed in your name?

Ans. It was assessed in the shape it was; in my name.

Ques. So that during the time you owned it until the time of the filing of this bill, you say that this tract of land in some way or other has been assessed in your name, and you paid the taxes on it?

Ans. Yes; because I had no other taxes in Hamilton township; as I said before, Thompson paid the taxes at the time he was living.

By the Vice Chancellor:

Ques. On this land?

Ans. No; on the other property we owned between us; a small property in Hamilton township.

Ques. You had no other property on which you paid taxes except this 700 acres? 10

Ans. No.

Further cross.

Ques. When did you first begin to pay taxes on the land involved here in this case to the authorities of Hamilton township, as distinguished from the authorities of Weymouth township?

Ans. I think I paid taxes two or three years in Weymouth township. 20

Ques. Do you mean to say only two or three?

Ans. Two or three years only in Weymouth township.

Ques. When; just after you bought?

Ans. Yes, sir.

Ques. And after that time you paid continuously to the authorities in Hamilton township?

Ans. Yes.

Ques. Now, you produce a tax bill here; your counsel produces what has been a duplicate tax bill against you from Hamilton township for the year 1901, the amount of which is \$24.75; I ask you is that the total tax that you paid in Hamilton township for the year 1901? 30

Ans. Yes, sir.

Ques. And that includes within the 700 acres all the timber land in question?

Ans. Yes, sir; it was assessed about—I paid \$1,000 for it, and I think I was assessed some \$500 or \$600, and Mrs. McGrath is assessed about—she paid some \$70,000 for hers—about \$35,000.

Ques. Are you able to explain, and if you are able please do it, that you produce the tax bills from Hamilton township for 1891, 1892 and 1894, and for no other years?

10 Ans. I don't know what became of my other tax bills.

Ques. Then do you mean to say that they have been lost?

Ans. They must have been lost.

Ques. Where did you find the bills that have been produced?

Ans. I found them in some old things that I had; I suppose I stuck them away sometime, and they have been there from that time until I hunted them up.

20 Ques. What other properties do you own in Hamilton township, other than this in question, that you claim to own?

Ans. Only the Thompson property.

Ques. What property is that?

Ans. Where Joe Thompson's father lives; that is William Thompson; since then I bought a small piece at a tax sale.

Ques. How long have you owned the Thompson property as you call it?

Ans. I think we bought that in fifty something; I don't know what it was.

30 Ques. Was the tax against the property included in the bill for the timber land in question?

Ans. The tax on the Thompson property?

Ques. Yes.

Ans. No; as I told you before, Thompson paid that.

Ques. Did you have a separate bill for it?

Ans. No, sir; Thompson simply paid it and took it out of the rent.

Ques. You didn't get a bill?

Ans. No.

Ques. Never got a bill?

Ans. No.

Ques. Where did the bill go, if you know?

Ans. There never was any presented to me; it was presented to Thompson, the tax bill.

Ques. How long did that continue?

Ans. Continued all his life time, and the same way when I was in Weymouth township, then it was assessed to Baker or he paid the taxes and took it out of the rent. **10**

Ques. When did Baker cease to do that?

Ans. A few years ago.

Ques. How long ago?

Ans. I could not tell you; it has been seven or eight or nine years ago.

Ques. How has the tax been paid since then?

Ans. They missed the assessment of it.

Ques. Then you mean to say the authorities of Hamilton have not assessed the dwelling opposite the court house for the last seven years? **20**

Ans. It ain't there.

Ques. Where is it?

Ans. It is way up the other way, back of the road.

Ques. Then you paid no tax on this property, known as the Thompson property, for the last seven or eight years?

Ans. No, sir.

Ques. And so far as you know it has not been assessed?

Ans. No; I don't think they assessed it, as far as I know.

Ques. But you owned it all the time? **30**

Ans. Yes, sir.

By the Vice Chancellor:

Ques. Are you still owner?

Ans. Since Baker—after Baker's death I bought his interest.

Ques. And you have been since sole owner?

Ans. Yes, sir; it was sold some time after his death, and I bought his interest.

Ques. When did you acquire that?

Ans. I don't know; that was a year or two after his death.

Ques. Don't tell us after something else, but when was it?

Ans. It must have been seven years ago.

10 Ques. Since that time, you have been the owner in severalty of the land formerly owned by Thompson and Baker and you?

Ans. Yes; I think it is as much as seven years ago.

Further cross.

Ques. Have you had a tenant in the house ever since?

Ans. Yes, sir.

Ques. You have been collecting rent?

Ans. Yes, sir.

20 Ques. And the tenant has not been paying these taxes?

Ans. No; they missed us somehow or other; that is because—the assessor in that township though—

Ques. Then you assert, do you, that the tax bills you have introduced here in evidence do not cover the Thompson cottage property?

Ans. No.

Ques. When they assessed the Thompson property and you paid taxes on that, do you know what the amount of the assessment was?

30 Ans. I told you.

Ques. I ask you if you know, when there was an assessment on the Thompson property; do you know what the amount was?

Ans. I think the valuation was, as Baker put it, four or five hundred dollars.

Ques. Not what Baker put it; what was the assessed value of it when you paid the taxes?

Ans. As I told you before, let me tell you again; Thompson, all the while he was living, and Baker paid it, and since I bought the property it has not been assessed.

Ques. That is clear enough; now, I ask you do you know at what this property was assessed at any time?

Ans. The valuation put on it?

Ques. Yes; by the assessors, not by Baker.

Ans. They put it about \$400 or \$450, something like that.

Ques. I show you Exhibit D7, being assessment for the year 1894, and ask you if the assessment on that bill is against the same property as Exhibit D7 for the year 1892, also here shown you? **10**

Ans. I suppose it is.

Ques. Look at the documents before you suppose anything.

Ans. I should say it was.

Ques. You say it is an assessment on the same property?

Ans. Yes, sir. **20**

Mr. Cole: At this time I want to offer the bill for the assessment for the year 1901, about which the witness has testified.

(Marked Exhibit C16.)

Ques. I ask you whether the bill for the assessment of 1901, here shown you, which is marked Exhibit C16, is against the same property or properties as mentioned in Exhibit D7, taxes for the years 1892 and 1894, now before you? **30**

Ans. It was intended for the same property.

Ques. In other words, your ownership, in 1901, of lands in Hamilton township, was the same as in the years 1892 and 1894, is that so?

Ans. In 1901, Baker was then living, and this was the assessment on the Bear Head tract,

(Last question repeated.)

Ans. Not exactly so, because I bought these other two pieces after that; I bought the Baker interest and the tax piece after that.

Ques. After what?

Ans. 1901.

By the Vice Chancellor:

10

Ques. That is not the question; the question is whether or not the properties that you owned in 1901 were the same as those you had owned in 1892 and 1894?

Ans. I had bought these in 1901 and I had owned the others in 1892 and '94.

Ques. I don't ask about the condition of things in 1901; just dismiss that from your mind, whether in 1901 and antecedent to it, 1892 and 1894, were these the same properties?

20

Ans. They were, except what I bought since.

Further cross.

Ques. That is, since 1901?

Ans. I don't know as I thoroughly understand you.

Ques. You say the property you bought since; do you mean since 1901?

Ans. Yes, sir.

30

Ques. Did you ever make any investigation to ascertain if there was such a thing as the Edmund Iliff survey of 700 acres?

Ans. Did I; yes, sir.

Ques. When did you make that investigation?

Ans. Several years ago.

Ques. How many years ago?

Ans. I think it must have been thirty years ago.

Ques. How came you to make the investigation?

Ans. That is after I bought it.

Ques. How came you to make it?

Ques. What investigation did you make?

Mr. French: Objected to as immaterial, as to what investigation he made. He is asked whether he made such an investigation. Possibly the fact might be whether there was or was not such a survey, but whether he made an investigation or not is not material.

10

Mr. Cole: I will not press the question.

Ques. Now, you spoke of finding a house built on this tract; when was that house built?

Ans. I think it has been about three years ago; I am not certain.

Ques. How large a house?

Ans. Just a small shanty.

Ques. How large?

Ans. I suppose it was—I didn't measure it—I suppose it was twelve or fourteen feet square; something like that.

20

Ques. How many rooms in it?

Ans. One.

Ques. What was its condition when you saw it?

Ans. When I first saw it, it had the weather boards on, and that was all, the frame up and the weather boards on.

Ques. No roof?

Ans. No roof.

Ques. Who built it?

30

Ans. I don't know the carpenter's name, there was a man; he came down from Mays Landing, this carpenter did, and said there was a man up there, he put it up, and put it up, a small thing, he put it up in about two days. I had been up just a few days before that, and I think he told me he had been to work two days, and he

said they are putting it up on your land. I said, who is the man putting it up? he said he would be there, he told me the day; I went up and met the man this side of Mill May, below, towards Mays Landing from Mill May, on the road.

Ques. You told us all about that.

10 Ans. And I said to him, you are putting a house up on me there, and I said I am going to take it down, or I want you to take it down. He said I come from way out west, and I don't know what to do, I have my family here; I met a wagon with a small lot of goods on, sort of goods. Well, said I, you have got to get out of there. He said, I have got my family here, and I don't know what to do, and I don't know where to go. He said, can't I make some kind of an arrangement with you to go in? I said yes, if you are in here and have no place to go, I said, you can make some kind of arrangement.

20 Ques. You told all about that; let me ask you, did you ask him by what right he went in there?

Ans. He told me by what right; he said he got it from a man named Risley, and he got it from a man named McGrath.

Ques. Complainant in this suit, McGrath?

Ans. Yes, sir; and I said McGrath has no right to this land here, and you have got to get out, but I finally consented that he should go in there.

Ques. You have answered my question.

30 Ans. Let me go a little further, and he did go in and agree to buy a piece of me, five acres, and I told him not to pay anything to these parties any more, and he said he would not, and this man Risley came down and tried to force him to pay something, and he would not, and did not, but finally he left, left the property and tore the house down and took it away; I told him to tear it down, but he didn't take away what I gave him authority to, and the timber for building the stable.

Ques. You know where Mrs. McGrath, the complainant in this case, lives?

Ans. Do I know?

Ques. Yes.

Ans. No, sir.

Ques. Does she live at Mays Landing?

Ans. No, sir.

Ques. Has she ever lived there?

Ans. Not to my knowledge.

Ques. Does she live anywhere near Mays Landing? **10**

Ans. I don't know where she lives; she comes to Mays Landing very frequently, used to come there and stop with my son.

Ques. You don't know where she lives?

Ans. No; I don't know where she lives any more than I heard it said—

Ques. She has not lived at Mays Landing?

Ans. No.

Ques. That is all.

20

Re-direct.

Ques. In the matter of ownership of lands in Hamilton township, about which you have been testifying, as I understand this 700 acre survey, the piece of land that you claim you own in Hamilton Township, after you acquire the title to it—

Ans. Yes.

Ques. What other property did you own in Hamilton township?

Ans. I only own that piece with Baker and Thompson. **30**

Ques. Was the title in your name?

Ans. One third of it.

Ques. To whom was it assessed?

Ans. It was assessed to Thompson, or Thompson had it assessed to him and he paid the taxes.

Ques. And he was one of the owners?

Ans. Yes, sir.

Ques. And after it was assessed to him, and he paid the taxes, and he lost his interest, who was it assessed to after that?

Ans. I lived then out of the township, and it was assessed to Baker, and he paid the taxes.

Ques. So far as you know it was never assessed to you in the township?

10 Ans. No.

Ques. When did you acquire Baker's interest?

Ans. I won't be certain, may be about seven years ago, perhaps eight; I could not say exactly, since his death.

Ques. But it was all before 1901?

Ans. No; Baker died since then.

Ques. If you acquired Baker's interest seven or eight years ago, and 1901 was last year, it must have been.

Ans. 1901, Oh! certainly it must have been.

20 Ques. When did you get this tax title that you spoke of when you bought?

Ans. I think that has been three or four years ago; I don't know which.

Ques. It was before 1901?

Ans. Yes; that is three or four years ago.

Ques. Has that ever been assessed to you that you know of?

Ans. Yes.

Ques. The tax title?

Ans. Yes.

30 Ques. In Hamilton township?

Ans. Yes.

Ques. Then those three properties are all the properties you own in Hamilton township?

Ans. Yes; where I live belongs to my wife.

Mr. French: I want to examine this witness as to some other things, boundary lines, &c., that I omitted in examination-in-chief.

Mr. Cole: I have no objection.

Ques. Where is Babcock's creek?

Ans. That is on the east side of Egg Harbor river.

Ques. All east of Egg Harbor river?

Ans. Yes, sir.

Ques. Where is South river?

Ans. That is on the west side.

Ques. Of Egg Harbor river?

Ans. Yes, sir.

10

Ques. And all west of Egg Harbor river?

Ans. Yes, sir.

Mr. French: I offer the copies of the surveys here that I was unable to produce at the last hearing, and offered the deputy's return; I offer now the survey of 33,078 acres recorded in Book E, page 30, to the West Jersey Society, inspected and approved August 4, 1748, certified by the surveyor general to be a true copy, under seal.

(Marked Exhibit D8.)

20

Also a survey to the West Jersey Society for 36,244 acres, approved August 9th, 1750, recorded in Book E, page 203, certified by the surveyor general to be a true copy, under his seal.

(Marked Exhibit D9.)

Also a certified copy of a survey to the West Jersey Society for 78,060 acres, inspected and approved August 7, 1783, recorded in Book T, page 45, certified by the surveyor general, under his seal, to be a true copy.

30

(Marked Exhibit D10.)

Ques. Are you familiar with the lines and corners of the survey known as the 33,078 acre survey, and the survey known as the 36,244 acre survey?

Ans. I was shown the southwest corner of the 33,078 acre tract many years ago by Lewis M. Walker and Judge Baker; took them up in the woods; they were to meet some parties; they were both surveyors, and went there to do some work, and show some parties the corner; I think some parties from a place called Weymouth Furnace.

Ques. That was the southwest corner of the 33,078 acre survey?

10 Ans. Yes, sir.

Ques. The call for that corner in the survey is 340 chains to a pine tree marked with 12 notches and the letter S, standing on the west side of the said Egg Harbor river?

Ans. Yes; well, it was standing east of South river a short distance.

Ques. Is that pine still standing there?

20 Ans. No; when I seen it with Walker and Baker, it was still standing, probably the top was broken off, maybe twenty-five, thirty feet high of it stood there many years, but the fire got in and burned it.

Mr. Cole: I do not want to be bound by this testimony, but it seems to me that he is testifying to stuff that is very largely hearsay; somebody showed him a corner that he said had a certain mark, and then he said he found a pine.

Mr. French: No; he testified he knew it because he was shown it by Daniel Baker and Louis M. Walker.

30

Ques. They were both deputy surveyors?

Ans. I don't know about that, but they were both land surveyors in Atlantic county.

Mr. Cole: Then he goes on and tells where he found a tree which he said was on a certain course. He does not appear to be qualified to testify to that.

Ans. I say, I was there with them; I drove them there and they went to this corner and said it was the southwest corner of the 33,000 acre survey.

Ques. Of the West Jersey Society survey?

Ans. Yes, sir; the 33,000.

The Vice Chancellor: Do you insist upon your objection, Mr. Cole?

Mr. Cole: Yes, sir; I do not want to be bound; I do not want to continue objecting; we are not before a jury. 10

The Vice Chancellor: Testimony of this kind may be hearsay, but to be admissible it must be hearsay from persons who must be shown to have been qualified to have given the information detailed. A monumental corner may be proven to have been located by those persons who knew it. They may point it out to others and they may testify to its known and accepted location. There is, however, no evidence here to show that the gentlemen who took Mr. Norcross to the place and gave the information were themselves qualified to give that information; he might have taken anybody there. 20

Ques. You say they were surveyors?

Ans. Yes, sir.

Ques. Do you know whether they had ever surveyed any of those lands, or lands in that vicinity?

Ans. Yes.

Ques. Did you see them do it?

Ans. I didn't see them survey that tract. 30

Ques. How do you know they made a survey?

Ans. I have been in the woods with both.

Ques. You never saw them survey that tract?

Ans. Never saw them survey that tract or start from that corner; that is, the corner northwest from where they put the Society line now?

By the Vice Chancellor :

Ques. Do you mean the Society line between East and West Jersey?

Ans. No.

10 Mr. French: I will frankly state that the question I am raising here is the fact that this survey and re-survey, what we call the re-survey, is an including survey, and takes in more land than the original two surveys. Mr. Middleton said it was a re-survey, and I think I can demonstrate that while it is a re-survey it is, in fact, an including survey.

Further direct.

Ques. Had Mr. Baker and Mr. Walker surveyed lands in this immediate neighborhood?

Ans. Yes, sir; many and many a time.

Ques. Had you been with him?

20 Ans. Several times.

Ques. What land had you been with them when they surveyed?

Ans. When they surveyed there the tract of Risley, adjoining of what is called the Society, and the Sommer tract.

Ques. The Risley tract, is that the Risley survey that lays just south of the Society survey, and adjoins this very line?

30 Ans. Does not join on the 30,000; but on the re-survey.

Ques. On the 78,000?

Ans. Yes, sir.

Ques. Then it is where?

Ans. Further south.

Ques. Further east of this corner?

Ans. Yes—no, it would be further south of this corner; the Risley survey lay south.

Ques. Lay south of what is called the re-survey?

Ans. Yes, sir.

Ques. And also south of the 33,078 survey?

Ans. Yes.

Ques. How near does it come to the south line?

Ans. Of the 33,000?

Ques. Yes.

Ans. I judge about thirty-eight or forty chains.

Ques. So that it is right in that neighborhood?

Ans. Yes, sir.

Ques. Now, then, what about the Somers tract?

Ans. That lies to westward of the Risley tract and southward of the Society re-survey.

Ques. Does it join the Society tract?

Ans. It joins the Society re-survey.

Ques. Does it run over into it?

Ans. No; it does not lap over into it.

Ques. Any other surveys, when you were with them helping in the neighborhood of these Society surveys?

Ans. I was with them on the Somers survey, which lays southeast of that.

Ques. That is still another Somers survey?

Ans. Yes.

Ques. How far southeast of the Society survey?

Ans. Two miles, I should judge.

Ques. How long had you known them to be surveyors in this neighborhood, and do surveying?

Ans. Baker and Walker?

Ques. Yes.

Ans. They were old men when I first knew them; Walker was manager at Weymouth at one time, many years ago, the first manager after Samuel Richards and Joseph Ball purchased it.

Ques. Who was Baker?

Ans. He was a man living on the shore; he was surveyor for many years, and did a great deal of surveying about the county.

10

20

30

Ques. Was he the man that surveyed for the Somers and other tracts that are included in this West Jersey Society survey?

Ans. No; I don't know— yes; he might have run them afterwards.

Ques. Were you with him when he ran them?

Ans. I was with him one time up in the northeast branch of Babcock's creek.

Ques. Is that within the line of this survey?

10 Ans. Within the line of the re-survey; that was the Hliff tract of 243 acres.

Ques. Do you remember the circumstance that was testified to the other day about Mr. Moore being put in possession by Gilbert, or attempting to be put in possession?

Ans. Yes.

Ques. State what occurred between you and Mr. Moore and Mr. Gilbert.

Ans. This man Gilbert came there with Moore to give him possession of a piece of swamp.

20 Ques. Whereabouts?

Ans. It was within the bounds of the 700 acre tract.

Ques. What part of it?

Ans. On what is called Tarkill branch.

Ques. Near the west line?

Ans. Near the south line.

Ques. And near the west line?

Ans. Yes.

Ques. Do you remember when it was?

Ans. I think January or February.

30 Ques. Of what year?

Ans. January or February, a year ago; I think it was in February.

Ques. State what was said, and who said it.

Ans. Well, he came there—

Ques. Who do you mean by he?

Ans. Gilbert came there and offered to put this man in possession, and I told him that he should not go in

there, that the tract belonged to me, that if he attempted to go in I should drive him out, and this man, Moore—

Ques. That is a man who was undertaking to put him in possession?

Ans. Yes; Moore went in and said I will cut a tree down and you bring a suit against me for trespass. I said if you cut it down, I will cut it up. And he cut down a tree and I cut it up. When he came out on the cross way, this man Gilbert stood there—

Ques. You say you came on the crossway?

10

Ans. I was on the crossway by the swamp; I went into the swamp to cut this tree up, and when there was a crossway across the swamp and I came out after I cut it up on the crossway, and this man Gilbert stood there, and seemed to want to get into trouble; we got to talking.

By the Vice Chancellor:

Ques. What did he say and do?

Ans. We got to talking and he abused me there, and I had sat my axe down eight or ten feet from me against the stump, and we had a few words, and I never said anything at all about the axe, using the axe, but he said if he had a pistol there I would show you, and I said I don't believe you would injure anybody if you had your pistol, and he raved and tore there, saying that the property didn't belong to me, and I could not do it; I don't know exactly what he did say, but that is the way we came into operation; he said it didn't belong to me and I retorted by saying that he told what was not so, or told him that he lied.

30

Ques. You had a quarrel; is that the idea?

Ans. Yes, sir; we had a few words.

Further direct.

Ques. What was the result; did they go away?

Ans. Yes, sir.

Ques. Did they ever come back, either of them?

Ans. No; not back to that place.

Ques. Any other part of the 700?

Ans. No; he went up above.

Ques. On any part of this 700?

Ans. No; yes—no; he went up above on the upper line.

By the Vice Chancellor :

- 10 Ques. No; the question is, did he go on the 700 acres?
Ans. No.

Further direct.

Ques. You were speaking to me about a man named Hume; how do you spell his name?

Ans. Hume.

Ques. Who is he?

Ans. He was a man, he was agent for Mrs. Cox.

- 20 Ques. That is, Mrs. McGrath?

Ans. Yes, sir; and he, I think he came there in 1890.

Ques. As agent, how long was he agent for Mrs. McGrath, so far as you know?

Ans. I think four or five years; he boarded with my son most of the time, or part of the time.

Ques. Did he ever exercise any act of possession over this 700 acres for Mrs. McGrath?

Ans. Not at all.

Ques. And what were you doing with the 700 acres while he was boarding at your son's house?

- 30 Ans. I was cutting timber off of it and sold some for my son.

Ques. Did Mr. Hume know that you were cutting timber off of it?

Ans. Yes.

Ques. How?

Ans. He seen it; he knew I was; Hume seen it.

Ques. That is all.

Mr. Cole: All this testimony respecting Hume—of course I could not tell when the witness began what he was going to testify to—I object to, and, if necessary, ask that it be stricken out. There is an effort to bind Mrs. McGrath, the complainant, by the apparent non-activity of some one, who, he says, was agent for her, without saying what he ever did, or what his authority was.

Mr. French: If Mr. Hume was not the agent of Mrs. McGrath, it all amounts to nothing. 10

The Vice Chancellor: I will let the testimony stand upon that statement.

Re-cross.

By Mr. Cole:

Ques. How do you know Mr. Hume was Mrs. McGrath's agent? 20

Ans. He said so.

Ques. Who is "he"?

Ans. Mr. Hume.

Ques. Did you know it in any other way?

Ans. I know it by his acts, by his being on the property.

Ques. Any other way?

Ans. I can't say any other way; I know he was on the property, went up there most every day, looking at it and cutting cedars on Deep Run, on the branch of Indian branch. 30

Mr. Cole: I renew my objection.

The Vice Chancellor: Do you propose to connect the agency in any other way, Mr. French?

Mr. French: Yes.

The Vice Chancellor: I will let it stand then for the present.

Ques. Have there ever been any streets opened through this tract of land?

Ans. They undertook to cut some, but I drove them out.

Ques. When was that?

Ans. I guess this man commenced there some four years ago, I judge.

10 Ques. Cutting streets through?

Ans. Cutting lines.

Ques. And this man Risley was the man who took title of Mrs. McGrath?

Ans. I could not say whether he had title from anybody.

Ques. Did you talk with him while he was on the ground?

Ans. Didn't see him; I saw his brother; I forbade him going there.

Ques. Saw his brother on the ground?

Ans. Yes, sir.

20 Ques. Doing what?

Ans. Yes; I seen him on the road going home, when I hailed him.

Ques. You knew he had been there?

Ans. I asked him if he was cutting lines there, and he said he was, and I forbid him.

Ques. Did you ask him by what right?

Ans. No; I didn't ask him by what right.

Ques. Did you know by what right he was doing it?

Ans. Nothing more than what I heard said.

30 Ques. When you forbid him, what did he say?

Ans. Didn't say anything; didn't make any reply.

Ques. How long had he been running these lines, or cutting them at that time?

Ans. I don't think he had been there but a day or two.

Ques. But there never were any streets actually opened on the ground?

- Ans. No.
- Ques. Were there signs placed all around?
- Ans. I think there were some signs there.
- Ques. What was on those signs?
- Ans. I don't remember.
- Ques. Who put the signs up?
- Ans. I could not say that—
- Ques. You did not?
- Ans. No.
- Ques. Did you tear the signs down? **10**
- Ans. Yes.
- Ques. How many signs were up?
- Ans. I could not say how many were up.
- Ques. When was this little transaction you had with Mr. Gilbert?
- Ans. That was the time—
- Ques. How long ago, I mean?
- Ans. I think it was this last February, January or February a year ago; it was in the winter, right cold weather.
- Ques. Do I understand you to say that there was no avenue actually open on this ground, Seventeenth or Eighteenth avenue? **20**
- Ans. There was what was called seventeenth line; they had run a line there.
- Ques. What do you mean by running a line there?
- Ans. Running a line like you would through the land anywhere.
- Ques. Did they cut any trees off?
- Ans. Just opened so that they could get through, five or six feet; seven feet, something like that.
- Ques. Wide enough for a wagon? **30**
- Ans. In one place it was wide enough.
- Ques. To what extent in length had the trees been cut?
- Ans. From the westerly line of Seventeenth avenue, as they called it; cut down to the swamp, and there they stopped.

By the Vice Chancellor:

Ques. What length was that?

Ans. I could not say.

Ques. A hundred yards or two hundred yards; a quarter of a mile?

Ans. Yes; it was over two hundred yards; it might have been seven or eight chains; something like that.

10 Further cross.

Ques. During all this year there has been this constant claim of title by you and by Mrs. McGrath and others, and in a way you have indicated you were going to drive them off?

Ans. Whenever I would catch them I would drive them off; of course it was wild land and I was not there every day, and they would slip in some days and cut when I would not get there and would not know anything about it—acting like thieves in the night.

20 Ques. When did you first learn that the McGraths were conveying this land?

Ans. Conveying it to whom?

Mr. French: I object to that as immaterial; the question is one of possession.

The Vice Chancellor: Yes; but there have been so many appeals to the most hazy method of showing possession that I cannot tell where the line is to be drawn.

30

(Objection withdrawn.)

Ques. When did you first learn that Mrs. McGrath was making conveyance of part of this 700 acres?

Ans. I knew nothing at all except what I heard some say.

Ques. When did you first hear it?

Ans. Probably that has been four or five years ago.

Ques. As long ago as that?

Ans. Conveying to whom?

Ques. Anybody.

Ans. Four or five years ago I heard them speak of conveying some of the land, a piece of land to the Mizpah Company.

Re-direct.

10

Ques. You were about to say to Mr. Cole, in reply to the question he asked you about cutting the lines, something about other men; what were you going to say about other men?

Ans. I was going to say there were other men working in there on some days when Risley was not with them.

Ques. What did you do as to that?

Ans. I went and drove them out; they were strangers; I didn't know them.

20

Ques. What constant claim have you known Mrs. McGrath or anybody claiming under her to make to this 700 acres?

Ans. I don't understand you.

Ques. I didn't understand your answer to Mr. Cole, and I want to understand it. What claim have you known of Mrs. McGrath having to this 700 acres?

Ans. No claim.

Re-cross.

30

Ques. That is, you never heard until now that she had any claim to the 700 acres?

Ans. No.

Ques. Never heard of it until you heard of it in Court?

Ans. Yes; I heard it when they went there to put in this man Moore, and when they went there to put in— or this Risley undertook to run a line through it.

GEORGE W. FOSTER, sworn for defendant.

Direct examination.

10 By Mr. French:

Ques. Where do you live?

Ans. Mays Landing.

Ques. How long have you lived there?

Ans. I went there in 1888, October.

Ques. Went to live at Mays Landing?

Ans. Yes, sir.

20 Ques. Do you know Mr. Norcross, the defendant here?

Ans. Yes, sir.

Ques. Do you know Mrs. McGrath, the complainant?

Ans. Yes, sir.

Ques. Did you have any employment from Mrs. McGrath in 1888?

Ans. I did.

Ques. What was it?

Ans. Cutting timber on her land.

Ques. Was that the only thing you were employed to do?

30 Ans. Oversee it.

Ques. Did that tract include what was known as the Weymouth tract, or part of it?

Ans. Yes, sir; 18,000 was all I had control of.

Ques. How long did you have charge of it for her?

Ans. About two years.

Ques. That is, until 1890?

- Ans. Yes, sir.
- Ques. Who succeeded you in charge of it?
- Ans. Mrs. McGrath.
- Ques. Afterwards?
- Ans. Yes, sir.
- Ques. Who took your place?
- Ans. Mr. Hume.
- Ques. The same Mr. Hume Mr. Norcross was speaking about?
- Ans. Yes, sir. 10
- Ques. Do you know Andrew Bozarth?
- Ans. I do.
- Ques. Did you have a conversation with him sometime prior to 1888 with respect to this 700 acres?
- Ans. Well, he was going through there deer hunting.
- Ques. Through where?
- Ans. This tract.
- Ques. This 700 acre tract?
- Ans. Yes, sir.
- Ques. Where were you about that time? 20
- Ans. That was before I went down to cut.
- Ques. Before you cut for Mrs. McGrath?
- Ans. Yes, sir; about a year ago, we were down there; Andrew and his two boys.
- Ques. Where were you, on this 700 acres?
- Ans. Yes, sir; I suppose it was.
- Ques. Were you anywhere near Beaver Dam?
- Ans. I was going along, he told me it was Beaver Dam; I said there are some pretty nice cedars. He said, yes, that is what Mr. Norcross claims. That is all I know about it; never have been there since. 30
- Ques. While you were cutting for Mrs. McGrath, did you ever do any cutting, or exercise any acts of ownership, or do any act on this 700 acre tract?

(Objected to.)

Ques. Did you do anything on this 700 acre tract claimed by Mr. Norcross, while acting for Mrs. McGrath?

Ans. I did not.

Ques. Ever cut anything on it?

Ans. No, sir.

Ques. Did you ever know anything about Mr. Norcross cutting on it?

10 Ans. Not while I had charge of it, I did not; he cut some in Hume's time.

Ques. You know Mr. Norcross cut while Hume was in charge?

Ans. He said he was cutting there; I didn't go there.

Ques. Who said?

Ans. Mr. Norcross and his son.

Ques. Never mind that.

Ans. I didn't see it.

Ques. That is all.

20 Not cross-examined.

30 Mr. French: I produce here a book marked Miscellaneous Record A, Atlantic county, and Mr. Cole has agreed to waive keeping the Clerk here to testify that this is a book of record of his office, and on page 60 of that book is a record of what purports to be a deed from Edmund Iliff to Thomas Denny, dated April 9, 1743, recorded on page 60, August 9, 1847. I offer that record.

Mr. Cole: We have a certified copy.

Counsel for defendant having produced a book, the Vice Chancellor says he prefers to have a certified copy; counsel for complainant tenders a certified copy

out of the Atlantic County Clerk's office out of the record in question, which is offered in evidence and marked Exhibit D11.

Counsel for defendant also offers in evidence a certified copy of a deed from Thomas Denny to Richard Somers, dated June 17, 1786, recorded in the Secretary of State's office at Trenton, on February 6, 1835, certified by Mr. Kelsey, then Secretary of State, to be a true copy.

10

This covers only the 700 acre survey, and is the first tract mentioned in the deed from Iliff to Denny.

(Marked Exhibit D12.)

Also offer in evidence a copy of the will of Richard Somers, proved at Woodbury, April 20, 1795, certified by the Registrar of the Prerogative Court to be a true copy.

(Marked Exhibit D13.)

20

Defendant's counsel also offers in evidence a certified copy of a deed from William Jonas Keen and Sarah, his wife, to Elisha Clark, dated April 21, 1807, recorded June 18, 1807, at Woodbury.

(Marked Exhibit D14.)

Defendant's counsel also offers a deed from Elisha Clark to William Jonas Keen, dated April 22, 1807, recorded at Woodbury, June 18, 1807, in Liber K, page 45.

30

(Marked Exhibit D15.)

Defendant's counsel also offers in evidence a certified copy of a deed from John Claxton and William Newbold, assignees in trust of William Jonas Keen, and Savidge Stillwill to Sarah Keen, dated May 9, 1810,

recorded at Woodbury, October 5, 1833, in Liber 1-3, page 81.

(Marked Exhibit D16.)

Also a certified copy of a deed from Sarah Keen, widow, to George West, dated July 1, 1813, recorded September 18, 1813, at Woodbury, in Book S of deeds, page 116, &c.

(Marked Exhibit D17.)

10

Defendant's counsel also offers in evidence the will of George West, dated the tenth of May, 1828, proved September 23, 1829, at Woodbury, recorded in Book C of Wills, page 379.

(Marked Exhibit D18.)

Also a certified copy of a deed from Joseph E. West, Executor of George West, to Daniel E. Estelle, dated the eighth day of December, 1829, recorded December 11, 1829, at Woodbury, in Book YY of Deeds, page 483, &c.

20

(Marked Exhibit D19.)

Also a deed from Daniel Estelle to Joseph E. West, dated December 9, 1829, recorded at Woodbury, December 11, 1829, in Book YY of Deeds, page 486, &c. 11, 1829, in Book YY of Deeds, page 486, &c.

(Marked Exhibit D20.)

30

Also a certified copy of a judgment in the New Jersey Supreme Court, James W. Caldwell vs. Joseph E. West and Daniel E. Estelle, entered December 6, 1870.

(Marked Exhibit D21.)

Also a deed dated April 10, 1849, between James Leeds, Sheriff of the county of Atlantic, of the first part,

and John Hogan, of the second part, acknowledged April 10, 1849, recorded the same day at Mays Landing, in Book 7 of Deeds, page 586.

(Marked Exhibit D22.)

Deed dated February 19, 1850, from John Hogan and wife, to Daniel E. Estelle, acknowledged February 19, 1850, and recorded at Mays Landing, February 19, 1850, in Book F of Deeds, page 766, &c.

(Marked Exhibit D23.)

10

Counsel for defendant also offered in evidence from the miscellaneous records, Book A, page 47, the record of a quit claim and settlement of land between George Ashbridge and others with the heirs of Col. Richard Somers. The description being as follows: "Eighth tract of land run out and established by us consists of several surveys, one of which was made to Edmund Iliff for 383 acres and another for 700 acres, and another part of 1,150 acres and a survey of 154 acres made to Constant Somers, and 265 acres made to Samuel Risley; the last two lay outside the West New Jersey Society tract, but adjoins the same. And the outside boundaries of said tracts are agreed upon and established as follows: Beginning at a well known old marked white oak corner lettered R-S, standing by the side of a branch of South river, called Bear branch, it being the fourth corner of said 383 acres tract; thence (1) north ten degrees east, forty chains; (2) north thirty-two degrees west, one hundred and six chains; (3) southwest one hundred and two chains to a pine tree, the beginning of said 383 acres by South river at a branch called Bee branch; (4) up the several courses of South river to a branch called Bear's Head branch; (5) up said branch, the several courses thereof, to a stone now placed for the third corner of the survey of 700 acres formerly Edmund Iliff's; (6) south twelve degrees east, supposed about one hundred chains,

20

30

- more or less, to a beaver pond on Tarkiln branch; thence sixty-six chains further the same course to a pine tree, the second corner of said 700 acres and in the line of Constant Somers' 154 acres; (7) in the line of the West New Jersey Society tract south seventy-eight degrees west, fifty-seven chains to the corner thereof; (8) south twelve degrees east, forty chains to land formerly Andrew Steelman; (9) north seventy-eight degrees east, to the line of Risley's survey of 265 acres; (10) along the line of Risley's survey to a corner near the head of Cedar branch; (11) still round by the boundaries of said survey to the beginning corner of said survey; (12) by lands formerly of John Somers to the southwestward corner of the survey made to Edmund Iliff's 1,150 acres; (13) by the westerly lines of said survey to South river; (14) down the several courses of the same to the old flood gates on the mill dam in the old bed of South river; (15) south fifteen chains; (16) east five chains; (17) north to South river; (18) down the same the several courses thereof to the easterly line of said 1,150 acres; (19) north to the corner of said tract; (20) by the north-erly lines of said tract to the white oak tree first named.
- (To be known as D23.)

- Also offered in evidence a record from the clerk's office of this court, being a certified copy of the bill, answer and decree in the case of Stephen Caldwell and Walter B. Bell, complainants, and Joseph E. West, Daniel E. Estelle and others, defendants, the record being in three parts; and counsel gave notice to counsel for complainant, before the testimony closed, he proposed to read and refer to the same in the argument of the cause.

Counsel for defendant also made the same offer and gave the same notice with respect to the case of Daniel E. Estelle, complainant, and John W. Treen and others, defendants; bill filed June 1, 1850.

(To be known as Exhibit D24.)

Counsel for defendant also offered in evidence certified copy of the summons, plea, declaration and order to stay waste in the case pending in the Supreme Court between Stephen Caldwell, complainant, and William S. Norcross, defendant.

(The summons was marked Exhibit D25. The narr was marked Exhibit D26. The plea was marked Exhibit D27. The order to stay waste was marked Exhibit D28.)

10

Defendant rests.

Mr. Cole: I want to offer the certified copy out of the Supreme Court, showing a judgment of non pros, in a trespass suit of Estelle vs. Treen, et als.

Mr. French: The only objection I have to that is, I would have offered that record myself if I could have obtained the record, but I cannot find either the plea or declaration. There is simply a record of the rule entered and nothing more. The complete record is not here, and I object unless the entire record is produced.

20

The Vice Chancellor: All that appears is the record showing the dismissal of the non-suit, and unless something appears to identify that case with this—

Mr. Cole: The only reason I offer it, I do not want to be bound by the testimony of Mr. Norcross, that the Court might say there is an action undetermined and pending.

30

Mr. French: I will admit that the papers offered by Mr. Cole are copies of the rule entered in that particular case and taken just as copies of the rule.

Mr. Cole: I want to defeat any inference that there is an action pending. I suppose the testimony of Mr. Norcross would be that there was a pending action, which would put us outside of the statute, and this shows that there was a judgment of non pros.

The Vice Chancellor: I will admit the papers.

(Marked Exhibit C18.)

10

HENRY S. HAINES, affirmed on the part of the complainant in rebuttal.

Direct examination.

By Mr. Cole:

20

Ques. What position do you presently hold?

Ans. I am Surveyor General of West Jersey.

Ques. How long have you held that?

Ans. About ten years, I think.

Ques. Have you made an examination of the record to ascertain if there is of record a survey to Edmund Iliff for 700 acres in Hamilton township, or Weymouth township, Atlantic county?

Ans. I have made such a search and found no record of such a survey.

30

Mr. Cole: Cross-examine.

By the Vice Chancellor:

Ques. Where did you make the search?

Ans. In the office of the Surveyor General.

Mr. French: I have no questions to ask on cross-examination, but I would like to call the witness for my own witness.

Mr. Cole: You can ask him now.

Direct examination.

By Mr. French:

Ques. How long have you been Surveyor General? **10**

Ans. Ten or twelve years, I don't remember the date; I have been Deputy very many more years.

Ques. How long have you been Deputy?

Ans. Probably twenty years before that.

Ques. And to what extent are you familiar with the office of Surveyor General of West Jersey?

Ans. I think I know all the names by heart that are on the index.

Ques. The third corner of the 33,078 acre survey, marked Exhibit D8, as described in Exhibit D8, is "to a pine marked with twelve notches and the letter S standing on the west side of the said Egg Harbor river." Would that corner be west of any other river that was lying west of Egg Harbor river? **20**

Ans. I don't know how to answer that.

Ques. Assuming that South river was west of Egg Harbor river?

Ans. As it is?

Ques. As it is; where would that corner be with respect to South river; east or west of it? **30**

The Vice Chancellor: Read the description again.

Mr. Cole: I have a certified copy of the map.

Mr. French: The map already in evidence is attached to the re-survey.

Ques. Where would you look for it?

Ans. I should look for it on the bank or near the bank of the great Egg Harbor river.

Ques. Would you go west of another river lying west of Egg Harbor river?

Ans. I should not as a matter of practice.

Ques. Could it be west of another river?

Ans. It occurs to me that this is a matter of practice, and as a surveyor I should stop at the bank of the river or near it.

10 Ques. You would not go beyond the river, further west for that?

Ans. I should not expect to do such a thing.

Ques. That is all.

Cross-examination.

Mr. Cole: No cross-examination as to that. I would like to ask him a question myself now.

20 By the Vice Chancellor:

Ques. I understood Mr. Haines, in referring to his search in the Surveyor General's office, that you searched for a survey from the West Jersey Society to Iliff?

Ans. No, sir; I searched for a survey from the proprietors to Edmund Iliff, for 700 acres, and found no such survey of record in that office.

Ques. And that too from the origin of the record to the present day?

30 Ans. Yes, sir.

Further direct examination.

By Mr. Cole:

Ques. I show you a map annexed to Exhibit D2, which is endorsed "Society re-survey, 78060, May 5,

1774, retd., by R. S." to which Exhibit D2 is annexed a map showing a survey, and the attention of the witness is called to that map, and I read to you the description in a deed dated December 9, 1879, of Sarah Colwell and others, to Anna Colwell, which is Exhibit C1: "Beginning at the most southwesterly corner of a survey for 33,078, made to the West Jersey Society, A. D. 1748, on record in the Surveyor General's office in the city of Burlington, State of New Jersey, in Book E of surveys, page 30, &c., the said corner being the third corner of a re-survey made for said Society for 78,060.35 in A. D. 1737, on record in said Surveyor General's office in Book T, page 45, &c., thence first," &c., and I ask you to indicate by some mark on the map before you where the beginning corner is. 10

Mr. French: I object to testifying to that map unless he had also before him the 33,078 survey referred to. He is attempting to testify from a map attached to a re-survey, without having the 33,078 acre survey to see which is the southwest corner of that survey. 20

Mr. Cole: Have you it?

Mr. French: It is Exhibit D8.

The Vice Chancellor: The attention of counsel having been called to the criticism of the question by counsel for defendant of the exhibit referred to, Exhibit D8, that also is put before the witness, and the question of counsel for complainant is renewed with the additional exhibit before the witness. 30

Mr. French: I call attention to this. Mr. Middleton said he didn't know anything about this Deputy return, never heard of it, but this is the Deputy's map that goes with 33,078. I call Mr. Cole's attention to the fact that his witness said he knew nothing about it.

The Vice Chancellor: You produce this as an additional exhibit.

Mr. French: This is an exhibit.

The Vice Chancellor: You produce it to show that it is a map which the witness said was not there.

Mr. French: Yes.

10

The Vice Chancellor: Counsel for defendant, in view of the witness's answer, calls attention to D1, purporting to be the Society survey of 33,002 acres, June 9, 1748, returned by J. &c., and the attention of the witness is called to said Exhibit D1, in connection with previous exhibits, and to the map thereto attached. Examining them all, all of the exhibits referred to, the question as originally put by counsel for defendant is again put.

20

Ans. The description in the return D1 is the same as that in Exhibit D8.

Ques. (Previous question repeated as follows:) I show you a map annexed to Exhibit D2, which is endorsed "Society re-survey, 78,060, May 5, 1774, returned by R. S." to which Exhibit D2 is annexed a map showing a survey, and the attention of the witness is called to that map, and I read to you the description in a deed dated December 9, 1879, of Sarah Colwell and

30

others to Anna Colwell, which is Exhibit C1: "Beginning at the most southwesterly corner of a survey for 33,078, made to the West Jersey Society, A. D. 1748, on record in the Surveyor General's office in the city of Burlington, State of New Jersey, in Book E of surveys, page 30, &c., the said corner being the third corner of a re-survey made for said Society for 78,060.-35, in A. D. 1737, on record in said Surveyor General's

office in Book T, page 45, &c., thence first," &c., and I ask you to indicate by some mark on the map before you where the beginning corner is.

Ans. I believe I cannot do it; there is no identification line connecting them, and I think it would be unsafe for me to undertake to do it, with what I have before me.

Ques. Now, continuing to read this description from the deed C1, and you continue to look at the map annexed to the survey, Exhibit D2: "Thence (1) northward along the most westerly line of the said re-survey six hundred and fifty-six chains and fifty links to the middle of a road leading from Weymouth village to Malaga." Following that first course on the map, what would be the beginning point in the deed? **10**

Mr. French: Objected to, unless he first identifies the beginning point; because, as a matter of fact, the beginning point mentioned in the deed is two distinct places, and the line he calls for is still a third place, and he cannot go from that beginning point. **20**

The Vice Chancellor: This witness, as I understand, is not asked any of these question with relation to the actual survey by him on the ground, or based upon any acquaintance by him, or on his part, with the lay of the land; so that the questions are purely academic, and to be answered at all are answered as a matter of opinion and judgment, as to whether there can be an identification between two separate deeds and the map and the return. Is not this getting to be largely a matter of construction. **30**

Mr. Cole: I think so, but he is here, and there is no objection to the question, as I have asked it.

Mr. French: I withdraw the objection.

Ans. I would be very glad to answer the question if I saw a way to do it, but it seems to me I would require some further investigation of these maps and a comparison of them to make my answer a safe one and a sure one to the Court.

Ques. That is all.

Further re-direct.

By Mr. French :

- 10 Ques. I want to ask Mr. Haines a question: Will you look over the survey called the re-survey of the 78,060 acres, shown here by Exhibit D10, or point on the map attached to the return of that survey, Exhibit D2, where the third corner of that is; how is the third corner, which you referred to, indicated on the map, Exhibit D2?

Ans. This is the map that belongs to this.

Ques. The map attached to Exhibit D2 is the map which belongs to what?

Ans. To the survey.

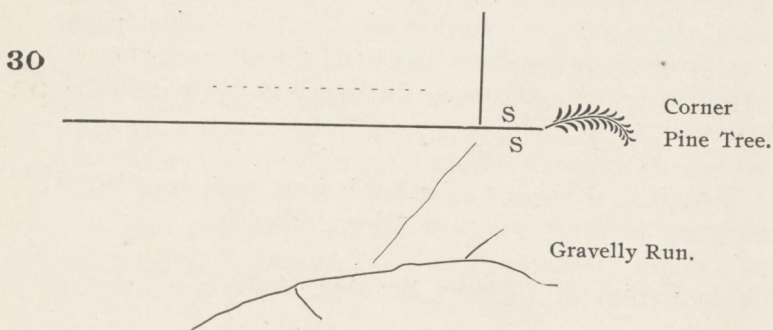
- 20 Ques. Exhibit D10?

Ans. Yes, sir; the same return.

Ques. Look at that; how, on the map, is the third corner in the survey in Exhibit D10 marked?

Ans. By a large pine tree north of the head of Gravelly Run.

The Vice Chancellor then drew a sketch, of which the following is a copy:



By the Vice Chancellor:

Ques. Is that rough drawing put in the notes a copy of that corner in the map?

Ans. Yes; that is a very good copy of it.

Further re-direct.

Ques. (Witness being shown Exhibits D1 and D8, the return and the survey of the 33,078 acres.) Will you please state from the survey, which is the most south-westerly corner of the survey? 10

(On Exhibit D8, before the witness, he runs a blue line marked under that course, which runs to the southwest corner of the survey shown in Exhibit D8, which course is given in these words: "South eighty degrees west, three hundred and forty chains to a pine tree marked with twelve notches and the letter B, standing on the west side of the said Egg Harbor river.")

Cross-examination.

20

By Mr. Cole:

Ques. After having given your testimony with respect to the most southwesterly corner in the survey of 33,078 acres, Exhibit D8, can you tell whether the southwesterly corner in the re-survey, shown on Exhibit D2, and shown on the map annexed to Exhibit D2, are in the same place?

Ans. I can't.

Ques. Why not?

Ans. Because there is no similarity between the two maps that would indicate a conclusion, and I have not had time to examine in detail to enable me to form a conclusion about it; therefore, I am unwilling to state that they are identical. They may be so; I can't say they are not. I have not seen these maps before; they come to me right from the Judge's table. 30

Re-direct.

- Ques. I have one question, predicated on that: The southwest corner of the 33,708, D8, being a pine marked with twelve notches and the letter S, standing on the west side of the Egg Harbor river, and the south line of the re-survey, Exhibit D10, running from the third corner, being as follows: "Thence (3d) south seventy-eight degrees west, crossing pine and oak land, ninety chains to Adams' branch near by Timothy Brandreff's house;
- 10** thence the same course crossing bad swampy cripple land, in all three hundred and sixty-eight chains (crossing May's log road and the great road that leads from the lower end of Great Egg Harbor to the Blue Anchor), to Great Egg Harbor river at the mouth of a small river a little below the mouth of Babcock's creek; thence the same course, crossing the said river, seven chains to a pine marked on the west side of the river; thence on the same course, crossing swamps and cripple, in all three hundred and ninety-seven chains and fifty links to a
- 20** small creek that vents May's meadow; thence crossing a swamp and the road that leads from Thomas Champion's to South river, in all four hundred and thirty chains to a branch of South River; thence the same course crossing an island in the swamp near the foot of Somers' swamp and through a large cripple; then leaving the swamp and cripple and crossing high ground and valleys, in all five hundred and sixteen chains to South River; thence on the same course crossing South river five times to a large
- 30** white oak standing by the back edge on the south side of said river in sight of Simkins Cabbin, marked four blazes, twelve notches, lettered S. S., in all six hundred and sixty-eight chains; thence leaving the white oak, on the same course, crossing pine and oak land, in all eight hundred and sixty-eight chains to a pine for a corner marked four blazes and eight notches, lettered S. S., standing above the head of Stevens creek; then (4), &c., being as I have described; can you say that the two corners are identical?

Ans. I cannot.

Ques. Can you say that they are not identical?

Ans. No, sir.

Ques. Why, the corner of the 33,078 acre survey, the southwest corner, is on the west side of Egg Harbor river, and the southwest corner of the re-survey crosses the Egg Harbor river, and crosses South river five times; that is, the south course of the re-survey of the 78,060 crosses the Egg Harbor river going west, and crosses South river five times?

10

Ans. This is the 78,000; you asked about the southwest corner of the thirty thousand.

Ques. I ask you if the two are identical, and you say you can't say; can you say they are not?

Ans. I should say they are not. Let me explain that; this is very dangerous. Here is a matter of practical surveying and that corner may be known.

Ques. Which corner?

Ans. The corner where the south line first touches South river; the southwest corner may be known on the ground; I don't know whether it is or not, but I do say that the scale of the map and the call on the two returns do not indicate an identity of that corner.

20

By the Vice Chancellor:

Ques. The monuments by which the corner is approached along the south line vary?

Ans. The scale from Great Egg Harbor to that point is double upon this larger return.

Ques. Annexed to D2?

30

Ans. Than what it is on the other.

Ques. Is there not a marked variance in the call, in that one crosses South river five times, and the other does not; is not that a marked difference?

Ans. But the crossing of South river is after the indication of its having reached the southwest corner of the 30,000 on this return, therefore I don't count that part of the description up to that corner.

Ques. But it goes beyond it?

Ans. Yes, sir; the survey seems to have been extended.

Ques. That is all.

HENRY C. JAMES, sworn on the part of the complainant.

10

Direct examination.

By Mr. Cole:

Ques. Doctor, what official position do you hold?

Ans. Collector of taxes in Hamilton township.

Ques. How long have you held that position?

Ans. Two years.

20 Ques. Have you the tax duplicate for that township for the year 1901?

Ans. I have.

Ques. Will you point to the assessment against William F. Norcross for that year?

Ans. (Producing his duplicate, the witness refers to the assessment of William Norcross for the year 1901.) William F. Norcross, assessment on real estate, \$1,200; personal property, \$50, total, \$1,250, total tax, \$24.75.

Ques. Against what is that?

30 Ans. A house and lot on the northwest corner of Second and Hanthorn street, 700; residence, eastside, Easterly avenue, opposite Baker, 400; lot eastside Hanthorn, adjoining C. Kers, \$100. Making a total of \$1,200 on real estate.

Ques. Is there any other assessment against William F. Norcross for that year, other than that you have just read?

Ans. No; there is not.

Ques. Is there any against him on the book for 700 acres or thereabout of timber land in Hamilton township?

Ans. There is not.

Cross-examination.

By Mr. French:

Ques. You are not the assessor?

10

Ans. No.

Ques. Only the collector?

Ans. Yes.

Ques. All you now about it is this duplicate handed to you?

Ans. That is all.

Ques. You don't know what property has been assessed to Mr. Norcross, except as it appears on this duplicate?

Ans. That is all; as a duplicate, given to me by the assessor, supposed to contain all taxable property in Hamilton township. 20

Re-direct.

Ques. Who is the assessor?

Ans. Joseph Hamill.

Ques. Where is he now?

Ans. North Carolina.

Ques. Is the book you produce here the only book you have for the tax duplicates for 1901?

30

Ans. Yes, sir.

Ques. But you received that from the assessor?

Ans. Yes, sir.

Ques. Did you receive that from the assessor?

Ans. I did.

Ques. Have you the duplicate for the year 1900?

Ans. I haven't; it is turned over to the township; Mr. Veal has it.

Ques. Is the book here?

Ans. Yes, sir.

Ques. Is the book that I hand you the duplicate for the year 1900?

Ans. Yes, sir.

10 Ques. Please say if there is anything assessed against W. F. Norcross on any timber land in Hamilton township, 700 acres or thereabouts?

Ans. There is none; property assessed this year is the same as '01, the valuation is the same.

Re-cross.

Ques. You know nothing about what property was assessed; all you know was what appeared on the assessor's duplicate?

Ans. The property that I collect taxes upon is itemized here; two houses and lots.

20 Ques. Do you know whether the 700 acres claimed by Mr. Norcross in Hamilton township was assessed or not?

Ans. It is not assessed in the year 1900 or in the year 1901.

Ques. That is to William F. Norcross?

Ans. No; not to William F. Norcross.

Ques. That is all.

30 JOSEPH L. VEAL, sworn for complainant in rebuttal.

Direct examination.

By Mr. Cole:

Ques. What official position do you hold?

Ans. Chairman of the Township Committee at present.

Ques. As such do you receive the tax duplicates for the township?

Ans. We receive them from the assessors for the township.

Ques. Hamilton township?

Ans. Yes.

Ques. Have you the tax duplicate of Hamilton township in Court to-day.

Ans. Yes, sir.

Ques. For what years?

10

Ans. I think there are ten duplicates.

Ques. For ten years last past?

Ans. Yes, sir.

Ques. Have you ever made an examination of these duplicates so that you can testify whether or not there is assessed against William F. Norcross, in Hamilton township, 700 acres or thereabouts of timber land?

Ans. There is no description of any land like that assessed against Mr. Norcross.

Ques. Do you know whether from the examination you made of this duplicate there is any assessment against him, other than the assessment which appears in the book for 1900 and 1901?

20

Ans. No; I haven't examined them all.

Ques. Did you say that there is no assessment against him during those ten years for seven hundred acres or thereabouts for timber land?

Ans. Not to my knowledge.

Ques. You have seen the books yourself?

Ans. Yes, sir; the Township Committee verify the books before they go to the assessor.

30

Ques. You were present when they were verified?

Ans. Yes, sir; that is, all of those of the last two years.

Ques. Will you look at the books, please, and say whether there is any such assessment during the last ten years?

Ans. Yes, sir,

Ques. Or look back at 1900.

Ans. (Looking at the duplicate for 1899.) The amount assessed here is for one acre.

Ques. Can you say whether that is within the village at Mays Landing, that assessment?

Ans. These descriptions are in the village of Mays Landing.

Ques. And you don't find any 700 acres or thereabouts?

Ans. No, sir.

10 Ques. Now, look at 1898.

Ans. (Witness looked at the duplicate of 1898.) That assessment for that year is all in the village of Mays Landing.

Ques. Is it the same as the assessment for 1899?

Ans. Yes, sir.

Ques. Now, look at the duplicate of 1897, what have you to say?

Ans. The assessment of 1897 is all in the village of Mays Landing.

20 Ques. The same as in 1898?

Ans. Yes, sir.

Ques. Now, look at the assessment of 1896?

Ans. This assessment is a little different; there is a lot appears on that book.

Ques. Which?

Ans. 1897; there is one lot more assessed in 1897 than there is on this, 1896.

Ques. Are all the lots assessed in 1896 in the village of Mays Landing?

Ans. Yes, sir.

30 Ques. No assessment of 700 acres of timber land?

Ans. No, sir.

Ques. Now, 1895

Ans. This assessment is identically the same as in 1896, all in the village of Mays Landing.

Ques. Now, look at the duplicate of 1894.

Ans. This is the same as the preceding one, all in the village of Mays Landing.

Ques. And no 700 acres of timber land?

Ans. No, sir.

Ques. Now, look at the duplicate of 1893.

Ans. That is the same as the preceding one.

Ques. Now, look at the duplicate of 1892.

Ans. That is the same as the preceding one.

Ques. No timber?

Ans. No.

Ques. Do you know the cottage which Mr. Norcross has referred to in his testimony as the Thompson cottage? **10**

Ans. Yes, sir.

Ques. Is the Thompson cottage included in the assessment on the tax duplicate for these various years that have been offered in evidence?

Ans. Yes, sir; that is a description of the property, the Thompson property.

Ques. And it appears in these books through all these years that have been offered in evidence, does it not?

Ans. Yes, sir.

Not cross-examined. **20**

Mr. Cole offered the books in evidence.

Mr. French: Will that offer include the assessment against Mrs. McGrath that appears in these books?

Mr. Cole: Whatever appears in the books. **30**

The Vice Chancellor: I do not want the books put in evidence except so far as the items are called to my attention.

Mr. Cole offers the tax duplicate from 1891 to date inclusive, as the entries thereon regarding the assessments against William F. Norcross.

Mr. Cole: We have testimony which would show acts done by us against these claims of possession by Norcross, and further acts than he has testified to or admitted on cross-examination. I do not feel myself that it has any relevancy, but if the testimony of Mr. Norcross in respect to his acts may be construed to be that possession which, by reason of any supposed silence or acquiescence of ours, might defeat us, it would be proper to introduce that evidence.

- 10 The Vice Chancellor: I cannot undertake to rule on the admissibility of testimony except upon specific questions asked, as to the testimony offered under it.

(At this point a recess was taken of one hour.)

-
- 20 FRANK MIDDLETON, recalled for complainant in rebuttal.

Direct examination.

By Mr. Cole:

Ques. Have you been on the ground included in the two surveys known as the 30,000 and the 36,000, and made surveys?

- 30 Ans. Yes, sir.

Ques. How often have you done that?

Ans. Several times in different locations.

Ques. When were you first on the tract; how long ago?

Ans. In 1876 was the first I was ever on any of that ground.

Ques. Have you had any occasion to examine the title papers in the matter, the terms, deeds, &c.?

Ans. I have had occasion to examine all of them.

Ques. Have you examined them before this suit was begun?

Ans. A long while before.

Ques. Have you examined them since the suit has been pending?

Ans. Yes, sir.

Ques. Now, I ask you if you can say, from examination of the papers, whether you can get within the re-survey of the 78,000, the two surveys, one of 33,000 and the other 36,000, if the beginning corner of the 33,000 acre survey is made the third corner of the re-survey? 10

Ans. No.

By the Vice Chancellor:

Ques. You mean "I can not"?

Ans. I can not.

Further direct. 20

Ques. Can you, if you make the southwesterly corner of the 33,000 acre survey, and the fourth corner of the re-survey the same?

Ans. Yes.

By the Vice Chancellor:

Ques. Are you speaking now from the courses and distances and monuments recited on the face of the paper here exhibited, or are you speaking from that method of locating corners in addition to your observation of monuments on the ground? 30

Ans. Both ways.

Ques. Then your answer that you can bring the one survey within the other is in part based upon your observations on the ground?

Ans. Yes.

Further direct.

Ques. Now, can you get the description in Exhibit C1, being deed from Colwall to Colwell, within the re-survey, if you make the beginning corner of the land described in the deed the third corner?

Ans. No, sir.

10 Ques. If you take the fourth corner of the re-survey as the beginning corner in the deed from Colwell to Colwell, do the courses and distances work out on the ground and on the map?

Ans. They do.

Ques. Now, have you examined this map annexed to Exhibit D2, with a view of determining if the courses and distances as therein indicated are in keeping with so much of the courses and distances as are in Exhibit C1, Colwell to Colwell?

Ans. Yes.

20 Ques. And from your knowledge of the situation of the ground, and your examination of the map of the description in the surveys and re-surveys, is the 700 acre tract described in the deed, purporting to be from Iliff to Denny, within the description of C1?

Ans. It certainly is.

Ques. That is all.

Not cross-examined.

30 ANDREW J. BOZARTH, having been previously sworn, recalled in rebuttal for complainant.

Direct examination.

By Mr. Cole:

Ques. I believe you know the 700 acre tract that is in question here?

- Ans. Yes, sir.
- Ques. Are there any streets laid out on that tract of land?
- Ans. Yes; both ways.
- Ques. How many?
- Ans. Six; something like six or more.
- Ques. How wide streets are they?
- Ans. Some are just cut through about like a wagon road and others are cleared out twenty feet.
- Ques. For what distance do these streets extend? **10**
- Ans. Way across.
- Ques. How far is that, do you mean clear across the whole tract?
- Ans. I mean clear across the whole tract.
- Ques. Is there anything on the ground to indicate the name of the street?
- Ans. Yes, sir.
- Ques. What is it.
- Ans. Really I have forgotten.
- Ques. I don't mean the name of the street; what was there to indicate that there was a street; was there a sign? **20**
- Ans. Yes, sir.
- Ques. Where were they?
- Ans. Some were put on the trees and some on stakes.
- Ques. Do you know who cut those streets through?
- Ans. Yes; I know who helped cut some of them.
- Ques. Who?
- Ans. I helped on three of them.
- Ques. For whom were you working?
- Ans. I was working then for Fowler and Loomis. **30**
- Ques. They were surveyors?
- Ans. Yes, sir.
- Ques. For whom were they surveying?
- Ans. They were surveying for the Jews, the Mizpah Company.
- Ques. That is the company Mrs. McGrath conveyed to?

Ans. Yes, sir.

Ques. Do you know what became of the signs on the trees, indicating that they were streets?

Ans. Some were there the last time I was through it.

Ques. How long has that been?

Ans. Three or four months.

Ques. Ago?

Ans. Yes, sir.

Ques. The signs were still there?

10

Ans. Yes, sir; some of them.

Ques. Did you ever meet Mr. Norcross on this land?

Ans. No, sir.

Ques. How frequently have you gone over the 700 acre tract?

Ans. Oh! I have been over it quite a good deal, often.

Ques. What were you doing there?

Ans. Sometimes I was gunning, or hunting deer or foxes, other times I was looking over the property.

Ques. For Mrs. McGrath?

Ans. Yes, sir.

20

Ques. But you never met Mr. Norcross there on the ground?

Ans. Never met him there in my life, at least to the best of my knowledge.

Cross-examination.

By Mr. French:

30 Ques. Do any of these streets cross the Doughty Tavern road?

Ans. Yes, sir.

Ques. Whereabouts?

Ans. Well, there are six of them cross the Doughty Tavern road.

Ques. Are they so anybody could see them going along the road?

Ans. Yes, sir.

Ques. What would be the evidence that the streets cross?

Ans. An open line, some of them are cut out wide enough for a wagon to go or two wagons abreast.

Ques. This land along the Doughty Tavern road, while there are some fairly large trees, are generally small bushes?

Ans. Yes, sir; some.

Ques. Pretty much all of it, is it not?

10

Ans. No; there are some bushes among the big trees, but it is pretty near all timber.

Ques. Do you know where this barn is that they have been talking about that a man erected along that clearing along the Doughty Tavern road?

Ans. Yes, sir.

Ques. Any street anywhere near that?

Ans. Yes, sir.

Ques. How near?

Ans. The street crosses right close by it; right along this man's line, where this man bought up to; I think there is a street up along there.

20

Ques. There is quite a clearing right around that stable?

Ans. Two or three acres; may be four.

Ques. Is there any other place between South River and the west line of this 700 acres where there is any clearing except that?

Ans. No.

By the Vice Chancellor:

30

Ques. These streets that you have spoken of are they curbed or paved any of them?

Ans. No; just cut out for blocks, for avenues they call them.

Ques. No building or attempted building?

Ans. No; no building.

Further cross:

Ques. Never disturbed the soil, nothing but cutting the brush?

Ans. There is one place where they disturbed the soil, where they built the road across the swamp.

Ques. Where is that?

10 Ans. Right along on the Bear tract.

Ques. Anywhere near Tar Kill branch?

Ans. Right across it, that is where the road is made; right across Tar Kill branch.

By the Vice Chancellor:

Ques. When you refer to the street, you refer to these cuttings you mentioned?

Ans. Yes, sir.

20 Further cross:

Ques. That is where Mr. Norcross drove them out?

Ans. That is where Mr. Norcross and Mr. Moore had a contest, right there, right at the Tar Kill branch, right where the street has been, twenty and thirty feet wide, and the road built across.

Ques. How great a distance is that?

Ans. The road across the swamp.

Ques. Yes.

30 Ans. I should suppose twenty rods.

Ques. You had conversation with Mr. Norcross about this 700 acres?

Ans. No; very little.

Ques. Didn't you have a talk with him at the hotel about it, as to whether you were cutting over it or not?

Ans. No.

Ques. Last summer a year ago, didn't you tell Mr. Norcross that you were cutting some cedar in there and wanted to know whether you were cutting over on him.

Ans. Was I cutting cedar?

Ques. Yes.

Ans. Yes.

Ques. And didn't you see Mr. Norcross about it and ask whether you were getting over on him?

Ans. I don't recollect it.

Ques. You did have a conversation about that?

Ans. Well, no; I don't know that I did.

Ques. That is all.

10

Complainant rests.

WILLIAM F. NORCROSS, heretofore sworn, being recalled for defendant in rebuttal.

20

Direct examination.

By Mr. French:

Ques. You heard Mr. Bozarth's testimony?

Ans. Yes, sir.

Ques. Do you know anything about the streets he testified to?

Ans. I do.

Ques. What do you know about them?

Ans. This piece where we had the scrap was in the swamp; I suppose, maybe, there is a road across there, and made a crossway; the road looks to me to be about twelve or fifteen feet, or sixteen, something like that, I didn't measure them; outside of that it was no width at all. It is a little narrow space getting down to the swamp, and then runs out toward the southerly line.

30

Ques. Is there any other street that you know of there?

Ans. Then above South river there is a street or a line; they get through across the Doughty road, and then upon the left, upon both sides, it is open maybe eight or ten feet wide, but through there a fire, a heavy fire, had been and had cleaned that land off, and they cut what little brush there was in it and it made it look quite wide, but they didn't go far on the northeast side before they stopped.

10 Ques. Do any of those streets that they call streets go clear across it?

Ans. Not open; not one of them.

Ques. Is the soil, the ground, disturbed except where they made this crossway?

Ans. I didn't see any ground disturbed there; they cut these poles and laid them right across the swamp, along on the southerly line there; they opened the space there on each property, and over on me, and there the trees were cut out; I don't know, it looks to me—I drove down on the wagon; I looks to be about eight or ten feet wide.

20 Ques. Did you have a conversation with Mr. Bozarth about it?

Ans. Yes, sir.

Ques. Whereabouts was that?

Ans. At my son's hotel, over the bar.

Ques. At Mays Landing?

Ans. Yes, sir.

Ques. When?

Ans. I think that was last summer a year ago, and last fall a year ago, right warmish weather.

30 Ques. What did you say to him, and he to you?

Ans. He came and asked me, got a drink of beer, he said he was cutting up along Beaver dam, the stream came around pretty close to my line, the swamp did; he said he was cutting there, and he asked me if I thought he was cutting over on me, and I told him no, I didn't think he was; I had been there, it was to the westward

of my line, about a chain or a chain and a half, I judge, and I said, "Well, if you look there you can see the line very plainly," but he seemed to know where the line was, because he didn't cut over on me; I don't think it was over a chain or a chain and a half to the westward of my line, and said he didn't want to cut over on me; that he told me right over my son's bar, and when he carted the stuff out he had to cross my line to get out over a little spung or branch.

Ques. What explanation have you got to make about these tax duplicates, showing that the taxes assessed to you were all on the lots in Mays Landing? **10**

Ans. Well, that has been through some one of the assessors several years ago; they made that change; I noticed the change, but I didn't pay any attention to it. I don't know how they came to get it that way; they got the notion in their head to designate the piece of land; they had been changing assessors off and on.

Ques. In 1892, did you own a residence opposite the house and lot at the corner of Second and Hanthorn? **20**

Ans. No.

Ques. What did you own?

Ans. I owned that lot in Mays Landing.

Ques. Is that the one at the corner of Second and Hanthorn?

Ans. Yes, sir; designated there as Second and Hanthorn, and I own the head tract.

Ques. That was in 1892?

Ans. Yes, sir.

Ques. And that was all you owned at that time?

Ans. Yes, sir; the other building belonged to my wife. **30**

Not cross-examined.

Mr. French: I call the attention of the Court to the assessment against Mrs. McGrath in the tax duplicate, 1901, which reads: "McGrath, R. H., Mrs., 16,600 acres

wood land, situated along the W. J. & S. S. R. R., and Buena Vista township and Society line, and containing part of which was Mizpah tract, formerly Annie Cox, \$35,000.

Also offer a certified copy of a deed from the West Jersey Society to Shoemaker and others, dated December 15, 1802, recorded at Woodbury, in Book F of Deeds, page 279 of Deeds, &c.

10 (Marked Exhibit D29.)

Also offer a certified copy of a deed from Charles Shoemaker and others to Joseph Ball and Samuel Richards, dated the 6th day of April, 1808, recorded at Woodbury in Book L, of Deeds, page 450.

(Marked Exhibit D30.)

Defendant rests.

20 Case closed.

The case was then argued.

30

COMPLAINANT'S EXHIBITS.

Exhibit C1.

DEED.

SARAH R. COLWELL AND CHARLES

R. COLWELL AND WIFE,

to

ANNA R. COLWELL.

10

Dated December 9th, 1879.

Conveys:

All the following described tract or piece or parcel of **20**
land, situate in the said county of Atlantic and State of
New Jersey, bounded as follows:

Beginning at the most southwesterly corner of a sur-
vey for 33,078 acres made to the West New Jersey So-
ciety, in A. D. 1748, of record in the Surveyor General's
office, at city of Burlington, in the said State of New Jer-
sey, in Book E of Surveys, page 30, &c., the said corner
being the third corner of a re-survey made for the said
Society for 78,060 35-100 acres, in A. D. 1773, of rec- **30**
ord in the said Surveyor General's office in Book T of Sur-
veys, page 45, &c.; thence first (1) northwardly along the
most westerly line of the said re-survey, six hundred and
fifty-six chains and fifty links to the middle of the road
leading from Weymouth village to Malaga; thence se-
cond (2) eastwardly, along the southerly line of a tract
of about twenty-one thousand acres of land which

Stephen Colwell and W. D. Bell conveyed to Ellwood Matlack, Clayton Allen and Charles K. Landis by indenture, of record in the Clerk's office of the said county of Atlantic, two hundred and eighty chains; thence third (3) southerly, by a line parallel to the line first above described, about six hundred and thirty-six chains, more or less, to the southerly boundary of the said re-survey; thence fourth (4) westerly, along the southern boundary of the said re-survey, about two hundred and seventy-nine chains to the beginning. Containing eighteen thousand and sixty-two acres of land, be the same more or less.

10 Recorded Mays Landing December 18, 1879, in Book No. 73 of Deeds, pages 498, &c.

Exhibit C2.

20

CERTIFIED COPY OF DEED.

ANNA RICHARDS COX AND ROBERT

D. COX, HER HUSBAND,

TO

MIZPAH AGRICULTURAL AND IN-

30

DUSTRIAL COMPANY.

Dated January 2, 1892, conveys lands described as follows: All that certain tract or parcel of land situate in the county of Atlantic and State of New Jersey, bounded and described as follows, to wit: beginning at a point on the southerly side of the land of the West Jersey and At-

lantic Railroad Company, being at the distance of fifty feet at right angles from the center line of the same, and also in the line of lands now or late Charles W. Jones; thence (1) binding on land of said Jones and others, and also being the westerly line of a re-survey made to the West New Jersey Society for seventy-eight thousand and sixty acres and thirty-five hundredths of an acre by return dated May 24th, 25th, 26th and 27th, 1773, and recorded in the Surveyor General's Office of West New Jersey, at Burlington in liber "T" of surveys, folio 45, south eight degrees east, three hundred and ninety-four and twenty-five hundredths chains to the southwest corner of said re-survey; thence (2) along the southerly line of the said re-survey, north eighty-one degrees and seventeen minutes east two hundred and seventy-nine chains and fifty hundredths of a chain to corner of lands now or late Charles R. Colwell; thence (3) along said Colwell's land and parallel with first course, north eight degrees west, one hundred and seventy-two chains and forty hundredths of a chain, to the southerly side of land of the West Jersey and Atlantic Railroad Company aforesaid; thence (4) northwesterly and along the southerly side of land of the said railroad company, being at the distance of fifty feet southerly at right angles from the center line of said railroad, three hundred and fifty-seven and one-half chains to the place of beginning. Containing eight thousand and fifty acres, be the same more or less. Being part of the same land and premises which Charles R. Colwell and wife, by deed dated December 9th, 1879, and recorded in the Clerk's Office of Atlantic county, New Jersey, in Book of Deeds No. 73, page 498, &c., granted and conveyed to the said Anna R. Colwell, now Anna R. Coxe in fee.

Recorded at Mays Landing, February 12th, 1892, in Book 161 of Deeds, pages 141, &c.

Exhibit C3.

CERTIFIED COPY OF MORTGAGE.

MIZPAH AGRICULTURAL AND IN-
 DUSTRIAL Co.,
 10 TO
 ANNA RICHARDS COX.

Dated January 2d, 1892; conveys the same land as described in Exhibit C2, recited as a purchase money mortgage.

Recorded February 12th, 1892, at Mays Landing, in Book 31 of Mortgages, page 403.

20

Exhibit C4.

ASSIGNMENT OF EXHIBIT C3.

ANNA RICHARDS COXE,
 30 TO
 STATE TRUST COMPANY.

Dated February 9th, 1892.

Recorded February 12th, 1892, at Mays Landing, in Book 6 of Assignments of Mortgages, page 421.

Exhibit C5.

FINAL DECREE IN CHANCERY.

STATE TRUST COMPANY,
 vs.
 THE MIZPAH AGRICULTURAL IN-
 DUSTRIAL CO., ET AL. } **10**

Dated August 3rd, 1894, decreeing that the unreleased part of the mortgaged premises not covered by the defendant's mortgage, or so much thereof as may be necessary, be sold to raise and pay the sum of \$8,680.11, and interest.

20

Exhibit C6.

FINAL DECREE IN CHANCERY.

STATE TRUST COMPANY,
 vs.
 THE MIZPAH AGRICULTURAL AND
 INDUSTRIAL CO., ET AL. } **30**

Reciting decree of August 3rd, 1894; dated February 28th, 1895, directing that all of the residue of the mortgaged premises not heretofore sold, be sold to raise and pay the sum of \$11,733.54.

Exhibit C7.

DEED.

SMITH E. JOHNSON, SHERIFF,)

TO)

10 THE STATE TRUST COMPANY.)

Dated January 25th, 1895, reciting decree of August 3rd, 1894, and execution. Conveys lands described in execution, recorded Mays Landing, February 1st, 1895, in Book 188, page 237.

20**Exhibit C8.**

DEED.

SMITH E. JOHNSON, SHERIFF,)

TO)

30 THE STATE TRUST COMPANY.)

Dated May 10th, 1895; recites execution on decree of the 28th of February, 1895; conveys the lands described in the execution.

Recorded Mays Landing, May 22d, 1895, in Book 191, page 311.

Exhibit Cg.

DEED.

STATE TRUST COMPANY,

TO

ANNA R. McGRATH.

10

Dated February 10th, 1897.

Conveys tract of 8,050 acres with certain exceptions, reciting the Sheriff's deed; recorded May 24th, 1897, at Mays Landing, in Book 213, page 242.

Exhibit Cio.

Two tax receipts for 1896, Hamilton township to Mrs. **20**
R. H. McGrath.

One on 10,000 acres woodland on north side of W. J. R. R., formerly Mrs. Annie Cox; value of real estate, \$15,000; tax, \$288.

The other on 7,000 acres of land part of Mizpah track, formerly Annie Cox; value of real estate, \$10,500; tax, \$201.60.

Exhibit Cii.**30**

Tax receipt, Hamilton township, of 1897, to Mrs. R. H. McGrath; number of acres, 17,000; 7,000 acres wood land adjoining W. J. R. R. and Society line, 10,000 acres wood land along and on north side W. J. R. R., all formerly Anna Cox.

Tax, costs and interest for 1897, \$553.98.

Exhibit C12.

Hamilton township, tax receipt, 1898, Mrs. R. H. McGrath, Jr., number of acres, 17,000.

Total value, \$25,500; 7,000 acres wood land adjoining W. J. R. R. and Society line; 10,000 acres wood land north side and along W. J. R. R., formerly Anna Cox, \$504.90; interest and costs, \$23.64; writing and canceling certificate, forty cents; total, \$528.94.

10

Exhibit C13.

Tax receipt, 1899, Hamilton township to Mrs. R. H. McGrath.

Number of acres, 17,000; amount assessed, \$25,500; 7,000 acres wood land adjoining W. J. R. R. and Society line, \$10,500; 10,000 acres wood land north side and along W. J. R. R., formerly Anna Cox, \$15,000.

20

Tax	\$459.00
Interest and costs.....	20.81
	<hr/>
Total,	\$479.81

Exhibit C14.

30 Tax receipt, 1900, Hamilton township to Mrs. R. H. McGrath.

Number of acres, 17,000; value of real estate, \$25,500; 7,000 acres (formerly Annie Cox) and part of what was Mizpah tract and adjoining W. J. R. R. and Society line, 10,500; 10,000 acres wood land north side and along W. J. R. R., formerly Annie Cox, 15,000; total tax, \$453.90.

Exhibit C15—Map.**Exhibit C16.****DUPLICATE TAX BILL.****TAX BILL DUPLICATE.**

Mr. William F. Norcross:

10

The valuation of your taxable property and your assessment for taxes in Hamilton township for the year 1901, is as follows:

Rate of assessment on \$100.00 valuation, \$1.90.

Number of acres.....	_____	
Value of real estate.....	_____	
Value of personal property.....	_____	
Total value.....	_____	
Deductions	_____	
Amount assessed.....	_____	20
Poll tax.....	_____	
Dog tax.....	_____	
Township school tax.....	_____	
State school tax.....	_____	
County tax.....	_____	
Township poor tax.....	_____	
Township road tax.....	_____	
Lights	_____	
Hope Fire Company.....	_____	
Current expenses.....	_____	30
Premium	_____	
Total,	_____	\$24.75

This tax is now due and payable to H. C. James, Collector of Taxes for Hamilton township, at his office, Mays

Landing, N. J., and if not paid on or before the twentieth day of December next will be returned to a justice of the peace for prosecution, and all taxes not paid on real estate before the first day of February next will be returned to the county clerk and recorded as a first lien on said real estate. The Commissioners of Appeal in cases of taxation will meet in Room No. 1, Veal's Opera House, Mays Landing, on the fourth Tuesday of November next (November 26) to hear complaints relating to assessments.

10

Received payment,

H. C. JAMES,

Collector of Taxes, Mays Landing, N. J.

Bring this bill with you.

Exhibit C18.

NEW JERSEY SUPREME COURT.

20

JULY TERM, 1850.

DANIEL E. ESTILL,

VS.

JOHN M. TREEN, WILLIAM

MOORE, STEPHEN CALDWELL

30

AND WALTER D. BELL.

IN TRESPASS ON
THE CASE.

A declaration having been duly filed and no appearance or plea, judgment by default is ordered for the plaintiff against the defendant. And it is further ordered, that a writ of inquiry do issue to assess the damages of the plaintiff, on motion of

WM. HALSTED,
Attorney of Plaintiff.

NEW JERSEY SUPREME COURT.

JULY TERM, 1850.

TREEN, MOORE, CALDWELL AND	}	IN TRESPASS.	10
BELL,			
ADS.			
DAN'L E. ESTILL.			

It is ordered, by consent of the parties, that the rule for judgment by default entered this term be set aside; and that defendants have twenty days to plead to the declaration filed by plaintiff.

On motion of

A. BROWNING,
Attorney of Defendants. 10

NEW JERSEY SUPREME COURT.

NOVEMBER TERM, 1851.

DANIEL E. ESTELL,	}	IN TRESPASS.	30
vs.			
JOHN M. TREEN AND OTHERS.			

It is ordered that the plaintiff give due notice of the trial of this cause and take the same down for trial at the next Atlantic Circuit or that in default thereof judgment

as in case of a non-suit be entered against the said plaintiff, with costs, &c.

On motion of

A. BROWNING,
Attorney of Defendants.

NEW JERSEY SUPREME COURT.

10

NOVEMBER TERM, 1852.

DANIEL E. ESTELL,

vs.

JOHN M. TREEN, WILLIAM } IN TRESPASS.
MOORE, STEPHEN CALDWELL }

20

AND WALTER D. BELL.

It is ordered that the plaintiff bring on the trial of this cause at the next Atlantic Circuit, or in default thereof that judgment of non pros be entered against him.

On motion of

A. BROWNING,
Attorney for Defendants.

30

I, William Riker, Jr., Clerk of the Supreme Court of the State of New Jersey, hereby certify that the foregoing are true copies of the orders made in above stated cause by said Court and entered in the minutes thereof.

In witness whereof, I have hereto set my hand and the seal of said Court, at Trenton, this twenty-second day of January, A. D. nineteen hundred and two.

[SEAL.]

WM. RIKER, JR.,
Clerk.

DEFENDANT'S EXHIBITS.

Exhibit D₁.

RETURN OF SURVEY.

In pursuance of Thy order to me directed, bearing date the eighteenth day of January, 1739, requiring me to survey to the West New Jersey Society the full quantity (*) **10** one hundred and five thousand acres of land in the western division of The Province of New Jersey, below the falls of Delaware, and according to the (*) I have surveyed (*) laid out for the West New Jersey Society, the above tract of land lying and being in the county of Gloucester, on both sides of Great Egg Harbor River and on both sides of the road that goes from Philadelphia to Egg Harbor :

Beginning at a corner pine marked with twelve noches, standing half a mile on the west side of the river, and so **20** running from thence north eighty deg. east to Philip Walters' corner, and still the same course to a corner of Thomas Evens, standing by the side of the path that goes from Philadelphia to Great Egg Harbor, and marked with the letters E. and S. ; and twelve noches which pine is about a mile below the little pond and still the same course to a pine tree marked with twelve noches standing by the side of the path that goes from Philadelphia to the Upper End of Egg Harbor Shoar, in all three hundred and forty chains, and from thence south ten deg. east **30** one thousand and forty chains to a pine marked with twelve noches and the letters S. ; standing near a branch of Badcock's creek, and from thence south eighty degrees west three hundred and forty chains to a pine tree marked with twelve noches and the letter S., standing on the west side of the said Egg Harbor River, and from thence north ten deg. west one thousand and forty chaines to the

first place of beginning within which bounds is contained thirty-three thousand six hundred acres and the allowance for highways, but after the above mentioned surveys are taken out their will remain to the West Jersey Society the full quantity of thirty-three thousand & two acres & the allowance for highways. Surveyed in December and January, in the year of our Lord one thousand seven hundred and forty-seven-eight.

By me

10

HENRY YOUNG,
Deputy Surveyor.

I, Franklin Woolman, Surveyor General of the Western Division of New Jersey, do certify the foregoing to be a true copy of Deputy Surveyor's map and return of the survey on file in the Surveyor General's Office at the city of Burlington.

20

The spaces inclosed in red (*) ink in the 4, 7 & 8 lines of first page illegible on the original being on the part when folded & torn apart.

Witness my hand and seal of office this eighteenth day of May, A. D. 1870.

[SEAL.]

FRANKLIN WOOLMAN,

[STAMP.]

Sur. Gen.

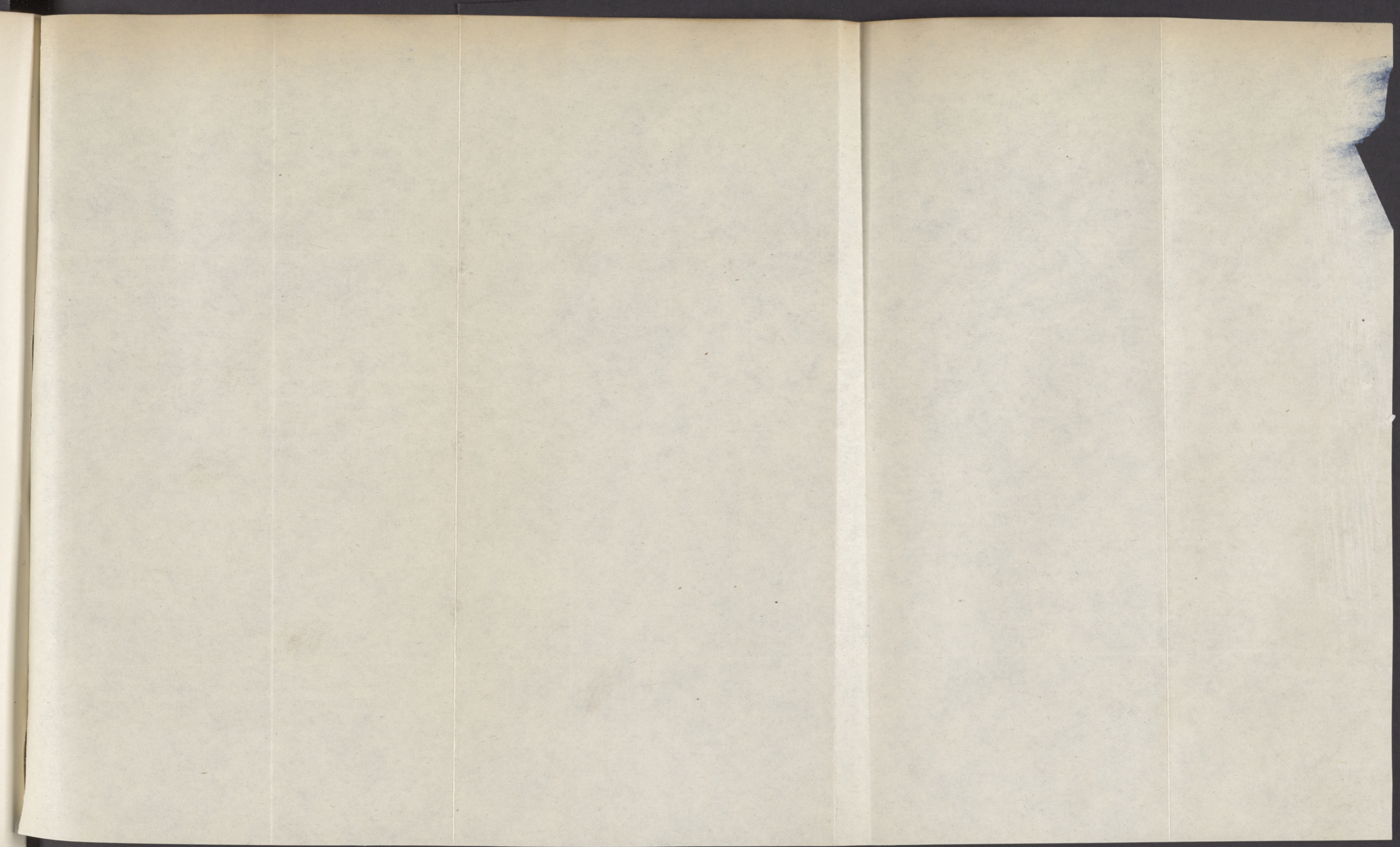
Map attached to Exhibit D.

30

Exhibit D2.

RETURN OF RE-SURVEY.

In Pursuance of thy order to us Directed Bearing date the six day of May Ano D 1773 Requiring us to resurvey for the West New Jersey Society all or any part of their



South West corner

N: 10° W 1040 chains.

Phillips
Wallis
Corner

This is Called Great Egg Harbor River.

This is Called Peney Port

N 80° E
340 chains

Thomas
Eveland
Corner

W 340 chains.
580°

	Acres.
William Borton	072
ditto	031
ditto	075
	178
Evi Bellange	050
ditto	050
ditto	050
	328
John English	60
Daniel Ireland	60
Charluis Steelman	100
Joshnah Bellange	50
	<u>598</u>

1040	
<u>340</u>	
41600	35360.
<u>3120</u>	<u>1683.8</u>
35360	33677.2
143	598.
176	
80	33078.2
<u>170</u>	
02	33002
Overplus 00076.20 Acres.	

The whole draught Contains
Thirty-Three Thousand Six
Hundred Acres and the
allowance for Highways

35360	35360
<u>21</u>	<u>1683.8</u>
143	33676.2
<u>126</u>	<u>598</u>
176	33078
<u>158</u>	<u>33002</u>
80	
<u>65</u>	<u>762</u>
170	

this corner

Near Branch of
Babcock Creek

S 10° E 1040 chains.

This corner by the side of path
that goes from Philo. to Egg Harbour

lands in the Western division of New Jersey We have Resurveyed for the said West New Jersey Society tow surveys formerly made by Hen Yongs for the said West New Jersey Society Lieing on Great Harbour River in the township of great Egg harbour in the County of Gloucester in S Division Bounded as follows xiz: Beginning at a large Pine tree it being the Beginning Corner of 36.244 Acc formerly surveyed for the said Society Standing by the great Road that leads from Absequin to the Blue anker a little above Mount Hope marked four blazes & twelve noches & S S from thence 1 North seventy-eight degrees East by a line of old marked trees Two hundred and seventy-five chains to the forks of the gum branch thence the same corse Crossing the Northward most branch of the gum branch and a small branch of Little Egg Harbour in all four hundred & ninety-nine chains to a pine stump shown to us for the Corner of the Society by Eliza Clark which appeared to us to be the Corner as we found the line trees answering each way the tree appeared to have been cut down about a year ago and now we marked a pine twelve notches & S standing one chain & two links South six Degrees East from the stump afsd (2) South Twelve Degrees East seventy chain a cross poor Swampy grounds to Cripple Cabben branch thence the same cross in all seventy-five chains to Herds Branch thence Crossing pine land and by three old line Trees in all One Hundred and sixty-six chains and fifty links to Eliza Clarks mill branch whare we found an old line tree by the side of the Run thence the same corse crossing Cripple & pine Land and finding two old line trees in all Two Hundred twenty-one chain and fifty links to Brockways branch thence Crossing Better Land finding One old line tree in all two hundred and ninety-two chains & fifty links to the mane Road that leads from the forks of Little Egg harbour River to the Widow Clams whare we was met by Cap Bruch and his party to four warnd us Crossing his land thence the same Course Crossing land lately

10

20

30

- cleard and other pine land in all three hundred and thirty-two chains and fifty links to Lucus Branch thence Crossing pine land in all three hundred and seventy-three chains & fifty links to a branch of Lucus branch thence the same corse crossing poor pine land in all four hundred & thirty-one chains & fifty links to New Town branch thence crossing pine land in all four hundred & seventy-chains and fifty links to Indian Cabben branch thence the same corse crossing poor pine land in all five Hundred
- 10** and ten chains to a branch of Indian Cabben branch thence the same course Crossing poor pine land in all six hundred & sixty chains to Landing Creek near a quarter of a mile below the Cedar bridg thence crossing said creek on the same course crossing better pine land and finding two old line trees in all seven hundred and thirty-five chains to the great Road that leads from Absequin to the Blue Anchor near a mile below Cedar bridg thence the same course crossing pine land in all Eigh hundred & forty-seven chains to a branch of Badcocks Creek passing three old line trees thence crossing the said branch
- 20** and the Head of Badcocks Creek finding one old line tree in all eight hundred & ninety-two chains thence the same course crossing bad land in all Nine Hundred and seven chain to a branch of Badcocks Creek thence crossing poor pine land in all Nine Hundred & Seventy-seven chains to Jack Puddings branch thence the same corse crossing pine Land in all One thousand and forty chains to a pine tree marked four blazes sixteen Notches & S standing North from the Head of Gravelley Run (3) South seventy-eight Degrees West crossing Pine & Oak land ninety
- 30** chains to Adams Branch Near by Timothy Brandreff House thence the same course crossing bad swampy Cripple Land in all three Hundred and sixty-eight chains (Crossing Mays Log road & the great Road that Leads from the Loar end of great Egg harbour to the Blue anchor to great Egg harbour River at the mouth of a small Run a litle below the mouth of Badcocks Creek thence the same corse crossing the said River Seven

chains to a pine marked on the West side of the River
 thence on the same corse crossing swamp & Cripple in
 all Three hundred and Ninety-seven chains & fifty links
 to a small creek that rents Mays Meadow thence Crossing
 a swamp and the Road that leads from Thomas Cham-
 pions to South River in all four Hundard and thirty
 chains to a branch of South River thence the same course
 crossing an island in the swamp near the foot of Somers
 Swamp and through a large Cripple then leaving the
 swamp and Cripple and Crossing High ground and
 Valeys in all five hundred and sixteen chains to South
 River thence on the same course crossing South River five
 times to a large White oake standing by the bank edge
 on the south side of said River in sight of Simkins Cab-
 ben marked four blazes twelve Notches & S S in all six
 Hundred and sixty-eight chains thence leaving the White
 oake on the same corse crossing pine and oak land in all
 eight hundred and sixty-eight chains to a pine for a cor-
 ner marked four blazes eight Notches & S S standing
 above the head of Stevens Creek 4: North twelve degrees
 West fifty-three chains to the old Tar kiln then through
 swamp and bad land in all one hundred and forty chains,
 to a swamp twenty chain through cald The Bear Head
 thence in all Two Hundard and eighty-five chains to
 South River at the foot of Summers's Cedar Swamp
 thence in all four hundred and ten chains to Egg harbour
 Road that leads from Irelands mill thence Crossing the
 swamp cald the bear Hold in all four hundred and sixty-
 five chain to Townsends Swamp thence in all five hundred
 and thirty-five chains to great run at the foot of five mile
 branch which is twenty chains through thence in all six
 hundard twelve chains and and a half to the road that
 leads from Smith Mill to the seven mile three thence in
 all seven hundard & eighty-one chains to Gold Run
 thence crossing a beaver dam in all eight hundred and
 eighty-five chains to the Lake branch thence in all nine
 hundard and Sixty-one chain and fifty links to faraway

10

20

30

- branch then in all Nine Hundard and Seventy-three chains & fifty links to Horse potality thence in all One thousand and twenty-eight chains to a White Oake & a Pine Each marked S S thence in all one thousand and forty chains to a pine for a corner marked four blazes Eight Notches and the letter S standing on a small Island in a Lau Swampy place thence (5) North seventy-eight Degrees East Crossing poor bad land forty chains to great Egg harbour River then crossing the said River
- 10 fifty links in bredth in all One Hundard & eighty-one chains and fifty to Egg Harbour Road a little above the High hill whare a pine is marked by the Road with the Letter S then through middling land in all Two hundard and twenty-four chains to Peneypot Branch thence through pine and Oak land, in all three Hundard and sixty-nine chains to the place of Beginning Containing eighty-five thousand Nine hundard and seventy-three acres and thirty-five Hundards of an Acre and the Usual allowance for Highways And thair claim of title thareto
- 20 is as follows viz: Whareas the West New Jersey Society being seized of certain rights of propriety to lands in the Western Division of New Jersey did Imploy Henry Youngs Deputy Surveyor who in the year 1748 did lay out and survey apart of of the above discribed Land containing by the sa Survey Thirty-three thousand & Seventy-eight acres and the usual allowance for Highways and is Recorded in the Surveyor General's Office at Burlington in Lib E folio 30. Also the said Henry Yongs in the year 1750 did lay out and survey for the said West New Jersey Society one other tract of lands adjoyning on the
- 30 North East side of the former Containing by Survey Thirty-six thousand two hundred & forty-four acres and allowance for highways and is Recorded in the Surveyor Generals office at Burlington in Lite E. folio 203—in all Sixty-nine thousand three Hundred and twenty-two acres al Ready Located to the said Society and also it appear that 7913 acres within the bounds aforesaid was formerly

surveyed to the persons after named Edmund Iliff in Eight tracts three thousand five hundred and twenty acres: John English in four tracts two hundred and fifty acres—Evi Belanzey in Seven tracts four hundred acres—William Borton in six tracts two hundred and twelve acres—George Steelman in two tracts two hundred acres Joshua Belanizey one tract fifty acres Charles Steelman one tract fifty acres Daniel Ireland in three tracts one hundred & twelve acres Return Badcock 1 tract eighteen acres Philip Scull & Samuel Somers six tracts eighty acres Samuel Somers two tracts one hundred and twenty acres Samuel Somers & John Dole two tracts sixty acres John Stand a land three tracts two hundred and twelve acres—Mary Kirkbride four tracts One thousand six hundred and thirty-six acres Abbe Scull three tracts one hundred and fifty acres—Amos Ireland one tract Seventeen acres Jacob Shinn two tracts three hundred and thirty-three acres—James Somers one tract two Hundred and thirty-nine acres & a half John Mickell three tracts sixty-two acres & a half Thomas English one tract fifty acres Japhet Leeds three tracts fifty-five acres Richard Somers eighty-six acres in two tracts. In all Seven thousand nine hundred and thirteen acres and the usual allowance for Highway. But for as much as the Resurvey above described Contain eighty-five thousand nine Hundred & Seventy-three acres & thirty-five Hundards of an acre and the usual allowance for highways. There appears to be an over Plush of eight thousand seven hundred & thirty-eight acres & thirty-five hundards of an acre and the usual allowance for highways—which over plush is Hearby Returned to the West New Jersey Society and is part of a Warrant granted by the Councel of Proprietors to the West New Jersey Society for One hundred thousand acres of land dated the Twenty-ninth day of March—One thousand seven hundred & seventeen the said Warrant is entered on Record in Lib M. folio 6. We have given timely Notice by advertisement to the Persons Concerned in the lines Chain bearers was Samuel Bun (*) Arthor

Wescoat Thomas Springer, John Baley aoron before us
Joseph Purkens & Joseph Wolley Horn Markers—Sur-
veyed the 24 & 25 & 26 & 27 of May One thousand Seven
hundard and seventy-three as Witness our hand.

RICH SOMERS,

THO DENNY,

Deputy Surveyors.

To Daniel Smith Sur Gener of West New Jersey.

- 10 I, Franklin Woolman, Surveyor General of the West-
ern Division of New Jersey do Cerity the foregoing to be
a true copy of Deputy Surveyors Map and Return of the
Survey on file in the Surveyor Generals office at the City
of Burlington—The Word (place in the 15th line 2 page
twelve in the 16 line 3 page—six in 13 line & Ireland in
30 line 4 page (nine) in 3 line (then through land) in 14
line & the in 27 line 5 page (twelve in 25 line of 6 page
(and) in 19 line 7 page and sixteen interlined in o6 line
third page (Eight) in 13 line in 4 page all written the
20 same way in the original then crossing the said River in-
terlined on 5 page.

Witness my hand and seal of office this eighteenth day
of May, A. D. 1870.

[SEAL.]

FRANKLIN WOOLMAN,

Sur. Gen.

(Map attached to Exhibit D2.)

Exhibit D3.

30

ADVERTISEMENT.

At the Inn of A. Adams, at Mays Landing, the follow-
ing described property, viz.:

No. 1. The site of the old Ætna Furnace. This prop-
erty in additon to its having on it a first class water power,

contains a
growth and
tion is uns

No. 2 is
ated about
town of A
buildings a
lishment, w

No. 3 is
ing about
situated on
adelphia, a
susceptible

No. 4 is
known as
erty contain
wood land,

No. 5 is
Bear's He
growth on
able; it is c

No. 6 is
containing

No. 7 is
meadow ly
half being
gether abo

No. 8 is
known as
Somers and
at the time

Persons
on Eli Va
wishing to

contains about 600 acres of land, a part of it in young growth and a part farm land. The natural soil and location is unsurpassed in this section of country.

No. 2 is the works known as Estell's Glass Works, situated about four miles from Mays Landing, the county town of Atlantic, and comprises the usual number of buildings and out buildings appertaining to such an establishment, with 12 acres of land.

No. 3 is the old Doughty Tavern and farm, containing about 130 acres of excellent land. This property is situated on the main stage road from Tuckahoe to Philadelphia, about 12 miles from the former place and is susceptible of great improvement. **10**

No. 4 is two equal undivided third parts of what is known as the Frederick Steelman property. This property contains about 2,000 acres altogether; it is chiefly wood land, and a part of it said to be very good.

No. 5 is a tract of wood land known as the Iliff or Bear's Head tract, containing about 700 acres. The growth on this is old and the timber said to be very valuable; it is chiefly pine. **20**

No. 6 is a tract known as the Somers and Risley tract, containing 265 acres or thereabouts; it is also wood land.

No. 7 is the equal undivided one-half part of a tract of meadow lying on Tuckahoe and Middle River, the other half being owned by John L. McKnight; it contains altogether about 500 acres.

No. 8 is all the said Estell's interest in and to what is known as Peck's Beach owned jointly with Richard Somers and others, and which will be more fully described at the time of sale. **30**

Persons wishing to view the Furnace Property will call on Eli Vaneman, who lives near the premises. Those wishing to view the glass works property will call on

Daniel Collins, or for further information in reference to any of the property may consult the executors.

The sale will begin at 2 o'clock P. M.

Conditions at the time of the sale.

E. L. B. WALES,
JOHN HOGAN,
Executors.

Tuckahoe May 22, 1860.

- 10 John Hood, printer, south side of Federal street, near Front, Camden, New Jersey.

Exhibit D4.

DEED.

- 20 This indenture made the tenth day of September, Anno Domini one thousand eight hundred and sixty-seven, between Edmond L. B. Wales of Cape May and John Hogan of Atlantic counties, State of New Jersey, executors of the last will and testament of Daniel E. Estell, late of the township of Weymouth, county of Atlantic and State aforesaid, dec'd, of the first part, and William Norcross of Atlantic and Uriah Norcross of Camden counties, State aforesaid, of the second part, witnesseth, that the said Wales and Hogan, executors aforesaid, duly authorized and empowered by the last will and testament of the said Daniel E. Estell, dec'd, and for the consideration of
- 30 one thousand dollars to them paid or secured to be paid by the said William and Uriah Norcross, the receipt whereof is hereby acknowledged, have and by these presents do grant, bargain, sell and convey unto the said William and Uriah Norcross, their heirs and assigns, all the right, title and interest of the aforesaid D. E. Estell, dec'd, to all that certain tract or parcel of land situated in Hamilton township, in the county of Atlantic,

and State of New Jersey, being seven hundred acres, more or less, surveyed to Edmund Irliff and begins at a white oak on the southwest side of South River, on the side of a hill, and runs southwest seventy-eight degrees one hundred and forty-three chains to a pine tree; thence (2) north twelve degrees west sixty-six chains to a Beaver Pond, then still the same course about one hundred chains further to a large branch of South River; thence down the same to South River and down the said river to the place of beginning.

10

To have and to hold unto the said William and Uriah Norcross, their heirs and assigns, to the only proper use of the said William and Uriah Norcross, their heirs and assigns, according to the form of the statute in such case made and provided.

In witness whereof, the said Wales and Hogan, executors as aforesaid, have hereto set their hands and seals the day and year first aforesaid.

[SEAL.]

EDMOND L. B. WALES,

[SEAL.]

JOHN HOGAN,

Exec.

20

Sealed and delivered in the presence of

THOS. WILLIAMS.

NEW JERSEY,
CAPE MAY COUNTY, } ss.

Be it remembered that on the tenth day of September, Anno Domini one thousand eight hundred and sixty-seven, personally appeared before me the subscriber, one of the commissioners for taking the proof and acknowledgment of deed, Edmond L. B. Wales and John Hogan, who I am satisfied are the grantors named in the above deed, and I having made known to them the contents thereof they acknowledged that they respectively signed, sealed and delivered the same as their voluntary act and deed.

30

THOS. WILLIAMS.

Exhibit D5.

DEED.

This indenture, made between Uriah Norcross, of the township of Gloucester, county of Camden, and State of New Jersey, of the one part, grantor, and William F. Norcross, of Hamilton township, Atlantic county, and State aforesaid, of the other part, grantee, witnesseth, that the said grantor, for and in consideration of the sum of five hundred dollars to him paid by the said grantee, the receipt whereof is hereby acknowledged, do bargain, sell, convey and confirm unto the said grantee his heirs and assigns all the following described tract or piece of land situate on the southwest side of South River, in the county of Atlantic, and State of New Jersey, being seven hundred acres, more or less, surveyed to Iliff, and begins at a white oak tree, on the south side of South River, on the side of a hill, and runs southwest seventy-eight degrees about one hundred and forty-six chains to a pine tree; thence (2) north twelve degrees west sixty-six chains to a Beaver Pond, then still the same course about one hundred chains further to a large branch of South River, also called Bear's Head, Green's branch and Deep Run; thence down the same to South River and down the said river to the place of beginning, and is the same tract of land which E. L. B. Wales and John Hogan, executors to the last will of D. E. Estell, dec'd, by deed duly executed, bearing date September the tenth, 1867, conveyed to the said William F. and Uriah Norcross as tenants in common, as by said deed will appear, that is to say, the said party of the first part doth hereby convey the one morety or half part of the above described tract of land and is the same tract of land James Leeds, Sheriff of the county of Atlantic, conveyed to John Hogan by deed

bearing date April 10, 1849, and the said John Hogan by deed bearing date February 19, 1850, conveyed the same to Daniel E. Estell, by reference to said deeds recorded in the clerks office of the county of Atlantic will more fully appear. To have and to hold unto the said grantee, his heirs and assigns and to the only proper use of the said grantee, his heirs and assigns according to the form of the statute in such case made and provided.

In witness whereof, the said grantor has hereunto set his hand and seal this sixth day of October, 1885, in the year eighteen hundred and eighty-five (1885). 10

[SEAL.]

URIAH NORCROSS.

Sealed and delivered in presence of

B. W. BENNETT.

20

STATE OF NEW JERSEY, }
CAMDEN COUNTY, } ss.

Before me, the subscriber, one of the Commissioners of Deeds, personally appeared Uriah Norcross, the grantor named in the foregoing conveyance, and did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed, the contents thereof having first been made known to him by me, and I being satisfied that he is the grantor mentioned in the said deed. 30

Acknowledged before me this sixth day of October, Anno Domini one thousand eight hundred and eighty-five (1885).

B. W. BENNETT,
Commissioner of Deeds.

Exhibit D7.

TAX RECEIPT.

Tax Notice. To Wm. F. Norcross.

Your tax for the year 1892, in Hamilton township,
has been assessed as follows:

10	Rate of assessment on \$100.00 valuation, \$1.39.	
	No. of acres.....
	Value of real estate.....	\$1,150 00
	Value of personal property.....	100 00
		<hr/>
	Total value.....
	Deductions
	Amount assessed	\$1,250 00
20	Poll tax	\$1 00
	Dog tax
	Township school tax.....	1 88
	State school tax.....	3 75
	County tax	2 50
	County poor tax.....	1 25
	Township poor tax.....	25
	Township road tax.....	6 25
	Lights	63
	Current expenses	63
30	Premiums	25
	School district, No. 38.....	1 76
		<hr/>
	Total.....	\$20 12

Commissioners of Appeal in case of taxation will meet
Tuesday, November 22d, 1892, in Room No. 1, Veal's
Opera House, Mays Landing, N. J. All taxes not paid

before December 20th, 1892, will be returned to a Justice of the Peace for prosecution, and all taxes on real estate not paid before February 1st, 1893, will be returned to the County Clerk, according to law, and recorded as a first lien on said real estate. All taxes not paid before the 20th of December, 1892, will draw 12 per cent. interest per annum until paid, to be collected with the tax. Joseph Sutton, Collector, Mays Landing, N. J.

Received payment of the above tax in full.

J. SUTTON,
Collector.

10

Bring this bill with you.

Exhibit D8.

SURVEY.

On a Warrant of the West Jersey Society for 100,500
Acres to the West Jersey Society 33,078 Acres.

20

By vertue of a warrant ffrom the Council of proprietors to me directed bearing date the eighteenth of January, one thousand seven hundred & thirty and nine, requiring me to survey to The West Jersey Society the full quantity of one hundred and ffive ffive thousand acres of land in The western division of the Province of New Jersey below the ffals of Delaware. Thearfore I have caused part of the said one hundred and ffive thousand acres of land to be surveyed to the said West Jersey Society by my lawfull deputy Henery Young, Scituate in the county of Gloucester & province aforesaid on both sides Great Egg Harbor Rover, & on both sides of the road that goes ffrom Philadelphia to Egg Harbor and is bounded as followeth: Beginning at a corner Pine Market with twelve notches standing half a mile

20

- on th west side of The River & so running ffrom thence north eighty degrees east to Philop Wallis corner & still the same course to a corner of Thomas Evens standing by the side of the path that goes ffrom Philadelphia to Great Egg Harbor & marked with the leters E. and S. and twelve notches which pine is about a mile below the Little Pond & still the same course to a pine tree marked with twelve notches standing by the side of the path that goes ffrom Philadelphia to the upper ends of ends of Egg Harbor Shore in all three hundred & fforty chains & from thence south ten degrees East one thousand and fforty chains to a pine marked with twelve notches and the letter S. standing near a branch of Badcock Creek & from thence south eighty degrees west three hundred and fforty chains to a pine tree marked with twelve notches and the letter S. standing on the west side of the said Egg Harbor River and ffrom thence north ten degrees west one thousand & fforty chains to the ffirst place of beginning within which bounds is contained thirty three thousand & six hundred acres of land & the alloance ffor highways. But after the above mentioned surveys are taken out their will remain to the West Jersey Society the ffull quantity of thirty three thousand & seventy eight acres & the allowance for highways viz: To William Borton seventy two acres & thirty one acres and seventy ffive acres & to Eir. Ballange ffty acres & ffty acres & ffty acres & to John English sixty acres and to Daniel Ireland sixty acres and to Charles Steelman one hundred acres & to Joshua Ballange ffty acres all amounting to ffive hundred & ninety eight acres.

Witness my hand the ninth day of June, 1748.

JA: ALEXANDER, Survr. Generall

August ye 4th, 1748. Inspected & approved by the Council of Proprietors & ordered to be recorded.

Jos. DECOU, Clark,

I, Henry S. Haines, Surveyor General of the Western Division of New Jersey, do hereby certify the foregoing to be a true copy of the survey as recorded in Book E of Surveys, page 30, in the office of the Surveyor General, at Burlington.

Witness my hand and official seal this sixteenth day of January, A. D. one thousand nine hundred and two (1902).

[SEAL.]

HENRY S. HAINES,
Surveyor General. **10**

Exhibit Dg.

SURVEY.

On a warrant of the West Jersey Society for 105,000 acres 36,244, acres to the New Jersey Society. **20**

By virtue of a warrt. from the Council of Proprietors to me directed bearing date the eighteenth day of January Anno Don. one thousand seven hundred thirty & nine, requiring me to survey to the West New Jersey Society The full quantity of one hundred & five thousand acres of land in the Western Division of the Province of New Jersey Below the ffals of Delaware, I have caused part of the said one hundred and five thousand acres of land to be surveyed to the said West New Jersey Society by my lawful deputy Henry Young, scituate in the county of Gloucester and Province aforesaid and is bounded as followeth: **30**

Beginning at the north easternmost corner of a tract of land that was laid out by Henry Young for the West New Jersey Society standing by the Egg Harbor New Road and so running from thence north eighty degrees

east three hundred & eighty chains to a pine marked with twelve notches, and from thence south ten deg. east one thousand and forty chains to a corner pine marked with twelve notches, and from thence south eighty degrees west three hundred and eighty chains to another corner of the said Society and thence along the Society's line north ten degrees West one thousand and forty chains to the beginning within which bounds is contained thirty seven thousand six hundred and thirty eight acres and ye allowance for highways; but after

10

the taking out five surveys of Edmon Iliff eight hundred acres, George Steelman one hundred Stephen Morris one hundred, Evi Ballenger fifty, Return Back-cocke eighteen, Joshua Ballenger fifty, Evi and Joshua Ballenger one hundred John English one hundred and six and Samuel Sommers seventy acres. There will remain to the West Jersey Society the full quantity of thirty-six thousand two hundred and forty four acres of land with the usual allowance for highways.

20

Witness my hand the first day of May 1750.

JA. ALEXANDER, Survr. Genll.

August 9th 1750 Inspected & approved by the Council of Propr & ordered to be recorded.

Jos. DECOU, Clk.

30

I, Henry S. Haines, Surveyor General of the Western Division of New Jersey, do hereby certify the foregoing to be a true copy of the survey as recorded in Book E of Surveys, folio 203, in the office of the Surveyor General, at Burlington.

Witness my hand and official seal this sixteenth day of January, A. D. one thousand nine hundred and two (1902).

HENRY S. HAINES,
Surveyor General.

[SEAL.]

Exhibit D10.

RE-SURVEY.

The West New Jersey Societies Re-survey of 78,060
 Acres 35-100 Overplus; 8,738 Acres and 35-100ths
 Retd on a Want of the sd Societies of 100,000
 Acres ax a.

10

In pursuance of a Warrant from the Council of Proprietors to the surveyor General directed bearing date the ninth day of May one thousand seven hundred and seventy-one Requiring him to Resurvey unto the West New Jersey Society all or any of their Lands in the Western Division of New Jersey according to the ancient bounds thereof. Richard Somers & Thomas Denny two of the late Surveyor General's lawful Deputies made return of the following described Resurvey for the said West New Jersey Society as appears by the said Return, bearing date the twenty-fourth, twenty-fifth twenty-sixth and twenty-seventh days of May one thousand seven hundred and seventy-three therein certifying that the persons concerned in the lines had timely notice, and that the same is situate in the township of Great Egg harbour in the County of Gloucester lying on both sides of Great Egg Harbour River and bounded in manner following viz: Beginning at a large pine tree it being the beginning Corner of 36.244 acres formerly surveyed for the said Society standing by the great Road that leads from absecom to the Blue Anchor, a little above Mount Hope marked four blazes & twelve notches lettered S S from thence (1) North seventy-eight degrees East by a line of old marked trees two hundred and seventy-five chains to the forks of the Gum Branch, thence the same course crossing the Northward most Branch of the Gum Branch, and a small branch of Little Egg harbour, in all four hundred and

20**30**

ninety nine chains to a pine stump shewn to us for the corner of the Society by Elijah Clark, which appeared to us to be the corner, as we found the line trees answering each way the tree appeared to have been cut down about a year ago, and now we marked a pine twelve notches and S standing one chain & two links South six degrees east from the stump aforesaid thence (2) South twelve degrees East seventy chains across poor swampy grounds to Cripple Cabbin branch thence the same course, in all

10 seventy five chains to Herds Branch, thence crossing pine lands, and by three old line trees in all one hundred and sixty six chains & fifty links to Elijah Clarks Mill Branch, where we found an old line tree by the side of the run thence the same course crossing cripple & pine Land and finding two old line trees, in all two hundred & twenty-one chains and fifty links to Brockways branch thence crossing better land finding one old line tree, in all two hundred and ninety two chains and fifty links to the main

20 Road that leads from the forks of Little Egg harbour River to the Widow Cillams thence the same course crossing land lately cleared and other pine land, in all three hundred and thirty two chains and fifty links to Lucas's branch, thence crossing pine land, in all three hundred and seventy-three chains & fifty links to a branch of Lucas's branch thence the same course crossing poor pine land in all four hundred and thirty one chains and fifty links to Newtown branch, thence crossing pine land in all four hundred and seventy six chains & fifty links to Indian Cabbin branch, thence the same course crossing

30 poor pine Land in all five hundred and ten chains to a branch of Indian Cabbin branch thence the same course crossing poor pine Land in all six hundred & sixty chains to landing creek near a quarter of a mile below the Cedar Bridge, thence crossing said Creek on the same course, also crossing better pine Land and finding two old line trees, in all seven hundred & thirty five chains to the great Road that leads from Abescon to the Blue Anchor,

near a Mile below Cedar Bridge thence the same course,
 crossing pine Land, in all eight hundred and forty seven
 chains to a branch of Badcocks creek, passing three old
 line trees, thence crossing the said branch, and the head
 of Badcocks Creek finding one old line tree, in all eight
 hundred and ninety two chains then the same course
 crossing bad land, in all nine hundred and seven chains
 to a branch of Badcock's creek, thence crossing poor pine
 land, in all nine hundred and seventy seven chains to Jack
 puddings brnach, thence the same course crossing pine
 land, in all one thousand and forty chains to a pine tree **10**
 marked four blazes and sixteen notches lettered S stand-
 ing North from the head of Gravelly Run, thence (3)
 South seventy eight degrees west crossing pine and oak
 land, ninety chains to Adams's branch near by Timothy
 Brandreff's House thence the same course crossing bad
 swampy cripple Land, in all three hundred and sixty eight
 chains (crossing Mays Log road, and the great Road that
 leads from the lower end of Great Eggharbour to the
 Blue Anchor to Great egg harbour River at the mouth of **20**
 a small run a little below the mouth of Badcocks Creek
 thence the same course crossing the said River, seven
 chains to a pine marked on the West side of the River,
 thence on the same course crossing swamp and cripple,
 in all three hundred and ninety seven chains & fifty links
 to a small creek, that vents Mays Meadow, thence cross-
 ing a swamp and the Road that leads from Thomas
 Champions to South River in all four hundred and thirty
 chains to a branch of South River, thence the same course
 crossing an Island in the swamp near the foot of Somers
 swamp and through a large cripple, then leaving the **30**
 swamp and cripple and crossing high ground and
 valeys in all five hundred and sixteen chains to South
 River, thence on the same course, crossing South River
 five times to a large white oak standing by the bank Edge,
 on the South Side of said River, in sight of Simkins Cab-
 bin marked four blazes twelve notches Lettered S S in

- all six hundred and sixty eight chains, thence leaving the white oak on the same course, crossing pine and oak Land, in all eight hundred and sixty eight chains to a pine for a corner marked four blazes & eight notches, Lettered S. S. standing above the head of Stevens creek then (4) North twelve degrees West fifty three chains to the old Tar Kiln, then through swamp and bad land in all one hundred and forty chains to a swamp twenty chains through, called the Bear head thence in all two hundred and eighty five chains to South River at the foot of Lummas's Cedar Swamp, thence the same course, in all four hundred and ten chains to Eggharbour Road, that leads from Irelands Mill, thence crossing the swamp called Bears hole, in all four hundred and sixty five chains to Townsends swamp, thence in all five hundred and thirty five chains to great Run, at the foot of five Mile Branch, which is twenty chains through, thence in all six hundred & twelve chains and a half to the Road that leads from Smiths Mill to the seven Mile tree thence still said course,
- 10 in all seven hundred & eighty one chains to gold run, then crossing a Beaver Dam, in all eight hundred and eighty five chains to the Lake Branch then continuing on in all nine hundred and sixty one chains & fifty Links to Far-away branch, thence still on said course, in all nine hundred and seventy three chains & fifty links to Hospitality thence, on, in all one thousand and twenty eight chains to a white oak & a pine each marked S. S. thence still on, in all one thousand and forty chains to a pine for a Corner, marked four blazes & eight notches lettered S standing on a small Island, in a low swampy place thence
- 20 (5) north seventy eight degrees east crossing poor bad Land forty chains to great Eggharbour River, then crossing the said River fifty links in breadth, in all one hundred & eighty one chains and fifty Links to Eggharbour Road a little above the highhill where a pine is marked by the Road with the Letter S then through middleing Land, in all two hundred and twenty four
- 30

chains to penny pot branch thence through pine and oak land, in all three hundred and sixty nine chains to the place of beginning. Containing eighty five thousand nine hundred and seventy three acres and thirty five hundredths of an acre and the usual allowance for highways. But after excepting out the following surveys included within the bounds thereof formerly surveyed to the persons hereinafter named of a prior date viz: Edmund Iliffe in eight surveys three thousand five hundred and twenty acres; John English in four tracts two hundred and fifty acres; Evi Ballange in seven tracts four hundred acres William Borton in six tracts two hundred & twelve acres—George Steelman in two tracts two hundred acres—Joshua Ballangee one tract of fifty acres—Charles Steelman one tract of fifty acres. Daniel Ireland in three tracts one hundred and twelve acres. Return Badcock one tract eighteen acres. Philip Scull & Samuel Somers six tracts eighty acres—Samuel Somers two tracts one hundred and twenty acres—Samuel Somers and John Dole two tracts sixty acres John Standaland three tracts two hundred and twelve acres—Mary Kirkbride four tracts one thousand six hundred and thirty six acres. Abel Scull three tracts one hundred and fifty acres. Amos Ireland one tract seventeen acres. Jacob Shinn two tracts three hundred and thirty three acres. James Somers one tract two hundred and thirty nine acres & a half. John Mickle three tracts sixty two acres and a half. Thomas English one tract fifty acres. Japhet Leeds three tracts fifty five acres. Richard Somers eighty six acres in two tracts, in all seven thousand nine hundred and thirteen acres and the usual allowance for highways which being deducted from the whole contents above recited, there will remain to the said Society the quantity of seventy eight thousand and sixty acres & 35-100ths and allowance for highways. To which they claim Title as followeth viz: Being seized of certain shares of

propriety in the Western Division of New Jersey obtained a Warrant from the Council of proprietors of said Division for the location of one hundred and five thousand acres of Land, in the name and for the use of the West New Jersey Society as appears by the said Warrant Recorded in B. B. folio 8 in the Surveyor General's Office at Burlington, also filed in said office, and dated the eighteenth day of January 1739-40 And being seized as aforesaid had laid forth and surveyed

10 by Henry Young Deputy Surveyor thirty three thousand and seventy eight acres of Land and the usual allowance for highways, in right of said Warrant as appears by the Record thereof in the Surveyor General's office aforesaid in Lib E. folio 30. And likewise in the year 1750 the said Henry Young laid forth and surveyed for the said West New Jersey Society one other tract of land adjoining on the North East side of the former containing by and survey thirty six thousand two hundred and forty four acres and allowance for

20 highways in part of said warrant as by the Record thereof in the Surveyor General's office aforesaid in Lib I. folio 203 appears, which two surveys make together sixty nine thousand three hundred and twenty two acres. But for as much as the Resurvey contains seventy eight thousand and sixty acres and thirty five hundredths of an acre, within the above bounds exclusive of the prior surveys aforesaid, there is consequently within the lines thereof eight thousand seven hundred and thirty eight acres and thirty five hundredths of an acre. Which hath not been properly located therefore

30 in order to secure the said land to the said Society there is hereby appropriated within the lines of the same the like quantity of unlocated lands in part of a Warrant granted by the said Council of proprietors to the West New Jersey Society aforesaid for one hundred thousand acres of Land, in the Division aforesaid dated the twenty ninth day of March one thousand seven hun-

dred and seventeen which said Warrant is entered on Record in Liber M. folio 6 in said office. Witness my hand the fifth day of the fifth month May one thousand seven hundred and seventy-four 1774 (% 35-100ths) Interlined August the 7th, 1783. Robt. Smith, Jun. Sur. Genl. Inspected and approved of by the Council of proprietors and ordered to be Recorded.

DANIEL ELLIS, Clk.

[SEAL.]

I, Henry L. Haines, Surveyor General of the Western Division of New Jersey, do hereby certify the foregoing to be a true copy of the survey as recorded in Book T of Surveys, page 45, etc., in the office of the Surveyor General, at Burlington. 10

Witness my hand and official seal this sixteenth day of January, A. D. one thousand nine hundred and two (1902).

HENRY L. HAINES,
Surveyor General.

[SEAL.]

20

Exhibit D11.

CERTIFIED COPY OF A DEED.

Edmund Iliff to Thomas Denny.

This indenture maid the ninth day of April in the year of our Lord one thousand seven hundred and forty three by and between Edmund Iliff, of the city of Philadelphia in the Province of Pennsylvania, Gentleman, of the first part and Thomas Denny of the county of Gloucester, in the Province of West New Jersey, of the other part, Witnesseth that I the said Edmund Iliff, for and in consideration of the sum of four hundred pounds, good current lawful money of New Jersey, to me paid by 30

the said Thomas Denny, at and before the sealment and delivery of this deed, the receipt whereof I do acknowledge, and therefrom entirely acquit and exonerate the said Thomas Denny therefrom, forever, and I do hereby grant, bargain, sell, enfeoff, convey and confirm unto the said Thomas Denny, his heirs and assigns, all the following tracts of land, situate at Great Egg Harbor: First tract is seven hundred acres, surveyed to the said Edmund Iliff and begins at a white oak tree on the southwest side of South River, on the side of a hill, and runs southwest seventy eight degrees, one hundred and forty three chains to a pine tree; thence (2) north twelve degrees west sixty six chains to a Beaver Pond, then still the same course about one hundred chains further to a large branch of South River; thence down the same to South River and down the said River to the place of beginning.

10

(Here are described 17 other tracts.)

20

Together with all the hereditaments and appurtenances to all the above granted and bargained premises and every part thereof, belonging, or in any wise appertaining. To have and to hold the same to him the said Thomas Denny, his heirs and assigns forever. And the said Edmund Iliff and his heirs, the said premises hereby granted and every part thereof, unto the said Thomas Denny, his heirs and assigns against him, the said Edmund Iliff, his heirs and assigns, and against all and every person or persons claiming the same premises, shall and will warrant and forever defend by these presents.

30

In witness whereof the said Edmund Iliff has hereto set his hand and seal the day and year first written.

EDMUND ILIFF, with a (Seal)

Sealed and delivered in presence of

JSA DECOU.
JOHN WILLIS.

Be it remembered that on the ninth day of April Anno Domini, 1743 personally came before me Jsa DeCou, one of the judges of the Cort of common Pleas, for the county of Burlington, Edmund Iliff, the grantor, and acknowledged the above indenture to be his act and deed and that he executed the same to the use above mentioned. Acknowledged before me, the day and year above.

JSA DECou.

10

(Endorsed on the above deed.)

POTTS, Clerk.

Know all men that I Thomas Denny the grantor in the within deed named for the consideration of four hundred pounds current money to be paid by Richard Somers, doth hereby grant, bargain, sell, release and convey, all and singular the lands of every description and situation in the within deed named, excepting only the seven hundred acres tract to the said Richard Somers, his heirs and assigns forever. Together with all the privileges and appurtenances thereunto belonging. To have and to hold the same and every part thereof, to the only benefit and behoof of the said Richard Somers, his heirs and assigns, forever.

20

In witness whereof I have hereto set my hand and seal this 16th day of March, one thousand seven hundred and eighty-four.

THOS. DENNY. [SEAL.]

Sealed and delivered in presence of

30

JOHN WILKINS.
SAM'L SPRINGER.

GLOUCESTER COUNTY:

Before me John Wilkins, one of the judges of the Inferior court of Common Pleas of said county, person-

ally came Thomas Denny of said County and grantor to this indenture, and acknowledged that he executed and delivered the same to and for the uses and purposes above mentioned. Taken March 16th, 1784 before me
JOHN WILKINS.

Received and recorded August 9th, 1847.

Potts, Clk.

10 STATE OF NEW JERSEY, }
COUNTY OF ATLANTIC, } ss.

I, Lewis P. Scott, Clerk of the county of Atlantic, do hereby certify that the foregoing is a true, full and correct copy of a certain deed, as the same is recorded in my said office in Book A of Miscellaneous Records, page 60, &c.

In witness whereof, I have hereunto set my hand and affixed the seal of Atlantic county, at Mays Landing, N. J., this twenty-ninth day of May, A. D. nineteen hundred and one.

20

LEWIS P. SCOTT,
Clerk.

[SEAL.]

(Stamp.)

Exhibit D12.

CERTIFIED COPY OF DEED.

30

Thomas Denny to Richard Somers, 1786.

This indenture maid this seventeenth day of June in the year of our Lord one thousand seven hundred and eighty six (1786) Between Thomas Denny of the county of Gloucester and state of West New Jersey, of the one part and Richard Somers of the county and Province

aforesaid of the other part witnesseth that the said
 Thomas Denny for and in consideration of the sum of
 one hundred pounds current money of the state to him
 in hand paid by the said Richard Somers the receipt
 whereof the said Thomas Denny do hereby acknowledge
 himself therewith fully satisfied, contented and paid, hath
 granted bargained and sold, aliened and confirmed and by
 these presents doth grant bargain, and sell, alien and con-
 firm unto the said Richard Somers his heirs and assigns
 forever all that certain messuage and piece or parcell of **10**
 land situate and lying in the Township of Great Egg
 Harbor lying on the branch sometimes called Bares head
 and sometimes Deep run branch, and on the road which
 goes up on the southwest side of South River crossing tar
 kiln branch from Egg Harbor to Parsons Beginning at a
 large white oak tree marked four blazes twelve notches
 and now the letter S. standing on the south west side of
 South River and where the line of the Society Tract now
 crosses the same on the side of the hill near Simpkins
 cabin; thence south seventy eight degrees west one hun- **20**
 dred and forty three chains to a pine tree for a corner
 marked four blazes, twelve notches and S. standing where
 the line of the West Jersey Society's resurvey has been
 lately run, and about fifty seven chains below their cor-
 ner, also in the line of a survey which the said Richard
 Somers has agreed to purchase; thence north twelve de-
 grees west sixty six chains to Tar kiln branch at the pond;
 thence the same course one hundred chains crossing the
 road to the branch called Deep run or Bares head; thence
 down the said branch or run the several courses of said **30**
 run to the aforesaid South River then the several courses
 of said river by other land of the said Richard Somers to
 the corner tree first named; containing seven hundred
 acres more or less which survey formerly belonged to
 Edmund Iliff and is one of the eight tracts excepted out
 of the Society's resurvey for him, and was conveyed
 by the said Iliff to the aforesaid Thomas Denny the pres-

STATE OF NEW JERSEY:

I, Henry C. Kelsey Secretary of State of the State of New Jersey, do hereby certify the foregoing to be a true copy of an indenture made by Thomas Denny to Richard Somers, dated June 17th, 1786, as taken from and compared with the original record (Recorded in Book A. X. of Deeds, page 82) now remaining in my office.

In testimony whereof I have hereunto set my hand and affixed my official seal this 2d day of December, A. D. 1870.

[SEAL.]

HENRY C. KELSEY.

40

Exhibit D13.

WILL OF RICHARD SOMERS.

Dated November 20th, 1723; proved April 20th, 1795. Orders and empowers his executors to make sale of lands, mills and improvements not before given away, describing certain tracts, and "all other land not mentioned to be sold by my executors and after paying all my lawful just debts, the remainder, with my movable estate, to be equally divided between my three children, Constant, Sarah and Richard, after my wife first taking out her thirds, the remainder to be equally divided; my wife, Sophia Somers, and my three children, Constant, Richard and Sarah appointed executors."

Exhibit D14.

CERTIFIED COPY OF DEED.

William Jonas Keen and Sarah, his wife, which said Sarah is the daughter, devisee, and now the only surviving executrix of Richard Somers, deceased, to Elisha Clark.

10

Dated April 21st, 1807; recites the will of Richard Somers as follows:

“Whereas the said Richard Somers was in his lifetime seized and possessed of divers tracts of land in the county of Gloucester aforesaid and elsewhere and particularly the following described tracts, and he being so thereof seized departed this life having first made and published his last will and testament in writing and therein among other things did authorize, and empower his executors therein named to wit, his sons Constant, and Richard and his daughter Sarah, (the said Constant and Richard being now deceased) to make sale of the herein following hereinafter after described tracts and pieces of land and apply the net proceeds to the purposes in said will mentioned and whereas the said William Jonas Keen and Sarah Keen his wife, surviving executrix aforesaid, by virtue of and in pursuance of said will did on the 25th of March last at the house of Richard Westcott in the Township of Great Egg Harbor in the county of Gloucester aforesaid, make public sale of all the hereinafter mentioned and granted tracts or parcels of land, severally having first given due notice thereof, and the said Elisha Clark being the highest and best bidder for each and all of said tracts amounting in the aggregate to the sum of \$1,713.34 the same were publicly cried off to him; conveys 35 tracts of land the 35th tract of which is all that

tract of land, swamp and premises which he the said Richard Somers was seized of in his lifetime situate lying and being at the head of Deep Run on the road leading from Egg Harbor to Parsons containing by estimation 700 acres or thereabouts, butted, bounded and described as the same is set forth in the grant or conveyance to the said Richard Somers or howsoever else the same ought to be butted, bounded and described. Recorded at Woodbury June 18, 1807, in Libra K. of Deeds, page 445.

10

Exhibit D15.

CERTIFIED COPY OF DEED.

Elisha Clark and his wife to William Jonas Keen.

Dated April 22d, 1807; conveys the same property as Exhibit D14, recorded July 18, 1807, at Woodbury, in Book K, page 452.

20

Exhibit D16.

CERTIFIED COPY OF DEED.

John Claxton and William Newbold, assignees in trust for the benefit of the creditors of William Jonas Keen and Savage Stillwell, to Sarah Keen.

30

Dated May 9th, 1810; recites an assignment for the benefit of creditors, dated October 5th, 1808; public sale of the property on April 5th, 1810, at the Merchants' Coffee House, in Philadelphia, and conveys the

same 35 tracts of land and other lands. Recorded October 5th, 1833, at Woodbury, in Book I3, page 81.

Exhibit D17.

CERTIFIED COPY OF DEED.

- 10** Sarah Keen, widow of William Jonas Keen, daughter and only surviving executrix of Richard Somers, deceased, late of Great Egg Harbor, New Jersey, to George West.

Dated July 1, 1813; recites the death of said Richard Somers, seized and possessed of certain lands and his will and power of sale.

- 20** Conveys to George West, his heirs and assigns, with other lands, all those several tracts, parcels of land swamp, &c., that are contained and described in the deed aforesaid from John Claxton and William Newbold to the said Sarah Keen, dated May 9th, 1810, or all the remaining tracts therein contained that have not been legally conveyed previously to the present day by the said Sarah Keen, and also in manner and form aforesaid all the lands and pieces of land swamp, &c., of every description whatever that belonged to the said Richard Somers, the elder, at the time of his decease, only excepting and reserving therefrom the homestead plantation at Somers Point, with the sedge marsh situate thereto, and all of the marsh situate between Tuckahoe and Middle River and the undivided moiety or half part of the saw and grist mill near Bargaintown and $15\frac{1}{2}$ acres of ground thereunto belonging and $19\frac{1}{4}$ acres of land and cedar swamp near the above survey of the 15th of January, 1793. Recorded September 18th, 1813, in Book S of Deeds, page 150, at Woodbury, N. J.

Exhibit D18.

WILL OF GEORGE WEST.

Dated May 10th, 1828, proved September 23, 1829, before the Surrogate of the county of Gloucester. Recorded in Book C of Wills, page 379. By the ninth item the testator directs that all his land of every description and situation in the State of New Jersey and elsewhere, proprietary rights, &c., be sold by my executors or the survivors at either public or private sale. Letters testamentary issued to Joseph E. West, the only surviving executor named in said will September 23, 1829. **10**

Exhibit D19.

CERTIFIED COPY OF DEED.

Joseph E. West, surviving executor, to Daniel E. Estell. **20**

Dated December 8th, 1829; recorded December 11th, 1829, at Woodbury, in Book YY of Deeds, page 483; conveys property of deceased, including premises in question—the premises in question passing by the words “together with all the residue and remainder of the real estate of said deceased in the State of New Jersey or elsewhere not before disposed of.”

Exhibit D20.**30**

CERTIFIED COPY OF DEED.

Daniel E. Estell to Joseph E. West.

Dated December 9th, 1829; recorded December 11th, 1829, at Woodbury, in Book YY, page 486; conveys same property as Exhibit D19.

Exhibit D21.

CERTIFIED COPY OF JUDGMENT.

NEW JERSEY SUPREME COURT.

James W. Caldwell vs. Joseph E. West and Daniel E.
Estell.**10**

Dated July 6th, 1848.

Debt	\$800 00
Costs	68 83

Exhibit D22.**20**

DEED.

James Leeds, Sheriff of Atlantic County, to John Hogan.

30

Dated April 10th, 1849; recites judgment (Exhibit D21) and execution thereon. Levy upon three certain tracts of land; the first tract situate in the township of Hammonton, in said county, being 700 acres, more or less, surveyed to Edmund Iliff, and begins at a white oak on the southwest side of South River, on the side of a hill, and runs southwest seventy-eight degrees one hundred and forty-three chains to a pine tree; thence (2) north twelve degrees west sixty-six chains to a beaver pond; thence still the same course about one hundred chains further to a large branch of South River; thence down the same to South River and down the said river to the place of beginning.

The due advertisement of the lands for sale at public vendue on Tuesday, March 27, 1849, at the house of John M. Treen, in the township of Hammonton, at 2 o'clock in the afternoon. The bid by Hogan and sale to him. Conveys premises to John Hogan, his heirs and assigns, as fully as the said Joseph E. West and Daniel E. Estell were seized or entitled unto at or before the judgment aforesaid. Recorded at Mays Landing April 10th, 1849, in Book F of Deeds, page 586, &c.

10

Exhibit D23.

DEED.

John Hogan, et ux., to Daniel E. Estell.

Dated February 19th, 1850; conveys the three tracts purchased at Sheriff's sale, duly acknowledged, recorded at Mays Landing February 19th, 1850, in Book F of Deeds, page 766.

20

Exhibit D23a.

CERTIFIED COPY OF QUIT CLAIM AND SETTLEMENT OF LINES.

George Ashbridge and Others with Heirs of Col. Richard Somers.

30

Know all men that upon surveying the following described tracts of land all of which were owned by & in possession of the late Colonel Richard Somers at the time of his decease & are now owned by & in possession of the Representatives of said Colonel Richard Somers,

lying within the West Jersey Society Tract lately purchased by Charles Shoemaker, George Ashbridge, Morris Robeson, John Paul & Joseph H. Paul the following boundaries were settled, Established, fixed and agreed upon by the Subscribers William Jones Keen acting on the part of said Estate of Colonel Somers & George Ashbridge acting on the part of said purchasers of the West New Jersey Society Tract at the running of the lines.

- 10 The courses of the several tracts as here inserted following the Original papers but the lines as run & fixed have & are to have the variation from the date of the survey or Deed.

- 20 Eight tract of land run out and established by us, consists of several surveys one of which was made to Edmund Iliff for three hundred and eighty three acres, and another for seven hundred acres & another part of one thousand, one hundred & fifty acres and a survey for one hundred & fifty four acres made to Constant Somers and two hundred and sixty five acres made to Samuel Risley the two last lay outside the West New Jersey Society Tract, but adjoin the same & the outside boundaries of said tracts are agreed upon and established as follows:

- 30 Beginning at a well known Old marked White Oak corner lettered R. S. standing by the side of a branch of South River called Bear Branch it being the fourth corner of said three hundred & eighty three acres tract thence (1) North ten degrees East forty chains (2) North thirty two degrees West One hundred & six chains (3) South West one hundred & two chains to a Pine tree the Beginning of said three hundred & eighty three acres by South River at a branch called Bee Branch (4) up the several courses of South River, to a branch called Bears Head Branch (5) up said branch the several courses thereof to a stone now planted for the third corner of a survey of seven hundred acres formerly Edward Iliff (6) South twelve degrees East supposed about one hundred chains more or less to a Beaver Pond on Tar Kiln

Branch, thence sixty six chains further the same course to a Pine tree the second corner of said seven hundred acres and in the line of Constant Somers one hundred & fifty four acres (7) In the line of the West New Jersey Society tract, south seventy eight degrees West fifty seven chains to the corner thereof (8) South twelve degrees East forty chains to land formerly Andrew Steelmans (9) North seventy eight degrees East to the line of Risley's survey of two hundred & sixty five acres (10) along the line of Risleys survey to a corner near the head of Cedar Branch (11) still round by the boundaries of said survey to the beginning corner of said survey (12) by lands formerly of John Somers to the south Westward corner of the survey made to Edmund Iliff for one thousand one hundred & fifty acres (13) by the westerly lines of said survey to south River (14) Down the several courses of the same to the Old Flood Gates on the Mill Dam, in the old bed of south River (15) South five chains (16) East five chains (17) North to South River (18) Down the same the several courses thereof to the Easterly line of said one thousand one hundred fifty acres (19) North to the corner of said tract (20) By the northerly lines of said tract to the White oak tree first named.

10

20

* * * * *

All which tracts of land hereinbefore mentioned are hereby settled, fixed run out & established, Each party Mutually agreeing with the other to abide by the line as now run hence forward forever. That said George Ashbridge for himself and his associates hereby forever releasing and Quit claiming all the said several tracts of land & every part of them to the heirs and representatives of the said Colonel Richard Somers their & each of their heirs and assigns & further agreeing to Buy out the right of Elias Smith, Amos Ireland and Joseph Sawins to the remainder of the three tracts of land near the head of South river and to certain privileges to cut Timber for the use of their mill as ex-

30

cepted out of their deed to Colonel Richard Somers dated the sixteenth day of April, A. D. one thousand seven hundred & ninety three & that after buying the same they will in consideration of this settlement, Execute and deliver a release for all right to the same to the heirs of said Colonel Somers and the said William Jonas Keen on the part of said estate hereby agrees to the settlement of all the lines of the several tracts as herein before mentioned & also hereby agrees that it shall and

10 may be lawful for the said George Ashbridge & his associates their heirs or assigns for & in consideration of the settlement and agreements herein contained, To cut any trees or timber they may wish for the use of the furnace from the second and seventh tracts belonging to the said estate of Colonel Richard Somers as herein settled & established at any time within twenty years from the date of this instrument, but not afterwards. And also further agreeing that the tract of one hundred acres last described in this settlement which

20 was conveyed by James Scull to Richard Somers on the 9th day of April, A. D. one thousand seven hundred and ninety three shall be & is leased by this Instrument to the said George Ashbridge, Morris Robeson, Charles Shoemaker, John Paul and Joseph M. Paul their heirs and assigns for the term of forty five years from the date hereof they for themselves & their heirs or assigns hereby agreeing to pay to the Executors or Representatives of Colonel Richard Somers the survivor or survivors, his, her or their heirs or assigns, one cent yearly & every year if demanded for the use and occupation

30 of said one hundred acres of land for & during the said term. and they are to have the privilege of erecting any buildings or improvements thereon but are not to remove any of the buildings or improvements from said premises at any time but are to take proper care thereof & keep all said improvements & buildings in good repair and at the end & expiration of said term the said

George Ashbridge for himself & his associates the said Morris Robeson, Charles Shoemaker, John Paul and Joseph M. Paul their & each of their heirs and assigns hereby covenants, grants & agrees to and with the Executors, Representatives & heirs of the said Colonel Richard Somers the survivor or survivors of them, his her, or their heirs or assigns, that he & they will yield up & deliver the said tract of land with all the buildings, improvements, dams, courses, rights, liberties, privileges and appurtenances, thereunto belonging or in any wise appertaining unto the said Executors or Representatives of the estate of the said Colonel Richard Somers, the survivor or survivors of them, his, her or their heirs or assigns. 10

In witness of all the agreements grants, leases, quit claims, covenants, settlements & other matters herein stated. The said George Ashbridge for himself & his associates and the said William Jonas Keen on the part of the Representatives of the Estate of the said Colonel Richard Somers have hereunto interchangeably set their hands and seals the 12th day of March A. D. one thousand eight hundred and five (1805). 20

GEORGE ASHBRIDGE. [L. s.]
WM. JONAS KEEN. [L. s.]

Signed sealed and delivered in presence of us
MATTHEW COLLINS.
THOS. GARWOOD.
JOS. RISLEY.

We, the subscribers, being interested in the lands above described & the Matters & things set forth in the above Instrument & being satisfied with the agreements, grants, lease, Quit claims covenants, settlements and establishment of lines of the several tracts mentioned there in all of which having belonged to Colonel Richard Somers at the time of his death now belong to his heirs, do hereby 30

signify our assent and agreement to the same making ourselves parties thereunto in all things. In witness whereof we hereunto mutually and interchangeably set our hands and seals this 26th day of March A. D. one thousand eight hundred & five (1805).

10 CHAS. SHOEMAKER. [SEAL.]
 JOSEPH M. PAUL. [SEAL.]
 SARAH KEEN. [SEAL.]
 MORRIS ROBESON. [SEAL.]
 JOHN PAUL. [SEAL.]
 RICHARD WESCOAT. [SEAL.]

Sealed and delivered in the presence of

MATTHEW COLLINS.
 THOS. GARWOOD.

Recorded June 1st, 1847, at Mays Landing, Libra A. of Miscellaneous Records, page 47, &c.

20

Exhibit D23b.

FILE: BILL, ANSWER AND DECREE.

Colwell and Bell vs. Jos. E. West, et al.

30 This was a bill filed by Stephen Colwell and Walter D. Bell, Stephen Colwell being the lawful husband of Sarah Richards Colwell, and Walter D. Bell being the lawful husband of Elizabeth Bell; both Sarah Colwell and Elizabeth Bell being daughters of Samuel Richards, both of which daughters were tenants in common of the Weymouth Iron Works and were devisees under the will of Samuel Richards, who derived his title to said Iron Works from Charles Shoemaker, George Ashbridge, Maurice Robeson, John Paul and Joseph M.

Paul. The bill attacked the paper, Exhibit D23-a, as a quit-claim, and settlement of lines and boundaries as improperly acknowledged and recorded, and the prayer of the bill after the prayer for answer is as follows: "And that the said confederates may be restrained by injunction from registering copying or recording against the said instruments or offering the same for record in the said office of the Clerk of the county of Atlantic or in the said office of the Secretary of State at Trenton, or Else where in any other office of record; and that they may be compelled by a decree of this honorable Court to surrender up to the Clerk of this Court or some other suitable & proper person, for a reasonable length of time, the said instruments of writing for the inspection and examination thereof by your orators & other persons interested therein; & that the said affidavits of proof made by the said Matthew Collins, Robert B. Risley & Joshua Garwood and also the said records of said instruments in the office of said Clerk of the County of Atlantic may be decreed to be illegal fraudulent and void and that the same may be cancelled and Expunged, and that your orators may have such further and other relief in the premises as the Nature of the case shall require and as to your Honor may seem meet."

10

20

Abraham Browning was the solicitor of complainant and Peter D. Vroom of counsel. The bill was filed October 25th, 1847. An order for injunction was made the same day by O. S. Halstead, Chancellor.

Very full answers were filed by Joseph E. West, Daniel E. Estell, John A. Clement and Joseph E. Potts, the defendants. By an order entered on the 23d day of January, 1850, the injunction was dissolved. Orders to speed the cause was made and finally, on the 25th of March, 1851, a decree dismissing the complainant's bill with costs was entered; afterwards an order for a fi. fa. for the costs was issued.

30

Exhibit D24.

BILL.

Daniel E. Estell vs. John M. Treen, William Moore,
Stephen Colwell and Walter Bell.

10 Respecting the 700 acre Iliff survey. Bill filed June
1st, 1850, setting out the ownership in Estell in this
Iliff survey and the title; that on or about the 15th of
March, 1850, Treen and Moore, as the agents of Col-
well and Bell, began to cut down the wood and timber
standing on said tract of 700 acres; that an action of
trespass was brought in the New Jersey Supreme Court
against Treen, Moore, Colwell and Bell, for damages
and the continuing of the cutting; that Moore and
Treen are poor men without any visible means or prop-
erty sufficient to respond in damages.

20 A re-survey of the tract of 700 acres by Daniel Baker
for George West, about 1820, who found the old trees,
were marked by him when it was first surveyed and
marked the lines and corner trees so as to enable them
to know them. The prayer is for an injunction from
cutting down any further timber or trees growing or
being on said tract of 700 acres and from hauling off
any of the logs now cut or being on the same or from
committing any other spoil or waste thereon.

An order for injunction was made at the same time.

30

Exhibit D25.

SUMMONS IN TRESPASS.

Stephen Colwell vs. William F. Norcross.

Tested March 24, 1869. Returnable April 6, 1869.

A. BROWNING,
Attorney.

Exhibit D26.

DECLARATION

In the suit describing the premises in question.
 Filed April 29th, 1869.

 10
Exhibit D27.

PLEA OF GENERAL ISSUE

By defendant, William F. Norcross.
 Filed June 5th, 1869.

PETER L. VOORHEES,
 Attorney.

 20
Exhibit D28.

ORDER TO STAY WASTE.

Dated March 29, 1870; ordered that the plaintiff, Stephen Colwell, his agents and workmen, do desist and refrain from cutting, destroying or removing any timber, logs, wood or other property on said tract or piece of land, or committing any other acts of trespass thereon, or doing or causing any waste or destruction to said real estate or any part thereof. 30

Exhibit D29.

CERTIFIED COPY OF DEED.

The West Jersey Society to Charles Shoemaker, George
Ashbridge, Morris Robeson, John Paul and
Joseph M. Paul.

- 10 Dated December 15th, ¹⁸⁰⁰~~1900~~; recites the survey of
36,244 acres of land and 33,078 acres of land, and con-
veys the re-survey of 78,060 acres; recorded December
25, 1802, at Woodbury, in Book F, page 279.

 Exhibit D30.

20

CERTIFIED COPY OF DEED.

Charles Shoemaker and wife, Morris Robeson and wife,
John Paul and Joseph M. Paul and wife, to
Joseph Ball and Samuel Richards.

- 30 Dated April 6, 1808; recites Exhibit D29 and con-
veys $\frac{3}{4}$ of the re-survey of 78,060.35 acres with other
lands. Recorded April 7, 1808, Woodbury, Book L,
page 450.

IN CHANCERY OF NEW JERSEY.

Between

ANNA R. McGRATH,

Complainant,

and

WILLIAM F. NORCROSS,

Defendant.

ON BILL TO QUIET

TITLE. ANSWER

AND PROOFS. 10

OPINION.

This cause has been tried on an amended bill, which includes the substantial allegations of the original bill, and the answer to the original bill, which it has been agreed shall stand as the defendant's answer to the amended bill also.

The bill of complaint, as amended, recites a title in fee simple absolute in the complainant herself, to certain lands in Atlantic county, described in the bill of complaint, which lands are therein alleged to be extensive, wild, wooded, unenclosed and unimproved, by reason whereof the complainant alleges she is not in the actual possession of them, but she declares that she is the owner of said lands in fee, under deeds and instruments of title which are recorded; that said lands have been assessed for taxes to her and her grantors for five consecutive years immediately prior to the commencement of this suit, and that she has paid said taxes, and that no other person is in possession of said lands.

The amended bill further charges that the defendant, William F. Norcross, claims to own some interest in said lands; that no suit is pending to enforce his said claim, and it is without foundation, unjust and vexatious,

that so affects the complainant's lands that by reason thereof they cannot be sold; that the defendant, upon request, refuses to relinquish his said claim. The bill is framed under the statute found in L. 1901, pp. 57, 58.

10 The complainant prays that the defendant may declare specifically what title in said lands he claims, and by what instruments it was created, and that this Court may decree upon the rights of the parties to this suit in and to said lands; that complainant may be decreed to have a perfect title, and the defendant to have no interest therein, and that his claim thereto is unjust, vexatious and void, and for further and other relief, &c.

20 The defendant's answer denies every substantial allegation of the bill of complaint, and says he claims an absolute title in fee to the whole of said lands, which title was created by a survey to Edmund Iliff for 700 acres, mentioned in and excepted from a re-survey for 78,060 acres made to the West Jersey Society on May 24th, 25th, 26th and 27th, 1773, and returned May 5th, 1774, and by the several conveyances from said Iliff and his successors in title to said defendant.

30 Pending this suit and before the hearing of the cause on that phase of it, which is disposed of by this opinion, the defendant filed his petition alleging that numerous questions of fact and also a question of purely legal title to the premises in dispute are raised by the pleadings, which are peculiarly within the province of a court of law to determine, and which the petitioner is by the law of the land entitled to have determined by a court of law and a jury. The petitioner defendant prays that the complainant may be directed to bring an action at law against the petitioner defendant, to determine the title to the lands in dispute. Before any disposition has been made of the petition for an issue at law to try the questions of title, this hearing was had in this Court to settle the preliminary question whether in this case the conditions which the statute requires do actually exist, so that the defendant

ought to be ordered to assume the burden of primary proof of his title to the lands in dispute, as is the practice on bills to quiet title, &c.

MR. C. L. COLE, for Complainant.

MR. THOMAS E. FRENCH, for Defendant.

GREY, V. C. :

It is the established practice of this Court, where the answer denies the complainant's allegations that the statutory conditions exist, to try these matters here before sending the question of title to be tried in the law court. **10**

Powell vs. Mayo, 9 C. E. G., 178.

Beale vs. Blake, 18 Stew., 668.

Oberon Land Co. vs. Dunn, 11 Dick., 751.

This hearing is had solely to ascertain whether in this case these statutory conditions exist. The complainant alleges that they do exist, and the defendant denies it.

It will be noticed that the bill of complaint in this cause is framed under the somewhat peculiar provisions of the amendment to the statute authorizing suits in this Court to compel the determination of claims to real estate in certain cases and to quiet the title to the same. (LL., 1901, pp. 57-8.) **20**

The original statute on this subject, as it appears in Genl. Stat., p. 3486, Sec. 1, declares that if any person be in the peaceable possession of lands, claiming to own them, and some other person claims to own the land or some part thereof, and no suit shall be pending which may test the validity of the latter claim, then the person in possession may bring a suit in Chancery to settle the title to said lands and call upon the other claimant to set forth his title and the instrument under which he claims, &c. **30**

The amendment of 1901 provides that in cases where by reason of the extent of the lands in dispute, or because of their being wild, wood, waste, unenclosed or unim-

proved lands, they shall not be in the actual peaceable possession of the person claiming to own them, then the person who claims to own them in fee under an instrument duly recorded in this State,—who shall have paid the taxes upon said lands, and to whom, or to whose grantors the taxes thereon shall have been assessed for five consecutive years immediately prior to the commencement of the suit,—shall be presumed to be in the peaceable possession of said lands within the meaning of said act, provided no other person be in possession thereof; and the person

10 so presumed to be in possession may bring a suit in Chancery to settle the title to said lands, and may have all the benefits of the statute dealing with that subject.

The only question here and now to be determined is whether the complainant in this cause has shown herself to be within the provision of this amending act of 1901.

Upon the proofs which have been submitted it has, I think, been shown, substantially without dispute, that the lands in question lie within the county of Atlantic,

20 in this State; that no suit is pending which may test the validity of the defendant's claim to those lands; that they consist in great part of unenclosed and unimproved wood and waste lands, partially covered by timber of varying size, and that the extent of the tract is 700 acres or more.

It is, I think, clearly proven that by reason of the large area of the lands and their character as unenclosed and unimproved wood and waste lands, they are not in the actual possession of the complainant.

30 The complainant insists that she claims to own these lands in fee under deeds duly recorded as mentioned in the statute. She produces such a deed under which she claims title, in which Sarah R. Colwell & al., are grantors, and the complainant, named in the deed as Anna R. Colwell, is the grantee. This deed is dated December 9th, 1879, and was recorded in Atlantic County

Clerk's office in Book No. 73 of Deeds, folio 498, &c., on the eighteenth day of December, 1879, and purports to convey to the complainant 18,062 acres of land lying in Atlantic county. The complainant proves by witnesses and illustrating map, that the outbounds of the lands described in this deed include, as part thereof, the seven hundred acres of land in dispute in this case. In 1892, the complainant, who was then Anna Richards Coxe, wife of Robert L. Coxe, conveyed by deed that part of the 18,062 acre tract which lies south of the West Jersey and Atlantic Railroad and contains 8,050 acres, including therein the 700 acres here in dispute, to the Mizpah Agricultural and Industrial Company. This deed was recorded in Atlantic County Clerk's office, in Book No. 161 of Deeds, page 141, &c., on the twelfth day of February, 1892. The grantee company made a mortgage to the complainant to secure the payment of part of the purchase money upon the lands conveyed, which the complainant assigned to the State Trust Company. The Trust Company, by a foreclosure suit in this Court, entitled "The State Trust Company, complainant, and the Mizpah Agricultural and Industrial Company and others, defendants," foreclosed this mortgage and sold the mortgaged premises, and at the Sheriff's sale purchased them. Subsequently, by a deed dated February 10th, 1897, recorded on May 24th, 1897, in Atlantic County's Clerk's office, in Book No. 213 of Deeds, folio 242, the State Trust Company conveyed the mortgaged premises back again to the complainant, who had then become Mrs. Anna R. McGrath.

The defendant contends that the complainant is not the owner of the disputed lands because the deeds which the complainant produces do not include the *locus in quo* as part of the lands thereby conveyed. He insists that the original survey of those lands, under which these conveyances produced by the complainant are succeeding steps, did not include the lands in dispute, and that the

deeds themselves do not, in their descriptions, include those lands, and that the complainant is thus shown not to be the owner of them.

10 This contention of the defendant is based on a misapprehension of the statute. It does not limit the benefits of the act to actual owners of the disputed premises. On the contrary the statute prescribes that the complainant may be either the owner or a "person claiming to own the same in fee, under a deed or other instrument." The words of the act are simple and of clear meaning. They need no interpretation or construction. Arguments based upon the possible injustice of the operation of the act, if it be given its manifest meaning, may properly be addressed to the Legislature, but not to the courts. It is but fair to say that in the present case I am unable to see that it works any hardship.

20 The practical operation of the statute saves this question of the actual inclusion of the *locus in quo* within the title deeds which are claimed to convey it for the determination of the jury on the trial at law. This point in the case is not here adjudicated. All that I find on this phase of the matter is, that the complainant claims to own in fee under certain recorded deeds the lands in dispute. That she has so claimed title is made plain enough by her attempts to sell and convey under those deeds and to put her grantees into possession, and by her cutting of timber and hauling and carrying it away from the disputed lands. The identity of the lands regarding which these claiming acts took place is practically shown by the proof that the defendant personally sought to defeat these efforts of the complainant. 30 Indeed, the evidence on both sides shows that a struggle on some part of the lands in dispute has been going on for years between the complainant and her grantors and the defendant and persons under whom he claims.

The next disputed point is whether the complainant has shown that the taxes on the lands which she claims

to own have been assessed to her for five years successively, immediately prior to the commencement of this suit, and that she has paid the taxes on such lands. The proof, substantially uncontradicted, is, that the complainant has been assessed for taxes as owner of a large tract of land which includes the premises in dispute. She produces regular tax receipts showing such assessments of taxes against her upon the larger tracts, and proves that they include the seven hundred acres which constitute the *locus in quo*. These receipts are for taxes for the years 1896, 1897, 1898, 1899 and 1900. This suit was commenced in 1901. 10

The defendant insists that under the statute the proof must show that the seven hundred acres in dispute were specifically and separately assessed for taxes to the complainant. That a showing of assessments of larger tracts, even if they include the locus, is not a compliance with the statute. He further contends that the tax receipts produced and other proofs do not show that the property taxed did in fact include that which is in dispute. 20

The statute must be reasonably construed. It ought not to be held to nullify the axiom that the statement of the greater includes the less. The large tracts on which taxes are shown to have been paid are proven to include within their general outbounds and quantity the lands in dispute.

The result of this showing, on the part of the complainant, is, by the express terms of the statute of 1901, (page 58) that she shall be presumed to be in peaceable possession of the lands in dispute, within the meaning of the act, provided no other person be in possession thereof. 30

This presents the last incident necessary to the establishment of the complainant's status as a party entitled to file her bill to quiet title to the premises in dispute.

The defendant contends that he himself is in possession of those lands. The undisputed evidence is, that

the premises in question consist of seven hundred acres or more of unenclosed lands, on parts of which timber is standing in various stages of growth; none of the land is cultivated, none of it is so fenced as to enclose it, or to suggest a boundary or exclusion of other lands.

10 The defendant insists that for many years he has maintained a line of stakes on two sides of the tract, which stand about as high as a man's shoulder, and which are from about one chain to one chain and a half apart. That he and his predecessors, in holding the title, have cut timber on it. That he has built of slabs a small stable which stands on a clearing on the property, in full view of the public road, and that he has gone over the lands every few days, and has always driven other people off of it.

20 The characterization of the defendant's alleged acts in assertion of his occupation of these lands, in my opinion, is nothing which can be deemed such a possession as the statute contemplates. The act is intended to remedy a vexatious condition, in which a person may find himself to be who honestly claims that his recorded title gives him the ownership of a large tract of wild, unimproved and unenclosed lands, which have been assessed to him for five years and on which he has paid the taxes, in which property another person who does not occupy the lands yet insists that he has an interest which he does not disclose in support of his claim; who brings no suit to establish that claim, but himself physically enforces his alleged right by the cutting of timber and other acts of intrusion on the property.

30 The original act which authorized suits to quiet titles to land required that the complainant should be in the peaceable possession of the land, the title to which was to be quieted.

Peaceable possession of a large area of wild land is under ordinary conditions practically impossible. The amending statute of 1901 is intended to raise a pre-

sumption of peaceable possession of such wild lands in favor of persons who have deeds for such property which have been recorded, who for five years have been recognized by the local taxing officers as owners thereof, and who have manifested the good faith of their claim to ownership of those lands by the payment of the taxes.

But the amending statute does not apply in cases where the lands in question are in the possession of any person other than the party who holds the recorded deed therefor and has paid taxes thereon. 10

I think it quite clear that by this proviso the statute intends to avoid creating by presumption a possession in the complainant, in any case where possession in fact exists in another person. The possession of that other person which will defeat the operation of the statute must therefore be an actual as contracted with a presumptive or constructive possession. The defendant who sets up such a possession must show that it has characteristics which would of themselves give notice that he was in possession of the premises in dispute. 20

In the case at bar the defendant attempts to make such proof. It seems to me to be clear that no one who saw the occasional stakes on part of the tract or the unoccupied slab stable, or the cut timber, could have reasonably believed that anyone was in possession of the seven hundred acres of land in dispute. The acts alleged to have been done were wholly unrelated to any defined territory, and might be asserted to apply just as forcefully to show a possession of the land on one side of the wide apart non-closing line of stakes as of the land on the other side of that line. An unoccupied slab built shed, such as the stable evidently was, gave warning, not of occupation, but rather of abandonment. Occasional cutting of timber over part of an undefined tract is too common a trespass to be held to indicate possession of a defined territory which is not in any way 30

enclosed or separated from surrounding timber of like general character.

The defendant himself does not appear to have done any act whereby he even colorably defined the lands which he claims. He has recorded no deed which conveys those lands to him, nor has he done any act which has in any way distinguished the lands which he claims from surrounding lands of the same character.

10 In my view, considering all of the evidence, it is shown that no other person than the complainant is in possession of the lands in dispute.

This condition of the proofs entitles the complainant to maintain her bill of complaint in this court, for she has here proven the existence of all the required jurisdictional facts.

I will advise a decree accordingly, with costs to the complainant.

20

Filed August 22, 1905.

VIVIAN M. LEWIS,
Clerk.

30

IN CHANCERY OF NEW JERSEY.

Between

ANNA R. McGRATH,

Complainant,

and

WILLIAM F. NORCROSS,

Defendant.

ON BILL TO QUIET

TITLE, &C.

DECREE.

10

This cause coming on to be heard on pleadings and proofs, on the preliminary question of whether or not the complainant is entitled to maintain her bill, and the Court having heard the arguments of Clarence L. Cole, Esquire, of counsel with the complainant, and Thomas E. French, Esquire, counsel of defendant, and having taken time for consideration; and it being established to the satisfaction of the Court that the lands in the bill of complaint in said cause are wild, wood, waste, uninclosed, and unimproved lands, not in the actual possession of any person, and that the said complainant is a person claiming to own the same in fee under a deed duly recorded within this State, who had paid the taxes upon such lands, and to whom the taxes upon such lands had been assessed for five consecutive years immediately prior to the commencement of this suit;

20

30

It is, on this twenty-fifth day of September, nineteen hundred and five, on motion of Collins & Corbin, who have been substituted as solicitors for said complainant, ordered, adjudged and decreed, and the Chancellor, by virtue of the power and authority of this Court, and the statute in such case made and provided, does hereby order,

10. adjudge and decree, that the said complainant is and shall be presumed to be in peaceable possession of such lands within the meaning of the act of the legislature of this State, entitled "An Act to compel the determination of claims to real estate in certain cases, and to quiet the title to the same," approved March second, eighteen hundred and seventy, as amended March twelfth, nineteen hundred and one, and is entitled to bring and maintain a suit in Chancery to settle the title to said lands, and to clear up all doubts and disputes concerning the same, and is entitled to all the benefits of and subject to all the provisions of said act; and

It is further ordered, adjudged and decreed, that the prayer of the petition filed by said defendant, that the said complainant may be directed to bring an action at law against the said defendant to determine the title to the lands in dispute, be and the same hereby is denied; but without prejudice to the right of the said defendant to apply to this Court for the direction of an issue at law under the fifth section of said act.

20

W. J. MAGIE,
Chancellor.

Respectfully advised.

M. P. GREY,
Vice Chancellor.

Filed September 27th, 1905.

30

VIVIAN M. LEWIS,
Clerk.

IN CHANCERY OF NEW JERSEY.

Between

ANNA R. McGRATH,

Complainant,

and

WILLIAM F. NORCROSS,

Defendant.

ON BILL TO QUIET

TITLE.

APPEAL.

10

The defendant hereby appeals from the decree made in the above entitled cause on the twenty-fifth day of September, nineteen hundred and five, and from the whole and every part thereof, to the Court of Errors and Appeals in the last resort in all causes.

20

Dated October 3d, 1905.

THOMAS E. FRENCH,
Solicitor for Defendant.

THOMAS E. FRENCH,
Of Counsel.

I conceive there is good cause for appeal in the above stated cause.

THOMAS E. FRENCH,
Of Counsel for Defendant.

30

NEW JERSEY COURT OF ERRORS AND
APPEALS.

	Between	
	ANNA R. McGRATH,	} ON BILL TO QUIET TITLE. PETITION OF APPEAL.
10	Complainant and Respondent,	
	and	
	WILLIAM F. NORCROSS,	
	Defendant and Appellant.	

To the Honorable Court of Errors and Appeals in the last resort in all causes:

20 The petition of William F. Norcross, the appellant in the above stated cause, respectfully shows that your petitioner finds himself aggrieved by a decree made in the Court of Chancery by His Honor, William J. Magie, Chancellor of the State of New Jersey, bearing date September twenty-fifth, nineteen hundred and five, in a cause wherein Anna R. McGrath was complainant and your petitioner was defendant, in this respect, to wit:

30 That the said decree adjudges "that the said complainant is and shall be presumed to be in peaceable possession of such lands within the meaning of the act of the Legislature of this State, entitled "An Act to compel the determination of claims to real estate in certain cases and to quiet the title to the same," approved March second, one thousand eight hundred and seventy, as amended March twelfth, nineteen hundred and one, and is entitled to bring and maintain a suit in Chancery to settle the title to said land and to clear up all doubts and disputes concerning the same, and is entitled to all the benefits of and subject to all

the provisions of said act," and that the prayer of the petition, filed by your petitioner, that the complainant may be directed to bring an action at law against your petitioner to determine the title to the lands in dispute, be dismissed but without prejudice to the right of your petitioner to apply to the Court for the direction of an issue at law under the fifth section of said act.

And your petitioner humbly appeals from the whole and every part of said decree of the Chancellor, upon the ground that the same is erroneous for that it was not made to appear that the lands in question were not by reason of their extent or by reason of their being wild or wood or waste or uninclosed or unimproved lands, in the actual possession of the owner or person claiming to own the same; that it was not made to appear that Anna R. McGrath was the owner or person claiming to own said lands in fee under a deed or other instrument duly recorded in this State, who had paid the taxes on said lands, and to whom, or to whose grantors, the taxes were assessed for five consecutive years immediately prior to the commencement of this suit; that it did appear that your petitioner was in peaceable possession thereof, and that the prayer of the petition filed by your petitioner should have been granted and allowed. 10 20

Your petitioner therefore prays that the said decree of the said Chancellor may be wholly reversed, set aside and for nothing holden and that your petitioner shall have such other relief in the premises as shall seem meet.

THOMAS E. FRENCH,
Solicitor of Appellant. 30

THOMAS E. FRENCH,
Of Counsel with Appellant.

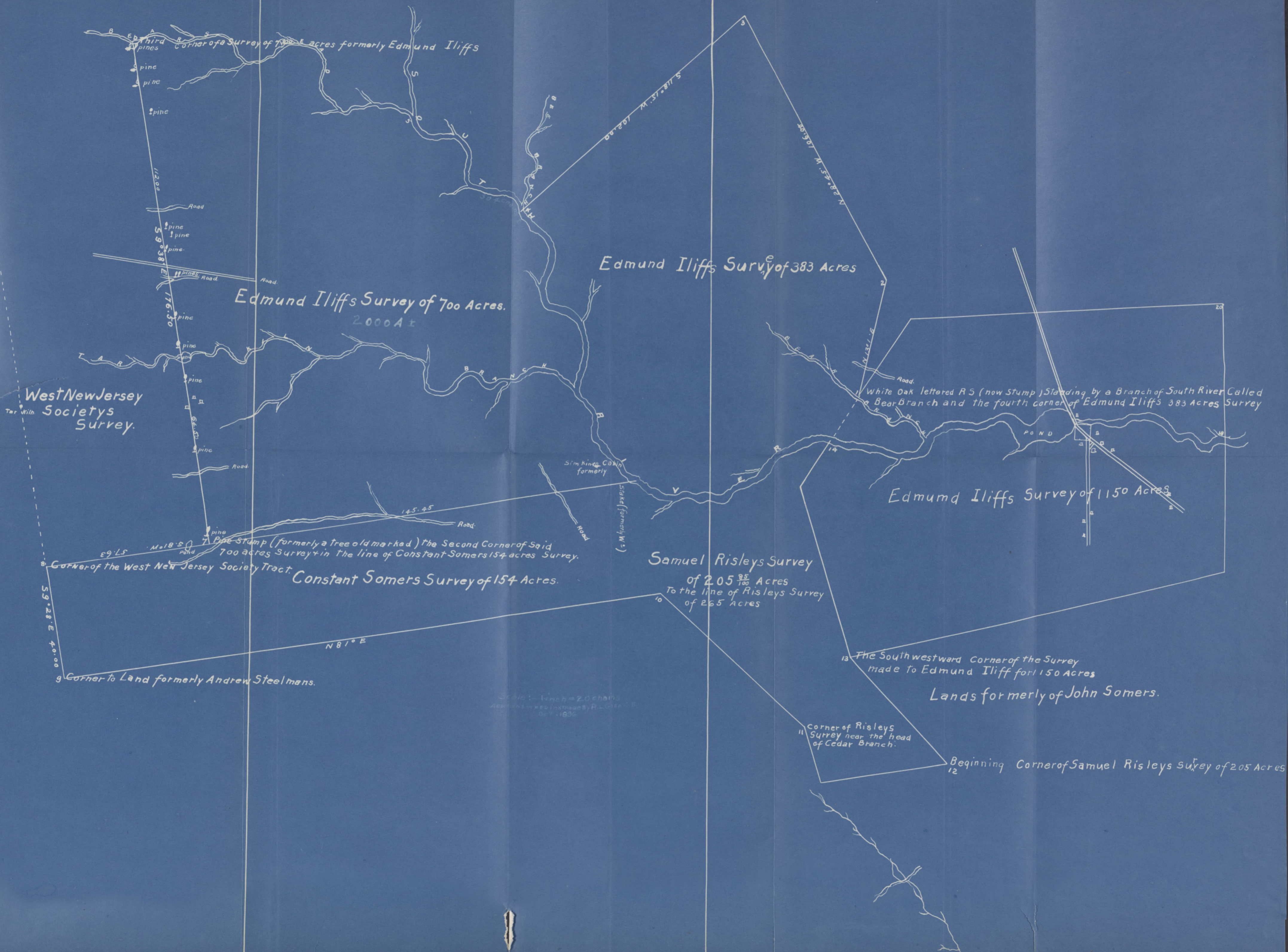
Filed October 22d, 1905.

10

20

30

Exhibit B. 6.



Corner of a Survey of 700 Acres formerly Edmund Iliffs

Edmund Iliffs Survey of 383 Acres

Edmund Iliffs Survey of 700 Acres.
2000 A ±

West New Jersey
Societys
Survey.

White Oak lettered RS (now Stump) Standing by a Branch of South River Called
the Bear Branch and the fourth corner of Edmund Iliffs 383 Acres Survey

Edmund Iliffs Survey of 1150 Acres

Constant Somers Survey of 154 Acres.

Samuel Risleys Survey
of 205 ³⁵/₁₀₀ Acres
To the line of Risleys Survey
of 265 Acres

The Southwestward Corner of the Survey
made to Edmund Iliff for 1150 Acres

Lands formerly of John Somers.

Corner of Risleys
Survey near the head
of Cedar Branch.

Beginning Corner of Samuel Risleys Survey of 205 Acres

Scale: 1 inch = 20 chains
Approved by the Institute of Surveyors, N.J. 1835

Pine Stump (formerly a tree old marked) the Second Corner of Said
700 acres Survey in the line of Constant Somers 154 acres Survey.

Corner of the West New Jersey Society Tract.
Corner to Land formerly Andrew Steelmans.

