

26, 1953

In the Privy Council.

No. 33 of 1951.

ON APPEAL FROM THE SUPREME COURT OF
BERMUDA

UNIVERSITY OF LONDON
W.C.1.
12 NOV 1956
INSTITUTE OF ADVANCED
LEGAL STUDIES

BETWEEN

ADMON GABRIEL VIEIRA and
MARGARET YOUNG HORNE ... (Defendants) Appellants

33493

AND

MORRIS ALVIN GIBBONS ... (Plaintiff) Respondent.

RECORD OF PROCEEDINGS.

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" B "	Ordnance Map : Islands of Bermuda 6 inches to 1 mile, Sheet 6	1901 Edition	
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1	Memorandum of Appearance of Defendants	8th September 1950.
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In the Privy Council.

No. 33 of 1951.

ON APPEAL FROM THE SUPREME COURT OF BERMUDA

BETWEEN

ADMON GABRIEL VIEIRA and
MARGARET YOUNG HORNE (Defendants) Appellants

AND

MORRIS ALVIN GIBBONS (Plaintiff) Respondent.

RECORD OF PROCEEDINGS

No. 1.

Writ of Summons.

No. 1.
Writ of
Summons,
dated 5th
September,
1950.

1950 : No. 41

Between

MORRIS ALVIN GIBBONS Plaintiff

and

ADMON GABRIEL VIEIRA and MARGARET YOUNG HORNE ... Defendants.

(L.S.)

10 GEORGE VI., by the Grace of God of Great Britain, Ireland and
the British Dominions beyond the Seas King, Defender of the Faith. To
ADMON GABRIEL VIEIRA and MARGARET YOUNG HORNE of Warwick Parish.

(L.S.)

WE COMMAND YOU that within eight days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in an action at the suit of Morris Alvin Gibbons and take notice that in default of your so doing the plaintiff may proceed therein and judgment may be given in your absence.

No. 1.
Writ of
Summons,
dated 5th
September,
1950—
continued.

WITNESS the Honourable George Orrett Whitney Acting Chief Justice of our said Court, the fifth day of September in the year of our Lord one thousand nine hundred and fifty.

N.B.—This writ is to be served within twelve calendar months from the date thereof, or, if renewed, within six calendar months from the date of the last renewal including the day of such date, and not afterwards.

The defendant may appear hereto by entering an appearance, either personally or by attorney, at the office of the Registrar of the Supreme Court at the Sessions House, Hamilton.

THE PLAINTIFF'S CLAIM IS FOR:—

10

1. Damages for wrongfully entering the plaintiff's land in Warwick Parish and injuring the dwelling house thereon erected.
2. An injunction to restrain the defendants from entering upon the said land.

This writ was issued by Gray & Smith, of Reid Street, Hamilton, Attorneys for the plaintiff, whose address for service is the same. The Plaintiff resides in St. George's Parish.

This writ was served by me at Warwick Parish on the defendants on Tuesday the 5th day of September 1950. Indorsed the 5th day of 20 September 1950.

HARRY E. FISHER,
Sgt.

I, JOHN STRANG MACBEATH, Provost Marshal General, Authorise Harry Everad Fisher of Police, to serve this Writ.

J. S. MACBEATH,
Provost Marshal General.

No. 2.
Statement
of Claim,
12th
September,
1950.

No. 2.
Statement of Claim.

MORRIS ALVIN GIBBONS 1950 : No. 41. 30
Plaintiff
and
ADMON GABRIEL VIEIRA and MARGARET YOUNG HORNE ... *Defendants.*

The plaintiff is and was at all material times in possession of a cottage and parcel of land situate in Warwick Parish. The said land contains one acre, two roods and seventeen perches or thereabouts and is

bounded Northerly by the Public Road leading from the Khyber Pass Road to the South Shore Road and there measuring One hundred and Sixty-eight feet Easterly by land in the possession of Frederick Gunnison Astwood and there measuring Four hundred and Twenty-three feet Southerly by the South Shore Public Road and there measuring One hundred and Fifty-one feet and Westerly by land now or recently in the possession of Samuel Edward Astwood and there measuring Five hundred and seven feet.

No. 2.
Statement
of Claim,
12th
September,
1950—
continued.

2.—On or about the 6th day of August, 1950, the defendants either
10 by themselves or by their servants or agents wrongfully entered upon the said land and did damage by destroying a concrete flooring and a chimney then under construction thereon. On the 3rd day of September, 1950, the defendants and their servants or agents again wrongfully entered upon the premises and did damage by destroying the sashes, screens and blinds of the said cottage and the said concrete floor.

PARTICULARS OF SPECIAL DAMAGE.

Twice replacing the concrete flooring of a verandah under construction	£	s.	d.
	27	0	0
Twelve new window sashes	48	0	0
20 Replacing Screens	8	0	0
Labour—replacing sashes and screens	10	0	0
Replacing partly built chimney	12	0	0
	<hr/>		
	£105	0	0
	<hr/>		

3.—By reason of the said wrongful acts of the defendants, and of the threats of the defendants, their servants or agents, forcibly to eject the plaintiff, his agents and servants, from the Western part of the said land the structural repair and improvement of the said cottage has been delayed for upwards of two months and the plaintiff has suffered damage thereby.

PARTICULARS.

30 Compensation to contractor for delay in carrying out work on said cottage	£100	0	0
Loss of rent of the said premises for two months at £40 ...	80	0	0
	<hr/>		
	£180	0	0
	<hr/>		

And the plaintiff claims :—

1. £500. 0. 0. damages.
2. An injunction to restrain the defendants from entering upon the said land of the plaintiff.

Delivered the 12th day of September, 1950.

DONALD C. SMITH
of Counsel for the Plaintiff.

No. 3.
Defence of
Admon
Gabriel
Vieira, 20th
September,
1950.

No. 3.

Defence of the Defendant Admon Gabriel Vieira.

1.—The defendant Admon Gabriel Vieira says that the western portion of the cottage mentioned in Paragraph 1 of the Statement of Claim is on land belonging to the defendant and not to the plaintiff.

2.—The said defendant denies the allegation in Paragraph 2 of the Statement of Claim and says that any damage to the said cottage done by him was done on that part of the cottage situated on his land.

3.—The said defendant denies entering upon the plaintiff's land and doing damage to any of the plaintiff's property. 10

4.—In respect of Paragraph 3 of the Statement of Claim the said defendant says that he threatened forcibly to eject the plaintiff, his agent and servants from a portion of land belonging to the defendant and not from that portion of the land belonging to the plaintiff.

Dated the 20th day of September, 1950.

(Sd.) E. T. RICHARDS
Attorneys for the Defendant

Hinson Building, Parliament Street,
Hamilton, Bermuda.

No. 4.
Defence of
Margaret
Young
Horne, 20th
September,
1950.

No. 4.

Defence of the Defendant Margaret Young Horne.

20

1.—The defendant Margaret Young Horne says that in respect of Paragraph 1 of the Statement of Claim she verily believed and still believes that a great portion of the land together with the western portion of the cottage belongs to Admon Gabriel Vieira.

2.—The said defendant denies entering upon the plaintiff's land or destroying any property of the plaintiff thereon situated, and says that if she damaged any property it was not that of the plaintiff and that the land upon which she entered was not the plaintiff's land.

3.—The said defendant denies being the cause of any delay suffered by the plaintiff. 30

Dated the 20th day of September, 1950.

(Sd.) E. T. RICHARDS,
Attorney for the Defendant,

Hinson Building, Parliament Street,
Hamilton, Bermuda.

PLAINTIFF'S EVIDENCE.

The Plaintiff's Evidence as noted by the Chief Justice.

No. 5.

Robert Hunt Clarke.

SMITH opens and calls

ROBERT HUNT CLARKE who is sworn and states,

I am a civil engineer and surveyor. I have surveyed the land in this cause. I produce a plan marked Ex. A. This is a copy dry print of the original which I have in my office marked Ex. A.1 (instructed to produce
10 original).

The plan I produce represents the area enclosed within its boundaries. I refer to a line commencing at " B " on the Khyber Pass Road, Southwards to a point " C " indicated on the land by a cedar post and continuing to a point on the waterside. There is a rubble wall from point " B " Southwards towards point " C." This wall is about 140 feet long.

Then Southwards of point " C " there are three cuts in the rock. This is, in my experience of Bermuda, an ordinary boundary mark—customarily found in Bermuda.

Further South there is an Oleander hedge—and in appearance it is no
20 more than a windbreak.

Further South I see on the plan Ex. A a nail mark in cement. I found this in position. I was shown it.

I could find no survey mark on the rock.

This line is my survey line in prolongation of the line " B " through " C " to the " three cuts " and then through the " nail in concrete " and so on to the sea-shore and was done as the result of instructions to me by Mr. Frederick Gunnison Astwood in 1947—for a division of his land. I produce sheet 6 of the Ordnance Survey of Southampton and Warwick Parishes marked Ex. B.

30 I say that the line marked by two red Xs in Ex. B. is the line which I have shown in Ex. A

I now refer to a line commencing at point " A " in Ex. A. and projected Southernly to point " E " on the sea-shore. I have surveyed that line and say that that line also corresponds with the line marked in blue pencil in Ex. B. as " Y."

Also the line in Ex. A. point " H " to point " G " corresponds with the line " Z "—" Z " in the Ordnance Survey Ex. B.

I produce a certified copy of the will of the late Adrastus Henry Astwood (produced and marked as Ex. C.) dated 18th May, 1890, probated in 1901.

40 In para. 3 the Testator purports to devise to Samuel Josephus Astwood " a tract of land in Warwick Parish supposed to contain " about 12 acres " and sets out the boundary—I identify this tract of " about 12 acres " of

Plaintiff's
Evidence.

No. 5.

Robert
Hunt
Clarke,
2nd April,
1951.
Examina-
tion.Note :
Original
has been
produced.

Plaintiff's
Evidence.

No. 5.
Robert
Hunt
Clarke,
2nd April,
1951.
Examina-
tion—
continued.

land on the ground with that piece of land enclosed within my survey lines "A"—"E," "E"—"D," "D"—"B" and "B"—"A."

But the area of this block so enclosed is only 9.062 acres. This 9.062 acres includes an area which is War Department property—that is between the road and the line noted as WD. 25 and 24 in Ex. A.

Para. 4 of the will Ex. C purports to be a devise to Frederick Brownlow Astwood containing "about 4 acres."

I identify this parcel of "about 4 acres" of land with the land enclosed between points "B" to "C" along the road to point "F," then to point "H" in Ex. A. But this does not include a small triangle across the road 10 referred in para. 4 as land intersected.

This "parcel of about 4 acres" I have surveyed and it turns out as no more than 3.8 acres.

In Clause 5 of the will Ex. C. there is a devise of "about 8 acres." I identify this land as the piece of land enclosed in the points "C" to "D," "D" to "G," "G" to "F," and "F" back to "C" in Ex. A.

The area I find in this is exactly 6.356 acres.

The error in the devise in Clauses 3 and 5 in each case is about 25%.

My experience in Bermuda is that rough descriptions are in nearly every case more than the actual area when surveyed. 20

The testator did not own land outside the boundaries I have given.

From point "H" going Southwards in Ex. A., there are two marks "M.S." and "MS" then across the road Southwards again there are cedar trees on the boundary line. Then there are three marks. I am satisfied that this is an old established boundary line.

I say that the testator did not dispose of any land to the East of this line "H" to "G," in Ex. A.

I now direct attention to a line marked in Ex. A. commencing on the coast as "L" and projected Northwards to "K" on the connecting Public Road—this line passes through a cottage shown on my plan. 30

This line represents the Easterly boundary of a survey which I know was performed by Mr. Wycliffe Stovell and was shown to me on a plan—with instructions to check this survey. This Stovell survey included approximately 12 acres. This appeared to me to be Stovell's marking off of the devise of "about 12 acres" referred to in para. 3 of Ex. C commencing from the boundary "A" to "E" in Ex. A. including the War Department strip within that 12 acres.

I have examined *in situ* this Stovell boundary line and have not been able to find any old boundary marks. Mr. Stovell is a surveyor practising in Bermuda. 40

In accordance with these instructions directed in particular to the shore portions, I checked and found that the boundary of the Stovell survey passed through the cottage—I made a report to my principal—this check was made by me in January, 1948.

The cottage marked in Ex. A through which the Stovell boundary line passes is the property of the Plaintiff, Gibbons.

I made a survey in 1947 on instructions from Mr. Gunnison Astwood

and I produce the original plan of this survey as prepared by me marked Ex. D. This is attached to a conveyance by F. Gunnison Astwood to Morris Gibbons, the Plaintiff.

This survey is founded on its Western boundary line as claimed by Gunnison Astwood the vendor, which is the line "C" to "D" in Ex. A.

The cottage is not a very old one.

I have not gone further back through the will of Henry Adrastus Astwood Ex. C. I have made no examination of any deeds or documents besides this Ex. C.

10 I noted the division of the 24 acres—that is to say one half, 12 acres to one son, 4 acres to another and 8 acres to a third.

If a person owns land as that included in "A" to "E," "E" to "G," "G" to "H" and "H" to "A" in Ex. A. the internal boundaries are not of great importance unless to mark the old boundaries. As to my identification, it was easier to identify the 4 acre lot than to identify the 12 or 8 acre lots.

The devise in Clause 5 of Ex. C that is 8 acres—is lessened to 6.356 acres.

And the devise in Clause 3 that is 12 acres, is lessened to 9.06 acres.

20 I have found rubble walls forming a boundary to go straight across a Parish.

The witness is referred to Ex. B. the Ordnance Survey sheet 6.

Question. Will you point out the roads which bound or intersect the three blocks of land identified by you in Ex. A. ?

The witness underlined three roads in blue pencil on Ex. B.

30 The dividing road on Ex. A was never known as the "Military Road." I fixed point "A" on Ex. A. in connection with a survey I was instructed to make by Mrs. Horne. She showed me that boundary wall which I have defined in the line "A" to "E." Mrs. Horne, the Defendant, did not show me any other boundary. At the time she did make a claim to an Easterly boundary, Eastwards of the line "B" to "D" which I have shown on Ex. A. The instructions were given in July 1944. I did some work shortly after that time. Surveyor Stovell and I agreed on the same Western boundary.

I dealt with this land on the basis of the will Ex. C.

In surveying this land I was going by the old boundary marks.

40 I have known for 7 years that there has been a dispute as to the boundary. The dispute between Mrs. Horne and Mr. Gunnison Astwood was as to their mutual boundary regarding the 6.356 acre lot, marked as block "C" in Ex. A. And I knew always of a dispute between Mrs. Horne and Miss Ruth Astwood concerning the boundary between the 3.588 acres piece of land marked as block "B" and Mrs. Horne's 9.06 acres piece of land, Block "A."

I know that the Plaintiff Gibbons was aware of this dispute between Mrs. Horne and Gunnison Astwood.

The will is not explicit as to the mutual boundary.

As to the Cedar post at "C," I do not know how long it has been there.

The cedar post and the nail in the cement could have been put in position quite recently.

Plaintiff's
Evidence.

No. 5.
Robert
Hunt
Clarke,
2nd April,
1951.
Examina-
tion—
continued.

Plaintiff's
Evidence.

No. 5.
Robert
Hunt
Clarke,
2nd April,
1951.
Examina-
tion—
continued.

I did not look for the cottage in 1939. I was concerned with the 4 acre piece.

I was shown merely the will by Astwood.

I did not enquire into other title deeds.

The area within the block devised by Clause 3 is subtracted from by an area of .6 of an acre acquired by the War Department. And that area devised in Clause 5 is diminished by about a like amount. .51 of an acre was acquired by the War Department.

I have been approached by three parties.

In 1939 by Miss Ruth Astwood as regards the plot of land (now marked 10 in Ex. A. by the Court for convenience of reference as " B. ")

Then by Mrs. Horne as regards the plot of land (now marked in Ex. A. by the Court, for convenience of reference as " A "). Then by Gunnison Astwood as to the plot of land (now marked in Ex. A. by the Court, for convenience as " C ").

It is not usually my practice to insert in a plan of a survey the words " boundary claimed by." This would indicate at once a dispute.

I have drawn other plans in like conditions and used the same wording. In the case Ex. D. the words were put in under instruction and obviously indicated to the vendee a dispute.

20

Re-exam-
ination.

RE-EXAMINATION.

It is not my practice to leave boundaries uncertain. The wall on the line " B " to " C " does not appear to me to be a garden wall. I say it is a boundary wall. Mrs. Horne never told me that she had any deed which would be of assistance to me.

No. 6.
Ruth
Astwood,
2nd April,
1951.
Examina-
tion.

No. 6.
Ruth Astwood.

RUTH ASTWOOD, sworn.

I am the daughter of Frederick Brownlow Astwood

I own a piece of land which is referred to in Clause 4 of the Adrastus 30 Henry Astwood will Ex. C.

I am the sole devisee of this will of my father as to the piece of land marked " B " in Ex. A.

I see this will Ex. E. this is a copy of my father's will. After my mother's death I conveyed a piece of my inheritance to James Gomez, which included a stable and was bounded Westerly by a rubble wall.

I have known the existence of a boundary mark as long as I can remember. I understood it was a landmark (that is to say a boundary mark). This is a recollection of 35 years.

The marks " 3 cuts " are marks I have known for 35 years as the boundary marks of my father's land. Plaintiff's Evidence.

There has been a dispute between Mrs. Horne and me as to my land. No. 6.

After 1938 there was a dispute with Mrs. Horne. She came on my property and dumped several loads of rubble on the parcel of land I had conveyed to Gomez. This was several years ago. Ruth Astwood, 2nd April, 1951.

The stable was improved by me to a cottage, this was conveyed to Gomez. Examination—

10 Mrs. Horne commenced an action against me and Gomez but it was not brought to trial. continued.

CROSS-EXAMINATION.

I was sued in the Lower Court for an amount of £80 for rent due in respect of a piece of farm land which my father had been cultivating up to the time of his death and which cultivation had been carried on by my brother. This land lay to the Westward of the boundary line " B " to " D " in Ex. A. Cross-examination.

RUTH ASTWOOD on her former oath under cross-examination :—

20 I remember renting land from Mrs. Horne to plant, for one year after my mother's death. A plan purporting to indicate the boundaries of this planting land is put to the witness—who says—This plan does not represent the boundaries. I do not agree with the Eastern boundary shown on this plan. 4th April, 1951. Cross-examination— continued.

I have made several sales of my property and one piece was given away as deed of gift.

I do not own 3 acres of land now.

I cannot say how much I am assessed for. The stable marked in " B " of Ex. A. was used by my father for storage of potatoes.

30 The last time I was shown the Western boundary of my father's property was 25 years ago, in 1925. There was present my half brother, Harold Astwood.

I see the cottage which is made to appear on land " C " in Ex. A. This cottage was built by my half brother Frederick Gunnison Astwood. I do not know the exact year.

I am sure that the father of Mrs. Horne did not build that cottage.

Harold Astwood was in Canada but came to Bermuda to take his father up to New York to have an operation.

The witness repeats this.

40 I did not pay the rent for the planting land rented from Mrs. Horne for the one year I rented it. Mrs. Horne sued me about 1939-40 in Court for the rent and obtained judgment for £80.

I cannot remember an abatement of £5 for repairs to the stable. The building to which I refer is not the stable in the land marked " B " of Ex. A.

After 1938 the year of my mother's death, I first learned that my Western boundary was disputed—Mrs. Horne disputed it by suddenly dumping some loads of rubble on my land.

Plaintiff's
Evidence.

I will agree that it was February 1943 that I was sued. The rent £80 is 4 years rent—ending in 1939.

No. 6.
Ruth
Astwood,
4th April,
1951.

When the rubble was put there I and Gomez went to see our lawyer, the late Sir Reginald Conyers. This was after Gomez had become the owner.

Cross-exam-
ination—
continued.

I cannot remember the year that I conveyed the property to Gomez. It may have been in 1940 or 1941.

In 1947 Mrs. Horne issued a writ against me and Gomez. I received service of the writ. In April 1947 I received a letter from Sir Reginald Conyers saying that the case had been withdrawn. 10

I have been shown the boundaries of my land—Western boundary is rubble wall and 3 cuts. I do not know the boundaries of land "C" in Ex. A.

I have seen and know the "cuts on the rock" dividing the two pieces of land marked "A" and "C" in Ex. A.

Re-exam-
ination.

RE-EXAMINATION.

Mrs. Horne withdrew her action in 1947. Another action was commenced against me and Gomez by one Edward Astwood, who is elder brother of Mrs. Horne.

The land marked "A" in Ex. A. was owned by this Edward Astwood— 20

I know that Edward was the owner because he claimed ownership in his writ.

Neither did this action come for trial. I do not know the reason.

When Mrs. Horne sued me for rent of the planting land she sued me as agent for her brother Edward.

There was a house on the planting land with 4 rooms—We were concerned with the planting land more than with the house.

This house or cottage is still there today and is occupied by the Defendant Vieira. I made repairs to the water tank to the extent of £5 of this cottage. 30

The witness inserts by a blue cross on Ex. "A" her idea of the position of that cottage.

BY COURT.

The piece of land which my father and which my mother carried on planting and which I rented from Mrs. Horne after my mother's death, was the whole of the land mentioned in Clause 3 of the Will of Adrastus Astwood Ex. C., and as I thought about 12 acres.

Frederick Gunnison Astwood.

Plaintiff's
Evidence.No. 7.
Frederick
Gunnison
Astwood,
4th April,
1951.
Examina-
tion

FREDERICK GUNNISON ASTWOOD, sworn.

I employ myself fishing, growing bananas and planting in Warwick Parish, where I live. I am the son of Frederick Brownlow Astwood, and half brother of Ruth Astwood, the second witness. I produce a deed of conveyance marked Ex. F. dated 7th May, 1931, from Charles Erastus Astwood and others conveying to me four undivided sixth parts of land described in the 5th Clause of the Henry Adrastus Astwood Will Ex. C.

10 I produce also a vesting order dated 23rd June, 1930 marked Ex. G. Witness is referred to Ex. A. the Clarke survey plan.

I see the ruin marked in the piece of land marked "C" in Ex. A., and also the stone barn. These buildings are on the land I bought from my co-owners.

The stone barn I built after purchase. The ruin was there when I bought the land. The cottage on the piece of land marked "C" of Ex. A., I had built a year or eighteen months after I bought the land. Daniel Wenlowe was one of the carpenters. He is still alive or was five months ago. Jimmy or Cockburn Raynor was the mason.

20 Whilst the building was going on no one questioned my right to build. No one has disputed my ownership of this cottage—

As to the Western boundary of my land marked point "C" in Ex. A. I had no conversation with Mrs. Horne. She raised the question by way of putting it into Court.

A surveyor Wycliffe Stovell came on to my land 2 years before I sold to the Plaintiff Gibbons, and after I had bought it from my co-owners. Stovell cleared a "sight way" over my land. I told him to get off. He then went on to the Public Road. Then there came out O. R. Loblein, William Peniston, and Charles Astwood. I had instructed Dr. Hallett
30 my lawyer to make the deeds. As a result he (Dr. Hallett) sent out valuers who were O. R. Loblein and William Peniston. There were also present myself, Charles Astwood, Samuel Josephus Astwood who was the father of Mrs. Horne. We all stood on the boundary which is now in dispute.

I saw "3 cuts" in the rock. This is the centre boundary. My uncle, Samuel Josephus pointed out the boundary. This ran North and South of the "3 cuts."

The boundary came out on the sea coast.

I see marked on Ex. A. "a nail in cement"—This was put there by Thomas Godet—he was surveying for Mrs. Horne.

40 This was where there was an old mark—it has been obliterated by grazing cows.

The cement plinth is 3 inches × 3 inches. This cement was put there before I sold to the Plaintiff Gibbons. I saw surveyor Godet there and I followed up his mark.

Plaintiff's
Evidence.

No. 7.
Frederick
Gunnison
Astwood,
4th April,
1951.
Cross-exam-
ination.

I knew that Godet was employed by Mrs. Horne.

I can remember back 50 years and the Oleander hedge was there then. We grew potatoes in each field. The road was the dividing line between Ruth Astwood's land and my land.

CROSS-EXAMINATION.

Where I and the valuers were standing we could not see the cuts on the boundary line. These valuers did not walk over the boundary.

I now mark in by a blue cross the spot where the valuers were standing. There was no mark at the point " D " in Ex. A. on the coast 20 years ago. I found the mark " D " shortly after Mr. Clarke had surveyed the land— 10
this was about 1948.

The nail in cement was not in position in 1931. Surveyor Godet put in only one mark " the nail in cement."

There was no dispute about the property until the Defendant Margaret Horne came on the scene.

I have never discussed the boundary with Mrs. Horne.

I had a conversation with surveyor Stovell whom I found surveying, and said " Do not survey my hand unless you acquaint me with it."

I saw Mrs. Horne on my land on a Saturday. Witness inserts the position in Ex. A. on the piece of land marked " C." 20

I told her to get off my land, she made no reply, she stayed there giving orders to a truck driver to dump a load of rubble. I reported to the police but got no satisfaction.

On the following Monday I saw her there again dumping rubble and I took her off my land.

I said nothing to Godet—I do not recall what I said. Godet put a nail in cement. I believe Godet did but I did not see him.

The rubble was, as I understand, for a wall.

I sold the land to Gibbons—I employed Clarke to survey the land. I gave no instructions to Clarke. I sold the land to Gibbons before it was 30 surveyed.

I see a second " nail in cement " in Ex. A. I say that this was put in shortly after I saw surveyor Godet with survey instruments. From this I deduce Godet put them in.

It is my view that the line " B ' to " D ' is the true boundary.

When I sold to Gibbons the Westerly boundary was in dispute. Clarke knew the dispute. I saw Messrs. Dill and Conyers the lawyers.

I talked over the boundary with Captain N. B. Dill and the late Sir Reginald Conyers. Mr. Gibbons knew about this.

Ex. D. is put to witness :—

I was to sell 150 feet wide to Gibbons—who was advised by his lawyer. I got my price and thought Gibbons got his 150 feet wide land.

Gibbons knew what might take place. This is the only piece I have sold.

I hired men to build the cottage—it was a bare piece of land. I thought

I had eight acres—but soon after I bought it I measured it up and found I had only $6\frac{1}{3}$ acres.

Plaintiff's Evidence.

South Shore Road was known as the Military Road and I heard my grandfather say it was built in his time.

No. 7.
Frederick Gunnison Astwood, 4th April, 1951.

I own land to the East of boundary "H" to "G" on Ex. A.

My father farmed the land of Samuel Josephus Astwood and I worked for my father for 20 years.

I could find the boundaries on the darkest night.

10 I do not know the run of the Western boundary of the Samuel Josephus land.

Cross-examination—*continued.*

I know the Western boundary. It is a wall.

I have examined the boundary "B"—"D" on the ground.

I do not know how much rent was paid for Samuel Josephus land.

RE-EXAMINATION.

Re-examination.

Mrs. Horne was in America—she came back and took charge of the land after her father died in 1933.

Edward Astwood succeeded his father and was there while the land was tilled.

Mrs. Horne was away—she came back and then came on the scene.

20 BY CROSS-EXAMINING COUNSEL THROUGH THE COURT.

By Cross-examining Counsel through the Court.

I showed surveyor Stovell my Western boundary and that is all—not my Eastern boundary.

I never said "If the whole tract containing the blocks 'A,' 'B' and 'C' is only 16 acres—Margaret Horne should only get 8 acres."

If there were 20 acres then she could get 12 acres. At time that the surveyor was surveying I knew exactly how many acres there were in the whole Adrastus estate. The acreage was a little over 19 acres. I do not know when this was.

No. 8.

No. 8.
Morris Gibbons, 4th April, 1951.
Examination.

30

Morris Gibbons.

MORRIS GIBBONS, sworn.

I am the owner of a piece of land I bought from Gunnison Astwood. Negotiations started in 1947 to purchase 150 feet wide from the Western boundary. I paid a deposit on the agreed price. Gunnison Astwood told me that Dr. Hallet was his lawyer and was familiar with the land and cottage thereon. I instructed Clarke to make a survey. He made a complete survey for myself as respects the small 150 ft. lot and as respects the remainder of the Gunnison Astwood holding marked "C" in Ex. A.

Gunnison had on an occasion previously pointed out to me his Western

Plaintiff's
Evidence.

No. 8.

Morris
Gibbons,
4th April,
1951.

Examina-
tion—
continued.

boundary, that is along the line "B"—"D," and I standing at the Northernmost and on the Khyber Pass Road, saw a straight line passing the Oleanders and through the "cement" and "3 cuts."

I discussed it with lawyers. I knew the Western boundary was in dispute. In 1948 Clarke gave me my plan. I learned that there was a dispute. I delayed owing to an action in Court. In 1949 I was advised to complete the purchase, and I did.

Early in 1950 I made plans to rehabilitate and make improvements. Complete overhaul to cost about £2,000 including a new laundry. I employed a man. Subsequently I found a fence erected on my land. 10 My cottage was fenced by cedar posts and barbed wire,—I tore it down—that is to say the fencing—twice—and I found also a notice. I tore it down also.

Vieira, the first Defendant told me he had erected this fence and that he had bought the land from Edward Astwood through Mrs. Horne.

I had not started work on the cottage.

There was a lull. The remains of the fence had been removed. I held up plans for 4 months. I went on with the work in August 1950. I employed the labour.

No action was brought against me. 20

The workmen put down the concrete slab 24 feet of 6 inch concrete by 8 feet wide. This was put down.

Next day I visited the cottage and found that the Western end, to the extent of 8 feet, was broken up and thrown aside.

I made representations to Mr. Attorney Richards whom I knew was acting for the second Defendant Mrs. Horne, and the first Defendant Viera I had had the experience of a meeting with them at Richards office previously.

My contractor relaid the floor, and that again was damaged. One of the Defendants—Viera—told me that he had torn it up and would 30 continue to do so, and tear up everything I put down.

A wooden post to support the verandah which was set in concrete, was torn down. The chimney which was started on the Western side was torn down. A mattock was used, I saw the damage. I subsequently saw the chimney damage. On the 3rd September, 1950, in consequence of information received, I went to the property with my attorney, Mr. Peter Smith and we found 12 windows smashed in and destroyed. I did not see either of the Defendants there. As the result of consultation I went on to finish my cottage, and then I commenced my litigation.

I notified the police immediately about the damage. They took it up 40 in the criminal court.

I have paid away £1,300, that is to say £200 more than the original cost.

Cross-exam-
ination.

CROSS-EXAMINATION.

I claim loss of rent for 6 months. There was a delay of entering the house for 6 months.

I knew about the dispute but was satisfied with the boundary.

I claim £105 plus £100 plus £80. I made a claim to my attorneys for 6 months' rent at £40 per month. The £500 "general damages" should include this £240 for loss of 6 months' rent. I am satisfied with £200 and £240 loss of rent.

I made this claim out in September but the cottage was not finished until December.

RE-EXAMINATION.

No question.

Plaintiff's
Evidence.

No. 8.
Morris
Gibbons,
4th April,
1951.
Re-exam-
ination.

10

No. 9.

Victor da Costa.

No. 9.
Victor
da Costa,
4th April,
1951.
Examina-
tion.

VICTOR DA COSTA, sworn.

I am a building contractor. I live in Happy Valley.

I had a contract with Morris Gibbons to renovate a cottage.

I was to supply all labour for £1,100. I started work. One morning I found that damage was done to the verandah. It was ripped out to the extent of 3 feet × 3 feet. The whole verandah was 24 feet long and 8 feet wide. This damage happened to the same verandah 3 times. I saw it. A post was broken down twice.

20 The chimney foundation was ripped out with a mattock. I put the foundation down again. This was again knocked down.

Viera the first Defendant, said to me he would rip it down and rip up everything I put there.

One day I went back and found the blinds and windows smashed—everything gone.

There were 10 windows smashed.

I replaced all the damage—on completing the job Gibbons paid me £200 extra.

30 I never saw Mrs. Horne on the property. I have seen Defendant Viera.

CROSS-EXAMINATION.

I know the Defendant Admon Gabriel Viera. He is in Court. The father of this Defendant told me he would pull everything down.

I have seen the Defendant Viera and his father on the land in the vicinity of the cottage which I was renovating several times.

I did not see either of them do any damage to the cottage.

The concrete was laid twice and pulled out twice.

On conclusion of my work I was paid £200 extra.

Cross-exam-
ination.

RE-EXAMINATION.

40 No questions.

Re-exam-
ination.

Plaintiff's
Evidence.

No. 10.

James Rubain.

No. 10.
James
Rubain,
4th April,
1951.
Examina-
tion.

JAMES RUBAIN sworn:

I live in Hamilton. I am a labourer employed by Mr. Gibbons to excavate close to the cottage which was renovated. I know the Defendants Viera and Horne. I saw both of them close to where I was working.

On the morning when I first started work I saw the first Defendant Viera with his father, he came to me and asked me, "Who sent you to work here."

I was excavating to the West.

I answered "Mr. Gibbons."

They said the land belonged to them. I said that had nothing to do with me.

They became contentious and I stopped working.

They started interfering and threatening me.

They started to go away and I started to work again. They came back with Mrs. Horne. She also asked: I told her also "Mr. Gibbons."

She said he had no right—she then took up an axe. It was my axe. I took it away from her.

She then got hold of a piece of lumber 2" x 4" and went on the Western side of the cottage and broke the windows in.

She badly broke in 5 windows and sashes and blinds.

I did not see either Viera, father or son, do anything.

10

Cross-exam-
ination.

CROSS-EXAMINATION.

I did not see Defendant Viera do any damage.

Re-exam-
ination.

RE-EXAMINATION.

No questions.

Smith refers to the authority for the Ordnance map.

Close of Case for Plaintiff.

DEFENDANTS' EVIDENCE.

Defendants'
Evidence.

Defendants' Evidence as noted by Chief Justice.

30

No. 11.
Dennis
Carlington
Barnes,
5th April,
1951.
Examina-
tion.

No. 11.

Dennis Carlington Barnes.

TUCKER opens for Defence, and calls:—

DENNIS CARLINGTON BARNES, sworn.

I am a Member Colonial Parliament. I am also the Vestry Clerk for Warwick Parish. I took up my appointment on 1st January, 1951— I am paid £150 p.a. It is a part time job.

I produce the Warwick Parish assessment book for 1936. It is kept under the Parish Vestries Act, 1929. There is an entry on page 1 of an assessment of a piece of land stated to be 12 acres assessed in the name of Estate of Samuel Josephus Astwood.

There is no note of any measurement or boundary.

If a person pays more than he should he can appeal to the Vestry.

My predecessor I know, altered the figure from 12 acres to 8 acres.

The Vestry ordered him at a later date to reinstate 12 acres.

10 There is no entry for Edward Astwood. The piece of land referred to as 12 acres was originally assessed in the name of Samuel Josephus Astwood. It is now assessed in the name of Admon Gabriel Viera—for a part of its area. The area is not noted, and the other part—the area also not noted—is assessed in the name of Richard Cleveland Fox. These two people paid the taxes on the whole of the 12 acres.

I live $\frac{1}{2}$ a mile away from this property of 12 acres—I know roughly where the boundaries are. I know the cottage which was damaged. Frederick Gunnison Astwood was the first person assessed for that cottage in 1936. He was assessed for an old house ruin.

CROSS-EXAMINATION.

20 No question.

Defendants' Evidence.

No. 11.
Dennis
Carlington
Barnes,
5th April,
1951.
Examina-
tion—
continued.

Cross-exam-
ination.

No. 12.

Wycliffe Stovell.

WYCLIFFE STOVELL, sworn.

I am an architect and surveyor—for 7 years I have practiced as a surveyor—I obtained my qualification from a correspondence school—Strenton, Pennsylvania. Surveying is the preliminary branch of architecture.

On the instructions of Mrs. Horne I attempted the survey of a piece of land in Warwick Parish.

30 I made angle computation of the land. I learned the description from a will of Adrastus Henry Astwood referred to as Ex. C. This is the will.

I finally made a survey of the land owned at his death of the late Adrastus Henry Astwood.

Prior to making this survey I consulted the Ordnance Survey map. Sheet 6 which I hold here, Ex. B.

I also consulted an officer whose rank was that of Major. I do not know his name. I was informed by Dr. Hallet that the officer was in charge Royal Engineers.

40 I entered into this consultation because I found on the land War Department stones.

No. 12.
Wycliffe
Stovell,
5th April,
1951.
Examina-
tion.

Defendants' Evidence.

No. 12.
Wycliffe
Stovell,
5th April,
1951.
Examina-
tion—
continued.

I also consulted Frederick Gunnison Astwood (third witness for the Plaintiff). I then proceeded to make my survey. Ex. A. is put to witness. I agree with the Western boundary in Ex. A. that is the line "A" to "E." The marks "arrow on cedar" "3 cuts on cedar" and so on were established by me.

The northern boundary I agree with, that is the line along the road "A" to "H."

Frederick Gunnison Astwood indicated to me the Eastern boundary by walking through it. I am unable to say anything about this boundary. I cannot confirm it. 10

I can find only 20 acres of land within the boundaries of the estate owned by the late Adrastus Henry Astwood.

I am unable to speak with exactitude on this matter Frederick Gunnison Astwood showed me "3 cuts" on the waterside at point "G" in Ex. A.

The line "B" through "C" to "D" constitutes the original 8 acres as originally owned by the late Adrastus Henry Astwood.

The late Adrastus then obtained another 4 acres and then another 8 acres. In his will he wills away 24 acres.

In making a survey for Mrs. Horne I went through the will Ex. C thoroughly, and I found that where the original marks are, the land 20 constitutes only 8 acres exclusive of the piece sold to the War Department.

Mr. Clarke's Eastern boundary closes in with his Western, Northern and Southern boundaries, a piece of land amounting to 8 acres. Then in order to give Mrs. Horne her full 12 acres I figured it out in my office by computation and I established a line of a new Eastern boundary enclosing the 12 acres. From the will of Adrastus Astwood I found that he was dealing with 24 acres—when I surveyed the land I found there was not 24 acres.

I contend that there is another 4 acres to the East of their property.

The marks "B," "C" and "D" are there on the ground. I say 30 that the land devised in para. 3 of Ex. C. the will, is not contained in the Clarke Eastern boundary.

I ignored the Clarkes' line in Ex. A. because it did not give 12 acres and moreover Mrs. Horne pointed out to me where her boundary was and she assured me that the "stable" was on her father's property and her boundary went through or took in the cottage near the South Shore Road—and that although Gunnison Astwood had fixed it up it was not on his property.

I produce a plan drawn by me put in as Ex. H.

A paper drawing is now put to the witness. 40

This is a tracing made by me of a Parish map of Warwick Parish. I had it in my possession in 1945 when I made the survey for Mrs. Horne.

Note: This appears to be but a tracing and in no manner the result of actual survey.

I have heard recently in the last two years that Frederick Gunnison Astwood has been trying to establish the line "B," "C," "D," in Ex. A. as his Western boundary.

I asked Mrs. Horne what the line " B," " C " and " D " and " 3 cuts in rock " and the " rubblewall " were : and her answer was satisfactory to me. Defendants' Evidence.

Frederick Gunnison Astwood said to me, " Margaret thinks there is " 20 acres here but it is only 16 acres." I then suggested to Gunnison that he have the property surveyed. He said he did not want it surveyed and forbade me to trespass. No. 12. Wycliffe Stovell, 5th April, 1951.

The Major to whom I referred, showed me a survey plan and I saw on that plan the area of the War Department ownership which amounted to 10 1 acre 3 roods 10 perches. I do not agree with Mr. Clarke's calculation. Examination—continued.

I have been able to identify two of the three devises in the will Ex. C. : that is the devises in Clauses 3 and 4. I drew a plan Ex. H. in connection with the sale of part of this parcel of land bought by Admon Viera, the first Defendant. This plan included land which I have since come to know was bought by Mr. Gibbons, the Plaintiff.

That plan was a correct plan. That plan does correspond with Ex. H. the land enclosed in blue pencil.

The survey for the sale went right through the cottage. I received instructions to do so.

20 Defendants Viera and Horne relied on my survey.

CROSS-EXAMINATION.

Cross-examination

If I see a tract of land I expect to find the boundaries. I ran my line on my interpretation of the Adrastus Astwood will Ex. C.

The computation of 12 acres went through the cottage I put this line down on instructions of Mrs. Horne the second Defendant.

I told Mrs. Horne at the very first that I could not make lines through property over which I had not been given leave to go.

RE-EXAMINATION.

Re-examination.

No questions.

30

No. 13.

Margaret Horne.

No. 13. Margaret Horne, 5th April, 1951. Examination.

MARGARET HORNE, sworn.

I am one of the Defendants. I live at Warwick. I am the daughter of Henry Josephus Astwood. I gave instructions to surveyor Stovell in June 1945, for the survey of my father's estate.

I showed him all my old deeds.

Ex. A is put to the witness.

40 I see the line " A " to " E " this represents correctly the Western boundary of my father's property. I see the line " Khyber Pass Road", this is also a correct boundary. I see a line " B " to " D " this is not the Eastern boundary of my brother Edward's land which he inherited from

Defendants' Evidence. my father. The Eastern boundary should be pushed Eastwardly to a line which would enclose another 4 acres over that included in the line " B," " C," " D," I say this because of my interpretation of Clause 3 of Ex. C. and also because on December 25th 1931, my father Samuel Josephus showed me the boundary in company with Eliza and Ruth Astwood.

No. 13.
Margaret
Horne,
5th April,
1951.
Examina-
tion—
continued.

Court adjourns until 10 a.m. Friday April 6th, 1951.

Court resumed 10 a.m. Friday April 6th 1951.

MARGARET HORNE on her former oath.

6th April,
1951.

Ex. A. is put to witness.

I do not agree with the boundary " B ," " C," " D." 10

My father showed me his Eastern boundary on Christmas day 1931. I was shown a double twelve. There were two parallel lines on the stone separated by an arrow in the centre. This stone is no longer where I was shown it. Miss Eliza Astwood and Ruth Astwood were present when I was shown. I remember particularly the day because my father and I had dinner at Miss Eliza Astwood's house.

I know well the history of the property of the late Adrastus Henry Astwood.

The lot marked " A " in Ex. A. belonged to my great-grandfather.

The lot " B " in Ex. A. was acquired by my grandfather in September 1871. The deed is in my possession. 20

At this stage Mr. Tucker desires to put to the witness the following documents.

The first is a conveyance dated 31st December, 1866 purporting to convey from Henry Dunscombe to Adrastus Henry Astwood. Mr. Tucker then states that, the description of this land does not correspond with any of the parcels devised in Ex. C.

I rule that this evidence is irrelevant.

Mr. Tucker now seeks to put in a conveyance from William Obadiah Dunscombe to Adrastus Henry Astwood dated 22nd September 1871. 30

The description in this corresponds with the description in block marked " B " in Ex. A. and a portion of block marked " C " in Ex. A.

Mr. Tucker argues in aid of presenting this deed that the testator exercised his legal right in dividing his property without any reference to the original title deeds. He submits that the testator had a right to sub-divide as he wished in respect of the divisions as bought.

Smith objects on the ground that this evidence should have been brought forward at the proper time and put to the witnesses for the Plaintiff.

I agree very strongly with Counsel's (Smith) objection but I allow this deed to be put in. 40

The witness Horne goes on to say—This is a conveyance from William Obadiah to Adrastus Astwood of 8 acres marked Ex. 1.

This 8 acres is part of block " B " and part of block " C " in Ex. A.

Tucker also puts in an 1856 document marked Ex. J. Witness Horne goes on to say—This land refers to a portion of block " C " in Ex. A.

Note : Tucker does not examine further as to Ex. I. and Ex. J.

I collected no rent before my father died on the 31st March, 1933. After he died I collected £20 per annum from Eliza Astwood—Ruth's mother—I collected from her until her death in 1938.

Ruth, her daughter, then continued renting it up to September 1939.

Witness looks at Ex. A.

The land rented was bounded to the West by the line " A " to " E. "

There were a cottage and two farms on the land I rented to Ruth.

10 The cottage I now refer to is the cottage which Frederick Gunnison Astwood claims that he built. I deny that he built it.

One of the farms is the building noted as a stable in block " B " of Ex. A. The other farm is not marked on the plan.

The Eastern boundary of the land rented to Ruth is that line in Ex. A. which represents the Eastern boundary of the Gibbons purchase, as described in Ex. D.

I was renting this entire piece on behalf of my brother to Ruth.

In September 1939, a man named Gomez wrongfully took possession of the stable. I took steps to put him out on 15th March, 1948.

I sued Ruth for rent £80—successfully.

20 In November 1943 I first learned that Gunnison Astwood was claiming my land—roughly 200 feet.

I summoned Gunnison for trespass, and as a result he moved himself from the cottage and went to reside in the stone barn which is marked in block " C " in Ex. A.

My brother Edward has today the key of the cottage which Gunnison vacated. He in his turn was thrown out.

In February 1950, I first learned that the Plaintiff Gibbons had purchased a piece of my brother's property. I had a communication with Gibbons in June 1950.

30 Mr. Gibbons made no attempt to settle out of Court.

I was present in Mr. Richard's office when the Plaintiff produced a plan.

Ex. D. is put to witness.

I have not seen this before.

At this meeting Gibbons said it would have to be a Court case.

I instructed Richards to commence an action against Gibbons. This was not done.

40 In September 1950, I went on to a piece of land purchased by Mr. Gibbons from Gunnison Astwood and I did damage. I pushed in 5 panes of glass which I found already broken.

As to para. 2 of the statement of claim, I deny having damaged the flooring of a verandah.

I deny damaging 12 new window sashes.

I know nothing about the screens.

I know nothing about the chimney damage.

I know nothing at all about the damage.

I do not admit the claim.

Defendants' Evidence.

No. 13.

Margaret Horne,
6th April, 1951.

Examination—
continued.

Defendants' Evidence.

No. 13.
Margaret Horne,
6th April, 1951.
Examination—
continued.

I deny that it is the Plaintiff's land.

I have been paying rates.

First Defendant Viera gave me some information and I went up there and stopped the men from working. The property Gibbons was on I had sold to Viera.

The fence was erected by Viera.

I employed Stovell to do my surveying. I have no reason to doubt his work.

Whenever he was at his work I was with him.

In 1947, Stovell and I went to survey and Gunnison Astwood came out 10 with a club and attempted to hit Stovell—Stovell retreated—I stood my ground.

I deny the truth of Rubain. I saw the cottage there on the 25th December, 1931.

Cross-examination. CROSS-EXAMINATION.

Frederick Astwood farmed that land for many years. His widow then farmed it. As long as I can remember Frederick Astwood was in occupation.

I deny that an action was brought by me against Ruth Astwood in 1947.

I instructed my lawyer to enter action in my brother's name in 1947. 20

This action was withdrawn.

I am certain that I let a cottage and two barns.

I had no rental agreement.

I do not know where the marked stone is now. I could go and locate the spot where it was.

Mr. Admon Viera and Mr. Richard Cleveland Fox between them owe the land to the West of the line marked in Ex. A. as "C," "D." They own separate pieces.

I have been on the boundary line "C," "D" on several occasions with Admon Viera and his father and mother. I negotiated the sale to Admon Viera of 7 acres of land owned by my brother over power of Attorney. 30 The price was £7,000—£3,000 was paid down.

I sold to Fox 9½ acres. The price was £1,200—Fox paid in cash to my brother. Of this 9½ acres I negotiated on behalf of Fox a sale of 7 acres to Viera.

The Gibbons boundary amazes me by its coincidence.

The day I took the survey with Stovell he had so much trouble laying the line, that the measurement we took at that time proved to be more than what we really wanted to take.

I instructed Attorney Richards to commence an action in June, 1950— 40 Viera was present—Richards never commenced the action.

Viera and I were in close consultation. Plaintiff Gibbons would not settle out of Court.

I never received any letter from Gibbons suggesting arbitration or procedure under the Boundary Act.

When I did the damage I knew there were claims. I pushed out the glass—I now realise I was very foolish.

I have never heard any suggestion about arbitration—I have never been violent in my life.

I knew that Gibbons had an investment there.

RE-EXAMINATION

I deny Gibbons title.

The marked stone disappeared after my father's death.

Defendants' Evidence.

No. 13.

Margaret Horne,
6th April,
1951.

Re-examination.

No. 14.

10

Evidence of Admon Gabriel Vieira.

ADMON GABRIEL VIEIRA, sworn.

I am one of the Defendants. Tendered for cross-examination. The witness is tendered for cross-examination.

CROSS-EXAMINATION.

When I bought the property I did not know of any dispute. Mrs. Horne did not tell me. I bought on August 1st, 1949. She did not tell me about an action against Ruth Astwood which was not continued.

I have heard today that Fox had paid £1,200 for 9 acres and I had paid £7,000 for 7 acres. I have reduced my mortgage by £700 Mrs. Horne is
20 my mortgagee.

I had to have a mortgage—it was given to Mrs. Horne.

Mr. Richards is my lawyer—he acted for me up till now. I did not know that Gibbons wanted to arbitrate. The lawyer Richards did not tell me.

I did not know that Richards had written to Gibbons.

Copy of a letter of 7th January 1950, is put to witness.

I remember that this was written.

Letter put in and the reply thereto. Exs. M. and N.

I was requested to point out the boundary I claimed. There was
30 a suggestion of settlement out of Court.

I broke 5 windows on the Western side of the cottage.

I broke new windows without advice.

Mrs. Horne poked out the old windows.

I cannot say why I broke these windows. I was not in a temper. I do not know who destroyed the cement on the verandah, nor who pulled down the chimney. I am not certain that my father did it. The land is not in my father's name.

No. 14.

Admon Gabriel Vieira,
6th April,
1951.
Examination.

Cross-examination.

Defendants' Evidence. Interference by me would delay the completion of the cottage.
The fence I erected was on my boundary.

No. 14.
Admon
Gabriel
Vieira,
6th April,
1951.
Re-examination.

RE-EXAMINATION.

Rubain was there when I did the damage so was Mrs. Horne. I erected the fence following the plan given to me by the surveyor.

Close of Case for Defendants.

No. 15.
Judgment,
6th April,
1951.

No. 15.
Judgment.

Judgment for Plaintiff against the two Defendants jointly and severally.
Damages at £440. 10

Perpetual injunction against the two Defendants as prayed for and
Costs.

C. BROOKE FRANCIS,
Chief Justice.

No. 16.
Order,
6th April,
1951.

No. 16.
Order.

IN THE SUPREME COURT OF BERMUDA.

1950 : No. 41.

Between

MORRIS ALVIN GIBBONS *Plaintiff* 20

and

ADMON GABRIEL VIEIRA and
MARGARET YOUNG HORNE *Defendants.*

The 6th day of April, 1951

This action having been tried before the Court on the second, fourth fifth and sixth day of April, 1951 :

IT IS ORDERED that judgment be entered for the plaintiff against the defendants, jointly and severally, in the sum of Four hundred and forty pounds damages and costs to be taxed :

AND IT IS ORDERED that the defendants their servants and agents be perpetually restrained from trespassing upon the plaintiff's land, in the pleadings mentioned, that is to say ALL THAT parcel of land situate in Warwick Parish in the Islands of Bermuda containing one acre, two roods and seventeen perches or thereabouts and bounded NORTHERLY by the Public Road leading from the Khyber Pass Road to the South Shore Road and there measuring One hundred and sixty-eight feet EASTERLY by land in the possession of Frederick Gunnison Astwood and there measuring Four hundred and twenty-three feet SOUTHERLY by the South Shore Public Road and there measuring One hundred and fifty-one feet and WESTERLY by land now or recently in the possession of Samuel Edward Astwood and there measuring Five hundred and seven feet TOGETHER WITH the cottage thereon erected and the appurtenances to the same belonging.

No. 16.
Order,
6th April,
1951—
continued.

C. BROOKE FRANCIS,
Chief Justice.

No. 17.

Notice of Motion for leave to Appeal to His Majesty in Council.

No. 17.
Notice of
Motion for
leave to
Appeal to
His
Majesty in
Council,
26th April,
1951.

TAKE NOTICE that the Court will be moved on the 3rd day of May, 1951 at 10.30 o'clock in the forenoon, or so soon thereafter as counsel can be heard, by Mr. David Tucker, of counsel for the above named Defendants for an order (1) granting conditional leave to appeal to His Majesty in Council from the Judgment and Order of the Court made in the above entitled cause on the 6th day of April, 1951, whereby a Judgment was delivered in favour of the above named Plaintiff and an injunction granted perpetually restraining the said defendants from trespassing upon the land claimed by the plaintiff and (2) staying all further proceedings upon the aforesaid Order of the Court pending the hearing of the appeal therefrom AND FURTHER TAKE NOTICE that the grounds upon which the motion will be made are :—

- 30
- (1) That the verdict was against the weight of the evidence.
 - (2) That the verdict and aforesaid Order of the Court were wrong in law in that the Court gave Judgment on the basis of a wall which was not mentioned in the Will of the late Adrastus Henry Astwood and played no part in dividing the property after it came into the hands of the testator. The Court took no cognizance of the title deeds on which the Will was based.
 - (3) That the question involved in the matter in respect of which leave to appeal is hereby sought namely, the settlement of

No. 17.
 Notice of
 Motion for
 leave to
 Appeal to
 His
 Majesty in
 Council,
 26th April,
 1951—
continued.

estates under terms of a Will is one which by reason of its great general and public importance ought to be submitted to His Majesty in Council for decision.

Dated this 26th day of April, 1951.

DAVID TUCKER,
Attorney for the Defendants.

To :

Messrs. Gray & Smith,
 Reid Street, Hamilton.
Attorneys for the Plaintiff.

10

No. 18.
 Report by
 Trial Judge,
 28th April,
 1951.

No. 18.
 Report by Trial Judge.

After both Counsel had addressed the Court, I was prepared at once to deliver judgment and I did so orally.

2. I alluded to the fact that three blocks of land were referred to in this case, and said that I was of opinion that title and present ownership in each case sprang originally and solely from the devises in the will of Adrastus Henry Astwood, and that the area conveyed in each depended on a survey of the land in question. In this will (Ex. C.) three parcels—and only three parcels of land adjoining one another were dealt with. I would not concern myself with the history of the land before the operation of the will. Any evidence as to previous history was irrelevant. It matters not how the testator came by this land ; sufficient is it to find that in paragraph 3 of his will he devised a parcel of land “ supposed to contain 12 acres ” to his eldest son Samuel Josephus. This Samuel Josephus is the father of Edward Astwood and of the second Defendant Margaret Horne. Mrs. Horne explained that she was interested in this matter as attorney for her brother Edward, who being a sick man could not appear. She did not produce her power. She testified that her brother had inherited this tract of twelve acres from his father but produced no documentary evidence in confirmation. 20 30

3. The Testator Adrastus Henry Astwood in paragraph 4 of Ex. C. devised a second parcel “ supposed to contain about four acres ” to his son Frederick Brownlow Astwood. This Frederick Brownlow Astwood is by a second marriage the father of Ruth Elizabeth Astwood, to whom he in turn, by his will Ex. E. devised this block of four acres.

4. The Testator Astwood in paragraph 5 of Ex. C. made a third and final devise of a parcel of land “ supposed to contain eight acres ” to several other children in joint tenancy. This third parcel eventually came into

the sole ownership of Frederick Gunnison Astwood, by purchase. Exs. F. and G.

5. The boundaries of these three parcels of land (which for the sake of convenience are noted on Ex. A. as A., B. and C. respectively) are defined sufficiently definitely to show that they adjoin one another.

6. The surveyor Clarke who was the first witness for the Plaintiff has testified that the whole area of the three parcels has been identified by him on the ground, and the area is enclosed on his plan Ex. A. as detailed by him. With Clarke's Western and Northern boundaries the Defendant
10 Horne agrees.

7. The witness then declared that instead of the aggregate area containing 24 acres as imagined by Adrastus Henry Astwood, it turned out on survey to be no more than 19.2 acres.

8. Mr. Clarke went on to show that the sub-divisional boundaries were also quite clear to him, and according to his survey and calculations the areas of each of the three devises in reference to the Adrastus Henry guess, required an abatement. This abatement amounted to 25 per cent. in each of the two larger blocks. This resulted in block A. containing 9.06 acres instead of "about 12 acres," and block B. containing 3.8 acres instead of
20 "about 4 acres," and block C. containing 6.356 acres instead of "about 8 acres." I accepted fully the evidence and plan of the witness Clarke.

9. Directly I came to my finding on the matter of boundaries, both aggregate and sub-divisional, it appeared to me that the Defendant Horne, was attempting to secure a full twelve acres on behalf of her brother. She was in fact reading too much into the will of Adrastrus Henry Astwood. Her surveyor Stovell testified that Mrs. Horne gave him instructions to "push out" the Eastern boundary of the block A. in order to give a full 12 acres; and he did so (Ex. H.) despite his agreement that on the basis of the original marks, the block as devised contained no more than 8 acres.
30 As to this I did not boggle my words in describing the Defendant Horne as making an impudent attempt to filch land from her cousin Frederick Gunnison Astwood.

10. The conveyance under which the Plaintiff holds his title shows his Western boundary to run with the Western boundary of block C. as noted in Ex. A. This is the parcel of land identified as the devise under para. 5 of the Adrastus Henry Astwood will.

11. I gave judgment as noted in the record.

12. This writing is not by way of a judgment, but an explanatory report written with a mind freshly applied to the subject, and twenty-three
40 days after my judgment was delivered.

(Sgd.) C. BROOKE FRANCIS,
Chief Justice.

28th April, 1951.

No. 18.
Report by
Trial Judge,
28th April,
1951—
continued.

No. 19.
Notes of
Chief
Justice on
hearing of
Motion for
leave to
Appeal to
His
Majesty in
Council,
3rd May,
1951.

No. 19.

Notes of Chief Justice on hearing of Motion for leave to Appeal to His Majesty in Council.

Thursday, 3rd May, 1951.

D. C. SMITH for Plaintiff.
D. TUCKER for Defendants.

MOTION for conditional leave to appeal to His Majesty-in-Council (on behalf of Defendants).

Tucker for defendants submits appeal as of right from Judgment of this Court dated 6th April, 1951. Reads Notice of Motion. Tucker refers to the Judgment (1) Damages £440 (2) Perpetual Injunction, and submits therefore that the subject matter is within the terms of Section 2 sub-section (1) of the Appeals Act, 1911. 10

Smith of Counsel for Plaintiff has nothing to say.

I make the following order :—

(1) Appellants shall within one month from the date hereof enter into good and sufficient security to the satisfaction of the Court in the sum of Five hundred pounds jointly and severally for the due prosecution of the appeal and the payment of all costs as may become payable by the Respondent in the event of the Appellants not obtaining an order granting them final leave to appeal or of the appeal being dismissed for non prosecution or of His Majesty-in-Council ordering the Appellants to pay the Respondent's costs as the case may be ; 20

(2) Appellants to take steps within four months for the purpose of procuring the preparation of the Record and the dispatch to England ;

(3) Appellants to deposit with the Registrar the sum of £100.

Smith now mentions the subject matter of Section 6 and asks that the Court makes an order directing that the judgment be carried into execution and gives reasons. These reasons I consider in the circumstances cogent. Smith includes in his application the matter of costs.

Tucker in reply agrees to the injunction remaining in force. In so far as damages are concerned he says it is usual for damages to remain until final decision—similarly with costs. 30

I make the following order :

I direct that the Judgment be carried into execution and that the Respondent enter into good and sufficient security to the satisfaction of the Court for the due performance of such order as His Majesty-in-Council shall think fit to make thereon.

C. B. F.

Order granting leave to Appeal to His Majesty in Council.

No. 20.
Order
granting
leave to
Appeal to
His
Majesty in
Council,
3rd May,
1951.

1950: No. 41.

MORRIS ALVIN GIBBONS... .. *Plaintiff*
and
ADMON GABRIEL VIEIRA and MARGARET YOUNG HORNE ... *Defendants.*

Before His Honour Sir BROOKE FRANCIS, Chief Justice.

Mr. D. C. SMITH for Plaintiff.

Mr. DAVID TUCKER for Defendants.

10 Application by motion for leave to appeal to His Majesty-in-Council from the Judgment of the Court made in the above cause on the 6th day of April, 1951.

ORDER.

20 Upon hearing Counsel for the parties leave to appeal to His Majesty-in-Council is granted AND IT IS ORDERED (1) that the Defendants (Appellants) shall within one month enter into good and sufficient security to the satisfaction of the Court in the sum of Five hundred pounds, jointly and severally, for the due prosecution of the Appeal; (2) that the Record be prepared for despatch to England for printing within four months; (3) and that the Defendants (Appellants) deposit with the Registrar the sum of One hundred pounds towards the cost of the preparation of the said Record; AND IT IS FURTHER ORDERED that the Judgment of the 6th day of April, 1951 be carried into execution AND THAT the Plaintiff (Respondent) enter into good and sufficient security to the satisfaction of the Court for the due performance of such order as His Majesty-in-Council shall think fit to make thereon.

Dated the 3rd day of May, 1951.

(Sgd.) W. NORMAN PARKER,
Registrar of the Supreme Court of Bermuda.

EXHIBITS.

Exhibits.

" J. "

Release,
Nathaniel
Edward
Dunscombe
to Adrastus
Astwood,
31st
December,
1866.

" J. "—Release, Nathaniel Edward Dunscombe to Adrastus Astwood.

THIS INDENTURE made the thirty-first day of December in the year of our Lord one thousand eight hundred and sixty-six BETWEEN Nathaniel Edward Dunscomb of Warwick Parish in the Islands of Bermuda Master Mariner of the one part and Adrastus Astwood of the same Parish planter of the other part WHEREAS the said Nathaniel Edward Dunscomb by an Indenture of Release bearing date the first day of February one thousand eight hundred and forty-three and made or purporting to be made between Benjamin Gibbs Mitchell and Anna Gibbs his wife of the one part and the said Nathaniel Edward Dunscomb of the other part became the purchaser in fee simple of a certain Messuage and Parcel of Land in Warwick Parish aforesaid hereinafter to be described AND WHEREAS the said Nathaniel Edward Dunscomb has contracted to sell the same to the said Adrastus Astwood at or for the price or sum of money hereinafter to be mentioned NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of SIXTY POUNDS of lawful money of Great Britain and of Bermuda by the said Adrastus Astwood to the said Nathaniel Edward Dunscomb in hand paid at or immediately before the execution of these presents the receipt whereof is hereby acknowledged HE the said Nathaniel Edward Dunscomb HATH granted bargained sold aliened and released and by these presents DOTH grant bargain sell alien release and confirm unto the said Adrastus Astwood his heirs and assigns ALL THAT certain Parcel of Land situate and being in Warwick Parish aforesaid containing by estimation Four acres or thereabouts be the same more or less and bounded on the NORTH by land of Benjamin Gibbs Mitchell on the EAST by lands formerly of Benjamin Dickinson Harvey and now of his heirs devisees or assigns on the SOUTH by the Sea or Ocean and on the WEST by land now or late in the occupation or possession of Rebecca Astwood OR HOWEVER OTHERWISE the said Parcel of Land may be bounded or ought to be described TOGETHER WITH the Messuage or Dwelling House thereon erected and all other houses outhouses edifices buildings yards gardens walls inclosures lights liberties privileges easements profits commodities emoluments hereditaments and appurtenances whatsoever to the same or any part thereof belonging or with the same now or at any time heretofore holden or enjoyed as parcel thereof or appurtenant thereto AND all the estate right title interest inheritance use trust property claim and demand whatsoever either at law or in equity of him the said Nathaniel Edward Dunscomb in or out of and upon the same and every part thereof AND all deeds evidences and writings in the hands possession or power of the said Nathaniel Edward Dunscomb solely relating to the said land hereditaments and premises or to any part thereof TO HAVE AND TO HOLD the said land hereditaments and premises hereby granted and

released or otherwise assured or intended so to be with the appurtenances unto the said Adrastus Astwood his heirs and assigns to the only proper use of the said Adrastus Astwood his heirs and assigns for ever AND the said Nathaniel Edward Dunscomb for himself his heirs executors and administrators doth hereby COVENANT promise and agree with and to the said Adrastus Astwood his heirs and assigns that for and notwithstanding any act deed matter or thing whatsoever by the said Nathaniel Edward Dunscomb at any time heretofore made done omitted committed or knowingly or willingly suffered to the contrary he the said Nathaniel Edward

10 Dunscomb now hath in himself good right full power and lawful and absolute authority to grant and convey the said land hereditaments and premises hereby granted and released or otherwise assured or intended so to be with the appurtenances unto and to the use of the said Adrastus Astwood his heirs and assigns in manner aforesaid and according to the true intent and meaning of these presents AND THAT it shall and may be lawful for the said Adrastus Astwood his heirs and assigns from time to time and at all times hereafter peaceably and quietly to enter into hold occupy possess and enjoy the said land hereditaments and premises hereby granted and released or otherwise assured or intended so to be with their

20 appurtenances and to have receive and take the rents issues and profit thereof and of every part thereof to and for his and their own use and benefit without any lawful let suit trouble denial claim demand interruption or eviction whatsoever of from or by him the said Nathaniel Edward Dunscomb or his heirs or of from or by any other person or persons whomsoever lawfully or equitably claiming or to claim by from or under or in trust for him them or any of them AND that free and clear and freely and clearly and absolutely acquitted exonerated released and for ever discharged or otherwise by the said Nathaniel Edward Dunscomb his heirs executors and administrators well and sufficiently saved defended

30 kept harmless and indemnified of from and against all and all manner of former and other gifts grants bargains sales jointures dowers and all rights and titles of or to dower uses trusts entails wills mortgages recognisances judgments executions extents rents arrears of rent debts of record debts due to the Queen's Majesty and of from and against all other estates titles troubles charges debts and incumbrances whatsoever either already had and made executed occasioned and suffered or hereafter to be had made executed occasioned and suffered by the said Nathaniel Edward Dunscomb or his heirs or by any other person or persons lawfully or equitably claiming or to claim by from or under or in trust for him them or any of them or by

40 his or their acts deeds means default or procurement AND FURTHER that he the said Nathaniel Edward Dunscomb and his heirs and all and every other person or persons having or claiming or who shall or may hereafter have or claim any estate right title interest inheritance use trust property claim or demand whatsoever either at law or in equity of in to or out of the said land hereditaments and premises hereby granted and released or otherwise assured or intended so to be with their appurtenances or any of them or any part thereof by from or under or in trust for him the

Exhibits.

" J."

Release,
Nathaniel
Edward
Dunscombe
to Adrastus
Astwood,
31st
December,
1866—
continued.

Exhibits. said Nathaniel Edward Dunscomb or his heirs shall and will from time to
 ——— time and at all times hereafter upon every reasonable request to be made
 " J." for that purpose by and at the proper costs and charges of the said Adrastus
 Release, Nathaniel Astwood his heirs or assigns make do and execute or cause or procure to be
 Nathaniel Edward made done or executed all such further and other lawful and reasonable
 Edward Dunscombe acts deeds things conveyances and assurances in the law whatsoever for
 to Adrastus the further better more perfectly and absolutely granting conveying and
 Astwood, assuring of the said land hereditaments and premises hereby granted and
 31st released or otherwise assured or intended so to be and every part thereof
 December, with their appurtenances unto and to the use of the said AdrastusAstwood 10
 1866— his heirs and assigns in manner aforesaid and according to the true intent
 continued. and meaning of these presents as by the said Adrastus Astwood his heirs
 or assigns or his or their counsel in the law shall be reasonably devised
 advised and required IN WITNESS WHEREOF the parties to these presents
 have hereunto set their hands and seals the day and year first above
 written.

Signed sealed and delivered by }
 Nathaniel Edward Dunscomb } NATHN. E. DUNSCOMB. (L.S.)
 in the presence of :

EDWARD G. INGHAM
 JAMES MOORE

20

RECEIVED from the within named Adrastus Astwood the sum of
 SIXTY POUNDS being the consideration money within mentioned to be
 paid to me.

Dated this 31st day of December A.D. 1866.

EDWARD G. INGHAM }
 JAMES MOORE } NATHN. E. DUNSCOMB.
Witnesses.

" I." " I."—Release, William Obadiah Dunscombe to Adrastus Henry
 Release, William Astwood. 30
 Obadiah
 Dunscombe
 to Adrastus
 Henry
 Astwood,
 22nd
 September,
 1871.
 THIS INDENTURE made the twenty second day of September in the
 year of our Lord one thousand eight hundred and seventy one between
 WILLIAM OBADIAH DUNSCOMBE of Warwick Parish in the Islands of
 Bermuda merchant and SARAH ELIZA his wife of the one part and ADRASTUS
 HENRY ASTWOOD of Warwick Parish aforesaid planter of the other part
 WHEREAS under and by virtue of a certain Indenture of Release bearing

date thirteenth day of May one thousand eight hundred and sixty nine
 and made between Margaret Harvey White of the one part and the said
 William Obadiah Dunscombe of the other part the said William Obadiah
 Dunscombe became the purchaser for a valuable consideration therein
 expressed and acknowledged to have been received of a certain messuage
 and parcel of land herein after to be particularly described and intended
 to be hereby conveyed AND WHEREAS the said William Obadiah
 Dunscombe has contracted to convey and assure the said lands and
 hereditaments to the said Adrastus Henry Astwood for the price hereinafter
 10 to be mentioned and the said Sarah Eliza wife of the said William Obadiah
 Dunscombe has agreed to join in conveying the same in order to bar or
 preclude her right or possibility of dower in the same NOW THIS INDENTURE
 WITNESSETH that in pursuance of the said agreement and in consideration
 of the sum of one hundred pounds of lawful money of Bermuda by the said
 Adrastus Henry Astwood to the said William Obadiah Dunscombe in hand
 paid at or immediately before the execution of these presents the receipt
 whereof is hereby acknowledged THEY the said William Obadiah Dunscombe
 and Sarah Eliza his wife have and each of them HATH granted bargained
 sold aliened and released and by these presents do and each of them DOTH
 20 grant bargain sell alien release and confirm unto the said Adrastus Henry
 Astwood his heirs and assigns ALL THAT certain parcel of land in Warwick
 Parish aforesaid containing by estimation eight acres be the same more or
 less bounded on the NORTH by land formerly of Benjamin Gibbs Mitchell
 and by him sold and conveyed to Benjamin Lusher on the SOUTH by land
 late in the possession of Nathaniel Edward Dunscombe and now in the
 occupation or possession of the said Adrastus Henry Astwood on the EAST
 by land in the occupation or possession of the heirs or devisees of Benjamin
 Dickinson Harvey deceased or of their assigns and on the WEST by land
 formerly of Samuel Astwood deceased and now in the possession of the
 30 said Adrastus Henry Astwood or however otherwise the said parcel of land
 may be bounded or ought be described TOGETHER WITH the messuage
 or dwelling house thereon erected and all houses outhouses tanks edifices
 buildings yards gardens walls inclosures timber and other trees lights
 liberties privileges easements profits commodities and advantages to the
 said parcel of land or any part thereof pertaining or therewith now or
 heretofore holden or enjoyed as parcel thereof or appurtenant thereto
 AND ALL the estate right title interest inheritance use trust property claim
 and demand at law or in equity of the said William Obadiah Dunscombe
 and Sarah Eliza his wife in or out of and upon the same and all deeds
 40 writings evidences and muniments of title solely relating thereto in the
 hands possession or power of the said William Obadiah Dunscombe with
 true copies at the request and expense of the said Adrastus Henry Astwood
 his heirs and assigns of all deeds evidences writings and muniments of title
 relating thereto jointly with any of the hereditaments TO HAVE AND TO
 HOLD the said land hereditaments and premises with the appurtenances
 unto the said Adrastus Henry Astwood his heirs and assigns to the only
 proper use and behoof of the said Adrastus Henry Astwood his heirs and

- Exhibits.
 " I."
 Release,
 William
 Obadiah
 Dunscombe
 to Adrastus
 Henry
 Astwood,
 22nd
 September,
 1871—
continued.

Exhibits. assigns for ever AND the said William Obadiah Dunscombe for himself heirs
 " I " executors and administrators doth hereby covenant promise and agree with
 Release, William Obadiah Dunscombe to Adrastus Henry Astwood, 22nd September, 1871.—
continued. notwithstanding any act deed matter or thing whatsoever by the said
 William Obadiah Dunscombe and Sarah Eliza his wife or either of them
 made done omitted committed executed or knowingly or willingly suffered
 to the contrary *THEY* the said William Obadiah Dunscombe and Sarah
 Eliza his wife now have in themselves good right full power and lawful and
 absolute authority to grant release and convey the land hereditaments and
 premises hereby granted and released or otherwise assured or intended so 10
 to be with the appurtenances unto and to the use of the said Adrastus
 Henry Astwood his heirs and assigns in manner aforesaid and according to
 the true intent and meaning of these presents and that it shall and may be
 lawful for the said Adrastus Henry Astwood his heirs and assigns at all
 times peaceably and quietly to have hold use occupy possess and enjoy the
 same and every part thereof with the appurtenances and to have receive
 and take the rents issues and profits thereof to and for his and their own use
 without any lawful let suit trouble denial claim or demand of from or by
 the said William Obadiah Dunscombe and Sarah Eliza his wife or either of 20
 them or his heirs or any person claiming or to claim by from through under
 or in trust for them or either of them and that free and clear and freely and
 clearly and absolutely exonerated acquitted released and for ever discharged
 or otherwise by the said William Obadiah Dunscombe his heirs executors
 and administrators well and sufficiently saved defended kept harmless and
 indemnified of from and against all and all manner of former and other gifts
 grants bargains sales dowers uses trusts entails wills mortgages recognisances
 judgments executions debts of record or to the Crown and of from and
 against all other estates titles troubles charges debts and incumbrances
 either already had and made executed occasioned and suffered or hereafter 30
 to be had made executed and occasioned and suffered by the said William
 Obadiah Dunscombe and Sarah Eliza his wife or either of them or any
 person claiming or to claim by from through under or in trust for them or
 either of them or by their or either of their acts deeds means default or
 procurement AND FURTHER THAT the said William Obadiah Dunscombe
 and Sarah Eliza his wife and every person whosoever claiming or who shall
 or may have or claim any estate right title interest inheritance use trust
 property claim or demand at law or in equity of in to or out of the land
 hereditaments and premises hereby granted and released or otherwise
 assured or intended so to be or any part thereof by from or under or in trust
 for the said William Obadiah Dunscombe and Sarah Eliza his wife or either 40
 of them shall and will from time to time and at all times hereafter upon
 every reasonable request to be made for that purpose by and at the proper
 cost and charges of the said Adrastus Henry Astwood his heirs and assigns
 make do and execute or cause or procure to be made done and executed all
 such further and other lawful and reasonable acts deeds things conveyances
 and assurances in the law whatsoever for the further better more perfectly
 and absolutely granting releasing and assuring the land hereditaments and

premises hereby granted and released or otherwise assured or intended so to be with the appurtenances unto and to the use of the said Adrastus Henry Astwood his heirs and assigns in manner aforesaid and according to the true intent and meaning of these presents as by the said Adrastus Henry Astwood his heirs or assigns or his or their counsel in the law shall be reasonably devised or advised and required IN WITNESS WHEREOF the parties to these presents have hereto set their hands and seals the day and year first above written.

Exhibits.

“ I. ”

Release,
William
Obadiah
Dunscombe
to Adrastus
Henry
Astwood,
22nd
September,
1871—
continued.

WM. O. (L.S.) DUNSCOMBE.

10 Signed sealed and delivered by the within named William Obadiah Dunscombe (forty two words have been interlined over the twenty second line and three words interlined over the forty sixth line) in the presence of

S. BROWNLOW GRAY.
REGINALD GRAY.

SARAH E. (L.S.) DUNSCOMB.

Signed sealed and delivered by the within named Sarah Eliza wife of the within named William Obadiah Dunscombe (forty two words having been interlined over the twenty second line and three words interlined over the forty sixth line) in the presence of :

20 S. BROWNLOW GRAY.
REGINALD GRAY.

Received from the within named Adrastus Henry Astwood the sum of one hundred pounds being the consideration money within mentioned to be paid to me.

Dated this twenty-second day of September 1871.

WM. O. DUNSCOMBE.

S. BROWNLOW GRAY }
REGINALD GRAY } *Witnesses.*

30 (L.S.) By Samuel Brownlow Gray the Commissioner named in the annexed Commission of His Honour the Chief Justice of Bermuda.

KNOW ALL MEN BY THESE PRESENTS and I the said Commissioner do hereby certify that on the day of the date hereof before me the said Commissioner personally appeared Sarah Eliza the wife of William Obadiah Dunscombe and with her said husband a party to the within written Indenture and the said Sarah Eliza being by me examined touching her execution of the said Indenture privately and separate from her said

.Exhibits. husband did acknowledge that she had executed the same freely and
 " I." voluntarily and without any fear threat or compulsion of her said husband
 Release, In witness whereof I have hereto set my hand and seal this second day of
 William July One thousand eight hundred and seventy one.
 Obadiah

Dunscombe Bermudas or { By His Honor Thomas Lett Wood Chief Justice of the
 to Adrastus Somers' Islands. } Islands of Bermuda to Samuel Gray of the town of
 Henry } Hamilton in the said Islands Esquire Barrister-at-law
 Astwood, } GREETING.
 22nd

September, (L.S.)
 1871--

continued. THO. L. WOOD,
Chief Justice.

10

Whereas it has been represented to me the said Chief Justice that it is
 inconvenient for Sarah Eliza Dunscombe the wife of the within named
 William Obadiah Dunscombe and a party to the within written Indenture
 to attend before me the said Chief Justice to make acknowledgment of her
 having freely and voluntarily executed the said Indenture and it hath been
 prayed that I would issue a commission to some fit person to take such
 acknowledgment if the said Sarah Eliza Dunscombe be willing to make the
 same Now KNOW YOU that I the said Chief Justice do by these presents
 appoint you the said Samuel Brownlow Gray a Commissioner for the
 purpose aforesaid and I authorise and require you to examine the said
 Sarah Eliza Dunscombe touching her execution of the said Indenture
 privately and separate and apart from her said husband and if she
 acknowledge that she executed the same freely and voluntarily and without
 any fear threat or compulsion of her said husband you are to certify the same
 under your hand and seal and to endorse your certificate thereof on or
 annex it to the said Indenture.

Given under my hand and seal in Bermuda this Thirtieth day of
 September one thousand eight hundred and seventy one.

.....
 Dated the 22nd September 1871.

30

.....
 WILLIAM OBADIAH DUNSCOMBE
 and wife
 to
 ADRASTUS HENRY ASTWOOD.

.....
 RELEASE
 of a Parcel of Land in the Parish
 of Warwick.

“ C.”—Certified Copy of Will and Probate of Adrastus Henry Astwood.

Exhibits.

IN THE SUPREME COURT OF BERMUDA.
REGISTRAR GENERAL’S OFFICE, BERMUDA.

BERMUDA }
Alias } By the Registrar General of Bermuda.
SOMER’S ISLANDS }

(L.S.)

GERALD H. GRAY,
Registrar of Supreme Court and Registrar General.

“ C.”
Certified
Copy of
Will and
Probate of
Adrastus
Henry
Astwood,
12th
August,
1901.

10 I DO HEREBY CERTIFY that the instruments in writing hereto annexed marked “ A ” and “ B ” respectively and initialled by me are examined and correct copies respectively of the last will and testament and of the probate of the same of ADRASTUS HENRY ASTWOOD late of Warwick parish in the said Islands, deceased, which said will has been duly admitted to probate in common form by the Supreme Court of Bermuda and has been duly deposited in this office for record pursuant to the laws of these Islands.

IN WITNESS WHEREOF I, the Registrar General aforesaid, have hereto set my hand and affixed my official seal of the Supreme Court of
20 Bermuda this Eighth day of October one thousand nine hundred and twenty five.

“ A ” G.H.G.

I, ADRASTUS HENRY ASTWOOD, of Warwick Parish in the Islands of Bermuda, planter, hereby revoke all wills and testamentary dispositions heretofore made by me, and declare this to be my last Will.

1. I give to my wife all my furniture, household effects, and live and dead stock, and all other my effects whatsoever.

2. I give to my said wife during her life the use of my present dwelling house and its appurtenances, as long as she shall continue personally to
30 occupy the same, and the use of all my pasture and planting land.

3. I devise to my eldest son Samuel Josephus Astwood, subject to the estate in the pasture and planting land hereinbefore given to my wife, a tract of land in Warwick Parish supposed to contain about twelve acres, bounded on the North by a Public Road separating it from land formerly of Dr. John Frith now or late in the possession of Walter Riddell Graham Smith and his brothers, on the South by the Ocean, on the East by other land of my own next hereinafter devised, and on the West by land in the possession of James Blaithwait Lindley, which land hereby devised is intersected by a Military Road.

Exhibits.
 "C."
 Certified
 Copy of
 Will and
 Probate of
 Adrastus
 Henry
 Astwood,
 12th
 August,
 1901—
continued.

4. I devise to my son Frederick Brownlow Astwood, subject to the estate in the pasture and planting land hereinbefore given to my wife, a parcel of land in Warwick Parish supposed to contain about four acres, bounded on the North by land formerly of Benjamin Lusher deceased, and there now partly bounded and partly intersected by a public road, on the South by the South Longitudinal Road, on the East by land formerly of Benjamin Dickinson Harvey and now in the possession of the heirs or devisees of Joseph John Outerbridge, and on the West by the land hereinbefore devised to Samuel Joseph Astwood, together with the dwelling house and other buildings thereon and the appurtenances; subject nevertheless to the right of my daughter Margaret George Astwood to have the use of a bedchamber in the said dwelling house with all necessary conveniences while she shall continue to occupy it, but upon condition that if she shall marry the said Frederick Brownlow Astwood shall have a right to purchase her said right of occupancy for forty pounds to be paid to her, to her separate use, within one year after her marriage, on her surrendering and releasing her said right to him by a proper deed; and if she shall refuse to sell and release her said right to him on these terms the same shall be forfeited to him. 10

5. I devise to my children John Henry Astwood, Charles Erastus Astwood, Elizabeth Anna White, Frederick Brownlow Astwood, Margaret George Astwood and Joseph Benjamin Astwood, or such of them as shall survive me, equally between them, subject to my wife's estate in the pasture and planting land hereinbefore given to her, a parcel of land in Warwick Parish, supposed to contain about eight acres, bounded on the North by the South Longitudinal Road, on the South by the Ocean, on the East by land formerly of Benjamin Dickinson Harvey, now in possession of Daniel Dunscomb and on the West by other land of my own, together with dwelling house thereon and the appurtenances, upon condition that if either of them shall sell or dispose of his or her share therein or any part thereof except to the others, or some others or other, of them, if he she or they shall be willing and able to buy on the terms hereinafter to be mentioned, without the consent of the others of them then surviving, the part or share so sold or disposed of shall be forfeited to the survivors or survivor of them, if more than one equally between them, to be held by him her or them on the like condition, as far as the same is capable of taking effect, at a price to be agreed on between the seller and buyer, or in case they cannot agree at a valuation by two indifferent persons to be mutually agreed on by them; and if either of my said children shall die without issue, and without having disposed of his or her share the same shall go to the survivors or survivor of them, if more than equally between them, to be held on the like condition as far as the same is capable of taking effect. 30 40

6. All the rest and residue of my Estate real and personal I give devise and bequeath to my children Charles Erastus Astwood, Frederick Brownlow Astwood, Margaret George Astwood, and Joseph Benjamin Astwood, or the survivors of them equally between them.

7. I appoint my sons Samuel Josephus Astwood, and Charles Erastus Astwood executors of this my will.

IN WITNESS WHEREOF I the said Adrastus Henry Astwood have to this my will set my hand the eighteenth day of May one thousand eight hundred and ninety.

ADRASTUS HENRY ASTWOOD.

Signed and acknowledged by the above named Adrastus Henry Astwood as and for his last will and testament in the presence of us present at the same time, who in his presence and in the presence of each other, have hereto set our hands as witnesses (one word having been cancelled on the fourteenth line of the second page).

T. C. DUNSCOMB.
JOHN T. WHITE.

Recorded : 7th September 1901.

EYRE HUTSON,
Colonial Secretary.

“ B ” G. H. G.

Bermuda Alias }
Somers Islands } By his Excellency Sir George Digby Barker K.C.B.,
General, Governor, Commander-in-Chief and Ordinary
in and over these Islands, &c., &c., &c.

(L.S.) G. DIGBY BARKER,
General, Governor and Ordinary.

I hereby certify that on the twelfth day of August in the year of our Lord one thousand nine hundred and one before me the Governor and Ordinary aforesaid personally appeared Thomas Coverley Dunscomb and made oath on the Holy Evangelists of Almighty God that he was one of the subscribing witnesses to the annexed instrument of writing bearing date the eighteenth day of May one thousand eight hundred and ninety purporting to be the last Will and Testament of Adrastus Henry Astwood late of the Parish of Warwick in these Islands, planter, deceased ; and that the said testator executed the said Will on the day of the date thereof by signing his name at the foot or end thereof as the same now appears thereon in the presence of the said deponent and of John Tatem White the other subscribed witness thereto, both of them being present at the same time, and they thereupon respectively attested and subscribed the said Will in the presence of the said Testator and that at the time of such execution the said testator was of sound disposing mind, memory and understanding to the best of the said deponent's judgment.

T. C. DUNSCOMB.

On testimony whereof the said Thomas Coverley Dunscomb hath hereto subscribed his name and I Governor and Ordinary aforesaid have hereto set my hand and Seal at Arms the Day and Year herein first written.

By His Excellency's Command,

EYRE HUTSON,
Colonial Secretary.

Exhibits.
“ C. ”
Certified
Copy of
Will and
Probate of
Adrastus
Henry
Astwood,
12th
August,
1901—
continued.

Exhibits. " E. "—Certified Copy of Will and Probate of Frederick Brownlow Astwood.

" E. "
Certified
Copy of
Will and
Probate of
Frederick
Brownlow
Astwood,
8th
October,
1925.

IN THE SUPREME COURT OF BERMUDA.

REGISTRAR GENERAL'S OFFICE, BERMUDA.

BERMUDA }
Alias } By the Registrar General of Bermuda.
SOMER'S ISLANDS }

(L.S.)

GERALD H. GRAY,
Registrar of Supreme Court and Registrar General.

I DO HEREBY CERTIFY that the instruments in writing hereto 10
annexed marked " A " and " B " respectively and initialled by me are
examined and correct copies respectively of the last will and testament
and of the probate of the same of FREDERICK BROWNLOW ASTWOOD late
of Warwick parish in the said Islands, deceased, which said will has been
duly admitted to probate in common form by the Supreme Court of Bermuda
and has been duly deposited in this office for record pursuant to the laws
of these Islands.

IN WITNESS WHEREOF I, the Registrar General aforesaid, have
hereto set my hand and affixed my official seal of the Supreme Court of
Bermuda this Eighth day of October one thousand nine hundred and 20
twenty-five.

" B " G. H. G.

IN THE SUPREME COURT OF BERMUDA.

(L.S.)

K. J. BEATTY,
Chief Justice.

BE IT KNOWN that on the date hereof the last Will which is hereunto
annexed of FREDERICK BROWNLOW ASTWOOD late of Warwick Parish in
the Islands of Bermuda deceased, who died on the 15th day of July 1925
at the City of New York in the United States of America, was duly admitted 30
to probate in this Court and that the Administration of the personal estate
of the deceased is hereby granted by this Court to ELIZA SUSAN ASTWOOD
the Executrix named in the said Will, she having been duly sworn, as appears
by her affidavit which is hereunto annexed, power being reserved for
Charles William Kempe the Executor named in the said Will at any time
hereafter to apply for probate herein.

Given under my hand and the Seal of the Supreme Court of
Bermuda this Seventh day of October 1925.

IN THE SUPREME COURT OF BERMUDA.

Exhibits.

In the Estate of Frederick Brownlow Astwood deceased. I, Eliza Susan Astwood of Warwick Parish in the Islands of Bermuda Widow make oath and say that I believe the paper writing hereto annexed and marked " A " and initialled by me to contain the true and original last will and testament of Frederick Brownlow Astwood of Warwick Parish aforesaid deceased who died on the 15th day of July 1925 at the City of New York in the State of New York one of the United States of America That I am the lawful widow and relict of the said deceased and the Executrix named
 10 in the said will in conjunction with Charles William Kempe the executor therein named That I will administer according to law all the personal estate of the said deceased That I will exhibit a true and perfect inventory of the said estate and render a just and true account thereof whenever required by law so to do And that the gross value of the said estate amounts to £500. 0. 0. or thereabouts to the best of my knowledge information and belief.

" E. " Certified Copy of Will and Probate of Frederick Brownlow Astwood, 8th October, 1925—
continued.

Sworn at the City of Hamilton }
 in the Islands of Bermuda this }
 Sixth day of October 1925 }

ELIZA S. ASTWOOD.

20 Before me,
 DONALD C. SMITH.
 A Commissioner for taking affidavits
 in the Supreme Court of Bermuda.

G. H. G. " A " E. S. A.

THIS IS THE LAST WILL AND TESTAMENT of me FREDERICK BROWNLOW ASTWOOD of Warwick Parish in the Islands of Bermuda, Planter (1) I HEREBY REVOKE all wills and testamentary dispositions heretofore made or executed by me (2) I APPOINT my wife Eliza Susan Astwood to be the executrix and Charles William Kempe to be the executor of this my last will and testament (3) I BEQUEATH all my personal estate to my wife Eliza Susan Astwood absolutely (4) I DEVISE all real estate vested in me upon trust or by way of mortgage unto and to the use of the said Eliza Susan Astwood and Charles William Kempe their heirs and assigns subject to the trusts and equities affecting the same estates respectively (5) I DEVISE all my part share estate and interest of and in the parcel of land in Warwick Parish aforesaid estimated to contain Eight acres devised by and particularly described in Clause 5 (five) of the last will and testament of my father Adrastus Henry Astwood unto and to the use of my son Frederick Gunnison Astwood his heirs and assigns free from all right to dower therein of my said wife Eliza Susan Astwood (6) I DEVISE
 30 the parcel of land in Warwick Parish aforesaid estimated to contain Four
 40 Acres and devised to me by the said Adrastus Henry Astwood by Clause 4 (four) of his said will together with the dwelling-house and buildings thereon

Exhibits. erected unto and to the use of my said wife Eliza Astwood and her assigns
 ————— for her life without impeachment of waste (subject to her releasing by deed
 " E. " under seal her right of dower in the hereditaments devised by Clause 5 (five)
 Certified Copy of of this my will) AND after her decease To the use of my daughter Ruth
 Will and Elizabeth Astwood her heirs and assigns for ever (7) I DEVISE the parcel
 Probate of of land in Warwick Parish aforesaid purchased by me from Daniel
 Frederick Dunscomb and wife under a Conveyance dated the Sixteenth day of May
 Brownlow One thousand eight hundred and ninety two unto and to the use of my said
 Astwood, wife Eliza Susan Astwood and her assigns for her life without impeachment
 8th of waste (subject to her releasing by deed under seal her right of dower 10
 October, in the hereditaments devised by Clause 5 (five) of this my will) AND after
 1925— her decease to the use of my sons Harold Frith Astwood, James Clifton
continued. Astwood and Mervyn Stuart Astwood and the said Frederick Gunnison
 Astwood their respective heirs and assigns as tenants in common in
 equal shares IN WITNESS WHEREOF I have hereunder set my hand to
 this my last will and testament this twelfth day of August One thousand
 nine hundred and twenty four.

F. B. ASTWOOD.

Signed by Frederick Brownlow Astwood of Warwick Parish in the
 Islands of Bermuda Planter as his last will and testament in the presence 20
 of us present at the same time who at his request in his sight and presence
 and in the presence of each other have subscribed our names as attesting
 witnesses.

R. C. HOLLIS HALLETT.
 MINNIE L. ADAMS.

Recorded : 8th October, 1925.

GERALD H. GRAY,
Registrar General.

" G. " " G. "—Vesting Order of Supreme Court of Bermuda (in Chancery).
 Vesting Order of Supreme Court of Bermuda (In Chancery), 24th June, 1930.

IN THE SUPREME COURT OF BERMUDA. 30
 IN CHANCERY.

In the Matter of Anna Lynette White, an infant
 and
 In the Matter of the Infant's Property Act 1921.

(L.S.)

I, GERALD HAMILTON GRAY, Registrar of the Supreme Court of
 Bermuda DO HEREBY CERTIFY that the instrument in writing hereto
 annexed and marked " A " and initialled by me as an examined and correct
 copy of the Order made in the above matter dated the twenty-fourth day

of June One thousand nine hundred and thirty and signed by R. C. Hollis Hallet Assistant Justice of the Supreme Court aforesaid.

Exhibits.

“ G. ”

GERALD H. GRAY,
Registrar.

Vesting
Order of
Supreme
Court of
Bermuda
(In
Chancery),
24th June,
1930—
continued

IN WITNESS WHEREOF I, the Registrar aforesaid, have hereto set my hand and affixed the seal of the Supreme Court of Bermuda this 5th day of May, one thousand nine hundred and thirty-one.

“ A ” G.H.G.

IN THE SUPREME COURT OF BERMUDA.

10 IN CHANCERY.

In the Matter of Anna Lynette White, an infant
and

In the Matter of the Infant's Property Act 1921.

WHEREAS ANNA LYNETTE WHITE and LYNETTE ELISE WHITE presented a petition to His Honour Sydney Orme Rowan Hamilton Chief Justice dated the 19th day of June 1930 praying that His Honour would be pleased to decree and confirm the agreement mentioned in the said petition in this matter (now filed in the Registry of the Supreme Court of Bermuda) for the sale of the one undivided fifth part share or interest of Anna Lynette
20 White made by the said Lynette Elise White upon the latter filing her Bond and Warrant for Judgment to the Registrar of the said Court with one surety approved of by the said Registrar in the sum of One hundred and fifty pounds for the due investment of the net moneys in accordance with Section 4 of the above named Act IT IS ORDERED that upon the filing of such Bond and Warrant for Judgment and upon payment of the said sum of One hundred and fifty pounds to the said Lynette Elise White by Frederick Gunnison Astwood the said part or share or interest of the said Anna Lynette White of and in the said parcel of land (particularly described in the said petition as) ALL THAT certain parcel of land situate
30 in Warwick Parish supposed to contain about Eight acres bounded on the NORTH by the South Longitudinal Road on the SOUTH by the Ocean on the EAST by land formerly of Benjamin Dickinson Harvey now in the possession of Daniel Dunscombe and on the WEST by other land of Adrastus Henry Astwood TOGETHER WITH the dwelling house thereon erected shall vest in fee simple in Frederick Gunnison Astwood his heirs and assigns forever.

(Order made by the Chief Justice on the 23rd June 1930.)

Signed by me in the absence of the above-named Chief Justice
from these Islands.

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(Sd.) R. C. HOLLIS HALLETT,
Assistant Justice.

Dated June 24, 1930.

Exhibits.
 "G."
 Vesting
 Order of
 Supreme
 Court of
 Bermuda
 (In
 Chancery),
 24th June,
 1930—
continued.

This is to certify that the Bond and Warrant for Judgment of Lynette Elise White with one surety bound to the Registrar of the Supreme Court of Bermuda in the sum of One hundred and fifty pounds has been filed in the Registry of the said Court in accordance with the provisions of the order written on the other side of this sheet of paper.

Dated the 19th day of May 1931.

GERALD H. GRAY,
Registrar of the Supreme Court of Bermuda.

Received this nineteenth day of May One thousand nine hundred and thirty-one from Frederick Gunnison Astwood the sum of One hundred and fifty pounds as the purchase price of the undivided part or share of Anna Lynette White of and in a parcel of land in Warwick Parish in the Islands of Bermuda in accordance with the provisions of the order written on the other side of this sheet of paper. 10

Signed by Lynette Elise White }
 in the presence of :— } LYNETTE ELISE WHITE.

MAUDE HATCHER.
 R. C. HOLLIS HALLETT.

Stamp Duty Three shillings.

F."
 Conveyance
 Charles
 Erastus
 Astwood
 and Others
 to Frederick
 Gunnison
 Astwood,
 7th May,
 1931.

"F."—Conveyance, Charles Erastus Astwood and Others to Frederick Gunnison Astwood. 20

TO ALL TO WHOM THESE PRESENTS SHALL COME
 I, J. A. Burleigh Notary Public duly authorised admitted and sworn residing and practising in Enterprise, Hallowa County in the State of Oregon one of the United States of America Do HEREBY CERTIFY that on the day of the date hereof JOSEPH BENJAMIN ASTWOOD and NINA ASTWOOD named and described in the annexed Indenture as parties thereto of the Fourth part personally appeared before me and respectively acknowledged that they had signed sealed delivered and executed the said Indenture as and for their acts and deeds for the purposes therein expressed and that the signatures JOSEPH BENJAMIN ASTWOOD subscribed to the said Indenture opposite the Fourth seal at the foot or end thereof and to the receipt clause thereunder written were the signatures and hand-writing of the said Joseph Benjamin Astwood and that the signature NINA ASTWOOD subscribed 30

to the said Indenture opposite the Fifth seal was the signature and hand-writing of the said Nina Astwood.

IN WITNESS WHEREOF I the above named and described Notary Public have hereto subscribed my name and affixed my Official Notarial Seal this 26th twenty-sixth day of May, One thousand nine hundred and thirty-one.

J. A. BURLEIGH,
Notary Public for Oregon.

My Commission Expires
June 6th 1932.

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Exhibits.

“ F.”

Conveyance
Charles
Erastus
Astwood
and Others
to Frederick
Gunnison
Astwood,
7th May,
1931—
continued.

THIS INDENTURE made the Seventh day of May One thousand nine hundred and thirty-one Between CHARLES ERASTUS ASTWOOD of Paget Parish in the Islands of Bermuda Gentlemen of the First part MARGARET GEORGE MOORE of Paget Parish aforesaid the Wife of William Alexander Moore of the Secoud part the said WILLIAM ALEXANDER MOORE of Paget Parish aforesaid Planter of the Third part JOSEPH BENJAMIN ASTWOOD of the City of Enterprise in the State of Oregon one of the United States of America and NINA ASTWOOD his Wife of the Fourth part and FREDERICK GUNNISON ASTWOOD of Warwick Parish aforesaid Planter of the Fifth part WHEREAS Adrastus Henry Astwood duly made and executed his last Will and Testament dated the Eighteenth day of May One thousand eight hundred and ninety and by the Fifth clause thereof devised the hereditaments hereinafter described (subject to certain rights of his Wife Anna Astwood thereunto during her life) as follows “ I devise to my children John Henry Astwood, Charles “ Erastus Astwood, Elizabeth Anna White, Frederick Brownlow Astwood, “ Margaret George Astwood and Joseph Benjamin Astwood, or such of “ them as shall survive me, equally between them, subject to my Wife’s “ estate in the pasture and planting land hereinbefore given to her, a parcel “ of land in Warwick Parish, supposed to contain about Eight acres, bounded “ on the North by the South Longitudinal Road, on the South by the “ Ocean, on the East by land formerly of Benjamin Dickinson Harvey, “ now in the possession of Daniel Dunscombe, and on the West by other “ land of my own, together with the dwelling-house thereon and the “ appurtenances, upon condition that if either of them shall sell or dispose “ of his or her share therein or any part thereof except to the others, or “ some others or other, of them, if he she or they shall be willing and able “ to buy on the terms hereinafter to be mentioned, without the consent of “ the others of them then surviving, the part or share so sold or “ disposed of shall be forfeited to the survivors or survivor of them, if “ more than one equally between them, to be held by him her or them on “ the like condition as far as the same is capable of taking effect, at a price “ to be agreed on between the seller and buyer, or in case they cannot “ agree at a valuation by two indifferent persons to be mutually agreed on “ by them ; and if either of my said children shall die without issue, and

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Exhibits. " without having disposed of his or her share the same shall go to the
 " F. " survivors or survivor of them, if more than one equally between them,
 " to be held on the condition as far as the same is capable of taking effect."

Conveyance Charles Erastus Astwood and Others to Frederick Gunnison Astwood, 7th May, 1931—
continued.

AND WHEREAS the said Adrastus Henry Astwood died on the Nineteenth day of June One thousand nine hundred and one seised of the said hereditaments and without having revoked or altered his said Will which was duly proved on the Twelfth day of August One thousand nine hundred and one and is now recorded in the Registry of the Supreme Court of Bermuda AND WHEREAS the said Anna Astwood has since died AND WHEREAS the said John Henry Astwood died abroad in the lifetime of the said Adrastus Henry Astwood AND WHEREAS the said Charles Erastus Astwood Elizabeth Anna White Frederick Brownlow Astwood Margaret George Moore (named in the said Will as Margaret George Astwood) and Joseph Benjamin Astwood became seised and possessed of the said hereditaments as tenants-in-common in equal shares at the death of the said Adrastus Henry Astwood as the surviving children named in the said recited Will and WHEREAS the said Elizabeth Anna White has since died intestate leaving her grand-daughter Anna Lynette White her heiress-at-law her surviving AND WHEREAS by an Order of the Supreme Court of Bermuda " In the Matter of Anna Lynette White, an infant and in the Matter of the " Infant's Property Act, 1931 " dated the Twenty-third day of June One thousand nine hundred and thirty it was ordered that the said share of the said Anna Lynette White upon filing of the Bond in the said Order mentioned should vest in the said Frederick Gunnison Astwood in fee simple upon his paying the purchase price of One hundred and fifty pounds therefor AND WHEREAS the said Frederick Brownlow Astwood duly made and executed his last Will and Testament dated the Twelfth day of August One thousand nine hundred and twenty-four and thereby devised all his share in the hereditaments hereinafter described to the said Frederick Gunnison Astwood his heirs and assigns forever AND WHEREAS the said Charles Erastus Astwood Margaret George Moore and Joseph Benjamin Astwood have caused the said hereditaments to be valued and have agreed with the said Frederick Gunnison Astwood for the absolute sale to him of their respective parts shares estates and interests of and in the said hereditaments and the inheritance thereof in fee simple in possession free from incumbrances at the price of Four hundred and fifty pounds payable in the manner hereinafter expressed AND WHEREAS the said William Alexander Moore hath agreed to become a party to these presents for the purposes hereinafter expressed AND WHEREAS THE SAID Nina Astwood has agreed to become a party to these presents for the purpose of releasing her right or possibility of dower in the undivided part share estate and interest of the said Joseph Benjamin Astwood of and in the said hereditaments NOW THIS INDENTURE WITNESSETH that in pursuncae of the said agreement and in consideration of the sum of One hundred and fifty pounds on or before the execution of these presents paid by the said Frederick Gunnison Astwood to the said Charles Erastus Astwood (the receipt whereof he doth hereby acknowledge) and also in consideration

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Exhibits.

" F. "

Conveyance
 Charles
 Erastus
 Astwood
 and Others
 to Frederick
 Gunnison
 Astwood,
 7th May,
 1931—
continued.

of the sum of One hundred and fifty pounds on or before the execution of these presents paid by the said Frederick Gunnison Astwood to the said Margaret George Moore (the receipt whereof she doth hereby acknowledge) and also in consideration of the sum of One hundred and fifty pounds on or before the execution of these presents paid by the said Frederick Gunnison Astwood to the said Joseph Benjamin Astwood (the receipt whereof he doth hereby acknowledge) They the said Charles Erastus Astwood Margaret George Moore and Joseph Benjamin Astwood as to their respective undivided fifth parts or shares or other their parts shares estates and interests of and

10 in the hereditaments hereinafter described do and each of them doth hereby grant and release and he the said William Alexander Moore as to the undivided part or share estate and interest of his Wife the said Margaret George Moore of and in the said hereditaments doth hereby grant and confirm and she the said Nina Astwood as to her right or possibility of dower of and in the undivided part or share estate and interest of the said Joseph Benjamin Astwood doth hereby release unto the said Frederick Gunnison Astwood and his heirs ALL THAT certain parcel of land situate in Warwick Parish in the Islands of Bermuda containing by estimation Eight acres be the same more or less and bounded on the NORTH by the

20 South Longitudinal Public Road on the SOUTH by the Waters of the Ocean on the EAST by land formerly of Benjamin Dickinson Harvey afterwards of Daniel Dunscomb and now of the devisees of Frederick Brownlow Astwood deceased and on the WEST by land of Samuel Josephus Astwood TOGETHER WITH the dwelling-house thereon erected and all other houses buildings walls fences ways rights-of-way rights lights liberties privileges easements advantages and appurtenances whatsoever to the said parcel of land belonging or in anywise appertaining or usually held or enjoyed therewith or reputed to belong or be appurtenant thereto AND ALL THE

30 ESTATE right title interest claim and demand whatsoever of the said Charles Erastus Margaret George Moore Joseph Benjamin Astwood William Alexander Moore and Nina Astwood in to and upon the said premises and every part thereof TO HAVE AND TO HOLD the said Three undivided fifth parts or shares or other the parts or shares estates and interests of the said Charles Erastus Astwood Margaret George Moore and Joseph Benjamin Astwood of and in the hereditaments hereinbefore described and premises and hereby granted released and confirmed or expressed so to be unto and to the use of the said Frederick Gunnison Astwood his heirs and assigns forever AND the said Charles Erastus Astwood Margaret George Moore and Joseph Benjamin Astwood (hereinafter called " the said covenanting

40 persons ") as to their said respective undivided parts shares estates and interests and premises hereby granted released and confirmed or expressed so to be but not further or otherwise do hereby respectively for themselves and for their respective heirs executors and administrators covenant with the said Frederick Gunnison Astwood (hereinafter called " the said purchaser ") his heirs and assigns that notwithstanding any act deed or thing by the said covenanting persons or by the said William Alexander Moore and Nina Astwood or by the said testator Adrastus Henry Astwood

Exhibits.
 " F."
 Conveyance
 Charles
 Erastus
 Astwood
 and Others
 to Frederick
 Gunnison
 Astwood,
 7th May,
 1931—
continued.

(hereinafter called " the said testator ") done or executed or knowingly suffered to the contrary they the said covenanting persons respectively now have good right to grant and release and the said William Alexander Moore to grant and confirm and the said Nina Astwood to release the said undivided parts shares estates and interests and premises hereby granted released and confirmed or expressed so to be unto and to the use of the said purchaser his heirs and assigns in manner aforesaid AND THAT the said purchaser his heirs and assigns shall and may at all times hereafter peaceably and quietly possess and enjoy the said undivided parts shares estates and interests and receive the rents and profits thereof without any lawful 10
 eviction interruption claim or demand whatsoever from or by the said covenanting persons respectively the said William Alexander Moore or the said Nina Astwood or any person or persons lawfully or equitably claiming from under or in trust for them respectively or from or under the said testator AND THAT free from all incumbrances whatsoever made occasioned or suffered by the said covenanting persons respectively the said William Alexander Moore and the said Nina Astwood or any of them or by the said testator or any person or persons lawfully or equitably claiming as aforesaid AND FURTHER THAT they the said covenanting persons respectively and all other persons having or lawfully or equitably claiming any estate or 20
 interest in the said parts shares estates and interests and premises or any part thereof from under or in trust for the said covenanting persons respectively or from or under the said William Alexander Moore or Nina Astwood or the said testator shall and will from time to time and at all times hereafter at the request and cost of the said purchaser his heirs and assigns do and execute or cause to be done and executed all such acts deeds and things whatsoever for further and more perfectly assuring the said undivided parts shares estates and interests and premises and every part thereof unto and to the use of the purchaser his heirs and assigns in manner aforesaid as shall or may be reasonably required IN WITNESS WHEREOF 30
 the parties to these presents have hereunto set their hands and seals the day and year first above written.

Signed sealed and delivered by
 the above named Charles Erastus
 Astwood (one word having been
 previously interlined between the
 Twenty-seventh and Twenty-
 eighth lines of the Fourth page)
 in the presence of :

C. E. ASTWOOD (L.S.)

R. C. HOLLIS HALLETT.

Signed sealed and delivered by the
above named Margaret George
Moore (one word having been
previously interlined as aforesaid)
in the presence of :

MAUDE HATCHER.
R. C. HOLLIS HALLETT.

MARGARET G. MOORE (L.S.)

Exhibits.
" F."
Conveyance
Charles
Erastus
Astwood
and Others
to Frederick
Gunnison
Astwood,
7th May,
1931—
continued.

10 Signed sealed and delivered by the
above named William Alexander
Moore (one word having been
previously interlined as aforesaid)
in the presence of :

MAUDE HATCHER.
R. C. HOLLIS HALLETT.

W. A. MOORE (L.S.)

20 Signed sealed and delivered by the
above named Joseph Benjamin
Astwood and Nine Astwood (one
word having been previously inter-
lined as aforesaid) in the presence
of :

HARRIS A. HOMBEL.
J. A. BURLEIGH.

JOSEPH BENJAMIN ASTWOOD
(L.S.)
NINA ASTWOOD (L.S.)

£150. 0. 0

Received on the day of the date of the above written Indenture the
sum of One hundred and fifty pounds therein mentioned to be paid to me.
The sum of Three shillings in Revenue and Postage Stamps having been
previously hereto affixed for Stamp Duty.

30 Signed by the above named
Charles Erastus Astwood in
the presence of :

C. E. ASTWOOD

R. C. HOLLIS HALLETT.

£150. 0. 0

Received on the day of the date of the above written Indenture the
sum of One hundred and fifty pounds therein mentioned to be paid to me.

Exhibits. The sum of Three shillings in Revenue and Postage Stamps having been previously hereto affixed for Stamp Duty.

“ F. ”

Conveyance
Charles
Erastus
Astwood
and Others
to Frederick
Gunnison
Astwood,
7th May,
1931—
continued.

Signed by the above named }
Margaret George Moore in } MARGARET G. MOORE
the presence of :

MAUDE HATCHER.
R. C. HOLLIS HALLETT.

£150. 0. 0

Received on the day of the date of the above written Indenture the sum of One hundred and fifty pounds therein mentioned to be paid to me. 10
The sum of Three shillings in Revenue and Postage Stamps having been previously hereto affixed for Stamp Duty.

Signed by the above named }
Joseph Benjamin Astwood in } JOSEPH BENJAMIN ASTWOOD
the presence of :

HARRIS A. HAMBEL.
J. A. BURLEIGH.

MEMORANDUM.

By an Indenture dated the 31st day of May 1949 and made between Frederick Gunnison Astwood of the first part Morris Alvin Gibbons of the 20 second part and Nicholas Bayard Dill of the third part ALL THAT certain parcel of land in Warwick Parish delineated on the plan annexed to the said Indenture being that portion outlined in pink to the North of the South Shore Public Road containing One acre Two roods and Seventeen perches bounded NORTHERLY by the Public Road leading from Kyber Pass Road to the South shore road and measuring 168' EASTERLY by land remaining in the possession of the said Frederick Gunnison Astwood and measuring 423' SOUTHERLY by south Shore public road and measuring 151' and WESTERLY by land of Samuel Edward Astwood and measuring 507' AND 30 ALSO ALL THAT other land in Warwick Parish aforesaid delineated on the said plan being that portion outlined in pink to the South of the south shore public road containing Two roods and six perches bounded NORTHERLY by land of the War Department and measuring 151' EASTERLY by land of the said Frederick Gunnison Astwood and measuring 150' SOUTHERLY by waters of Atlantic Ocean and measuring on a straight line from the Eastern to the Western boundary hereof 150' and WESTERLY by land of the said Samuel Edward Astwood and measuring 190' TOGETHER WITH the dwelling house erected on the parcel of land firstly above described was conveyed to the said Morris Alvin Gibbons by the said Frederick Gunnison Astwood in fee simple. 40

Dated this 4th day of June 1949.

CONYERS DILL & PEARMAN.

“ D.”—Conveyance and Plan—F. G. Astwood to M. A. Gibbons.

Exhibits.

“ D.”

Conveyance
and Plan,
F. G.
Astwood to
M. A.
Gibbons,
31st May,
1949.

THIS INDENTURE made the Thirty-first day of May One thousand nine hundred and forty-nine Between FREDERICK GUNNISON ASTWOOD of Warwick Parish in the Islands of Bermuda of the first part MORRIS ALVIN GIBBONS of Pembroke Parish in the said Islands of the second part and NICHOLAS BAYARD DILL of Devonshire Parish in the Islands aforesaid Barrister-at-Law of the third part WHEREAS Adrastus Henry Astwood duly made and executed his last Will and Testament dated the Eighteenth day of May One thousand eight hundred and ninety and by the fifth clause thereof devised the hereditaments a portion of which is hereinafter described (subject to certain rights of his wife Anna Astwood during her life) as follows “ I devise to my children John Henry Astwood, Charles Erastus “ Astwood, Elizabeth Anna White, Frederick Brownlow Astwood, Margaret “ George Astwood and Joseph Benjamin Astwood, or such of them as “ shall survive me, equally between them, subject to my wife’s estate in “ the pasture and planting land hereinbefore given to her, a parcel of land “ in Warwick Parish supposed to contain about Eight acres, bounded on the “ North by the South Longitudinal Road, on the South by the Ocean, “ on the East by land formerly of Benjamin Dickinson Harvey, now in the
20 “ possession of Daniel Dunscombe, and on the West by other land of my “ own, together with the dwelling-house thereon and the appurtenances “ upon condition that if either of them shall sell or dispose of his or her “ share therein or any part thereof except to the others, or some others “ or other, of them, if he she or they shall be willing and able to buy on the “ terms hereinafter to be mentioned, without the consent of the others “ of them surviving, the part or share so sold or disposed of shall be forfeited “ to the survivor or survivors of them, if more then one equally between “ them, to be by him, her or them on the like condition as far as the same “ is capable of taking effect, at a price to be agreed on between the seller
30 “ and buyer, or in case they cannot agree at a valuation by two indifferent “ persons to be mutually agreed on by them ; and if either of my said “ children shall die without issue, and without having disposed of his or “ her share the same shall go to the survivors or survivor of them, of more “ then one equally between them, to be held on the condition as far as the “ same is capable of taking effect ” AND WHEREAS the said Adrastus Henry Astwood died on the Nineteenth day of June One thousand nine hundred and one seised of the said hereditaments and without having revoked or altered his said Will which was duly proved on the Twelfth day of August One thousand nine hundred and one and is now recorded in the
40 Registry of the Supreme Court of Bermuda AND WHEREAS the said Anna Astwood has since died AND WHEREAS the said John Henry Astwood died abroad in the lifetime of the said Adrastus Henry Astwood AND WHEREAS the said Charles Erastus Astwood Elizabeth Anna White Frederick Brownlow Astwood Margaret George Moore (named in the said Will as Margaret George Astwood) and Joseph Benjamin Astwood became

Exhibits.
 "D."
 Conveyance
 and Plan,
 F. G.
 Astwood to
 M. A.
 Gibbons,
 31st May,
 1949—
continued.

seised and possessed of the said hereditaments as tenants-in-common in equal shares at the death of the said Adrastus Henry Astwood as the surviving children named in the said recited Will AND WHEREAS the said Elizabeth Anna White has since died intestate leaving her granddaughter Anna Lynette White her heiress-at-law her surviving AND WHEREAS by an Order of the Supreme Court of Bermuda " In the Matter " of Anna Lynette White, an infant and in the Matter of the Infant's " Property Act, 1931 " dated the Twenty-third of June One thousand nine hundred and thirty it was ordered that the said share of the said Anna Lynette White upon filing of the Bond in the said Order mentioned should 10 vest in the said Frederick Gunnison Astwood in fee simple upon his paying the purchase price of One hundred and fifty pounds therefor AND WHEREAS the said Frederick Brownlow Astwood duly made and executed his last will and testament dated the Twelfth day of August One thousand nine hundred and twenty-four and thereby devised all his share in the hereditaments hereinafter described to the said Frederick Gunnison Astwood his heirs and assigns forever AND WHEREAS by an Indenture dated the Seventh day of May One thousand nine hundred and thirty-one and made between the said Charles Erastus Astwood of the first part the said Margaret George Moore of the second part William Alexander Moore of the third part 20 the said Joseph Benjamin Astwood and Nina Astwood his wife of the fourth part and the said Frederick Gunnison Astwood of the fifth part for the consideration therein mentioned the said Charles Erastus Astwood Margaret George Moore and Joseph Benjamin Astwood as to their respective undivided fifth parts or shares in the said hereditaments did grant and release and the said William Alexander Moore did grant and confirm and the said Nina Astwood did release the same unto and to the use of the said Frederick Gunnison Astwood his heirs and assigns forever AND WHEREAS the said Frederick Gunnison Astwood has agreed with the said Morris Alvin Gibbons for the absolute sale to him of the hereditaments 30 hereinafter described and the inheritance thereof in fee simple in possession free from incumbrances at the price of Two thousand five hundred pounds AND WHEREAS the said Morris Alvin Gibbons is desirous that the said hereditaments should be limited to the uses and in manner hereinafter mentioned NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of Two thousand five hundred pounds aforesaid to the said Frederick Gunnison Astwood paid by the said Morris Alvin Gibbons on or before the execution of these presents (the receipt whereof the said Frederick Gunnison Astwood doth hereby acknowledge) the said Frederick Gunnison Astwood doth hereby grant and 40 release unto the said Morris Alvin Gibbons and his heirs ALL THOSE certain parcels of land situate in Warwick Parish in the Islands of Bermuda more particularly described in the Schedule hereunder written AND ALL THE ESTATE right title and interest of the said Frederick Gunnison Astwood in and to the same TO HAVE AND TO HOLD the hereditaments and premises hereby granted and released or expressed so to be unto the said Morris Alvin Gibbons and his heirs to the uses hereinafter declared that is

to say TO SUCH USES as the said Morris Alvin Gibbons by any deed or deeds shall from time to time appoint AND in default of and until such appointment and so far as any such appointment shall not extend TO THE USE of the said Morris Alvin Gibbons and his assigns during his life without impeachment of waste AND AFTER the determination of that estate by any means in his lifetime TO THE USE of the said Nicholas Bayard Dill his executors and administrators during the life of the said Morris Alvin Gibbons in trust for the said Morris Alvin Gibbons and his assigns AND AFTER the determination of the estate so limited to the said Nicholas

10 Bayard Dill his executors and administrators as aforesaid TO THE USE of the said Morris Alvin Gibbons his heirs and assigns forever AND the said Frederick Gunnison Astwood doth hereby for himself his heirs executors and administrators covenant with the said Morris Alvin Gibbons his appointees heirs and assigns that notwithstanding any act deed or thing by the said Frederick Gunnison Astwood done or executed or knowingly suffered to the contrary he the said Frederick Gunnison Astwood now hath good right to grant and release the hereditaments and premises hereby granted and released or expressed so to be to the use of the said Morris Alvin Gibbons his appointees heirs and assigns in manner aforesaid AND THAT

20 the said Morris Alvin Gibbons his appointees heirs and assigns shall and may at all times hereafter peaceably and quietly possess and enjoy the said hereditaments and premises and receive the rents and profits thereof without any lawful eviction interruption claim or demand whatsoever from or by the said Frederick Gunnison Astwood or any person or persons lawfully or equitably claiming from under or in trust for him AND THAT free from all incumbrances whatsoever made or suffered by the said Frederick Gunnison Astwood or any person or persons lawfully or equitably claiming as aforesaid AND MOREOVER that the said Frederick Gunnison Astwood and all persons having or lawfully or equitably claiming any estate or

30 interest in the said hereditaments and premises or any part thereof from under or in trust for him shall and will from time to time and at all times hereafter at the request and cost of the said Morris Alvin Gibbons his appointees heirs or assigns do and execute or cause to be done and executed all such acts deeds and things for further and more perfectly assuring the said hereditaments and premises to the use of the said Morris Alvin Gibbons his appointees heirs or assigns as shall or may be reasonably required AND the said Frederick Gunnison Astwood his heirs executors administrators and assigns covenants with the said Morris Alvin Gibbons his appointees heirs and assigns that he the said Frederick Gunnison Astwood his heirs

40 and assigns will unless prevented by fire or some other inevitable accident from time to time and at all times hereafter upon every reasonable request and at the cost of the said Morris Alvin Gibbons his appointees heirs or assigns produce or cause to be produced to him or them the indenture hereinbefore recited for the purpose of showing his or their title to the hereditaments and premises hereby granted and released or expressed so to be or any part thereof AND ALSO at the like request and cost deliver or cause to be delivered unto the said Morris Alvin Gibbons his appointees heirs or assigns such attested or other copies or extracts of or from the

Exhibits.
 "D."
 Conveyance
 and Plan,
 F. G.
 Astwood to
 M. A.
 Gibbons,
 31st May,
 1949—
continued.

Exhibits. said recited indenture as he or they may require AND WILL in the
 "D." meantime unless prevented as aforesaid keep the said deeds and writings
 Conveyance safe unobliterated and uncanceled IN WITNESS WHEREOF the parties
 and Plan, to these presents have hereunto set their hands and seals the day and year
 F. G. first above written.
 Astwood to
 M. A.
 Gibbons,
 31st May,
 1949—
continued.

SCHEDULE ABOVE REFERRED TO :

ALL THAT certain parcel of land situate in Warwick Parish in the Islands
 of Bermuda delineated on the plan hereto annexed being that portion
 outlined in pink to the North of the South Shore Public Road containing 10
 One acre Two roods and Seventeen perches bounded NORTHERLY by the
 Public Road leading from the Khyber Pass Road to the South Shore Road
 and there measuring One hundred and sixty-eight feet or thereabouts
 EASTERLY by land heretofore forming part and parcel of the land now being
 described remaining in the possession of the said Frederick Gunnison Astwood
 and there measuring Four hundred and twenty-three feet or thereabouts
 SOUTHERLY by the South Shore Public Road and there measuring One
 hundred and fifty-one feet or thereabouts and WESTERLY by the land of
 Samuel Edward Astwood and there measuring Five hundred and seven
 feet or thereabouts AND ALSO THAT certain parcel of land situate in
 Warwick Parish in the Islands aforesaid delineated on the plan hereto 20
 annexed being that portion to the South of the South Shore Public Road
 and thereon outlined in pink containing Two roods and six perches bounded
 NORTHERLEY by land in the possession of the War Department and there
 measuring one hundred and Fifty-one feet or thereabouts EASTERLY by
 land heretofore forming part and parcel of the land now being described
 remaining in the possession of the said Frederick Gunnison Astwood and
 there measuring One hundred and fifty feet or thereabouts SOUTHERLY
 by the Waters of the Atlantic Ocean and measuring on a straight line from
 the Eastern to the Western boundary hereof One hundred and fifty feet or
 thereabouts and WESTERLY by land of the said Samuel Edward Astwood 30
 and there measuring One hundred and ninety feet or thereabouts OR
 HOWEVER OTHERWISE the said two parcels of land or either of them may
 be bounded may measure or ought to be described TOGETHER WITH the
 dwelling house erected on the parcel of land firstly hereinbefore described
 and all other buildings fixtures fences ways rights rights-of-way lights
 liberties privileges easements advantages and appurtenances whatsoever
 to the said parcels of land or either of them belonging or in anywise
 appertaining or usually held or occupied therewith or reputed to belong
 or be appurtenant thereto.

Signed Sealed and Delivered by the }
 above named Frederick Gunnison } F. G. ASTWOOD. (L.S.) 40
 Astwood in the presence of :— }

JOAN McPHEE.
 MARY BARBER.

£2,500.0.0

Received on the day of the date of the above written Indenture from the above named Morris Alvin Gibbons the sum of Two thousand five hundred pounds above mentioned to be paid to me the sum of Two Pounds ten shillings in postage and revenue stamps having been previously hereto affixed for stamp duty.

JOAN McPHEE } F. G. ASTWOOD.
MARY BARBER }
Witnesses.

Exhibits.

" D."
Conveyance and Plan, F. G. Astwood to M. A. Gibbons, 31st May, 1949—
continued.

10 (£2.10.0 stamp duty.)

" K."—Letter, E. T. Richards to M. A. Gibbons.

E. T. Richards,
Barrister and Attorney.
Cable Address :
" Ardwill " Bermuda.
Telephone 1198.

Parliament Street,
Hamilton, Bermuda.

27th January, 1950.

" K."
Letter, E. T. Richards to M. A. Gibbons, 27th January, 1950.

M. A. Gibbons, Esq.,
Front Street,
Hamilton.

20

Dear Sir,

I have been instructed by Mr. Admon Gabriel Vieira that you have trespassed on his land situated in Warwick Parish and pulled down his fences and stakes without his authority and permission. This is to request you to desist from further trespassing on or destruction of the property of my client, Mr. Vieira, otherwise the matter will have to be settled in the Courts.

Faithfully yours,

E. T. RICHARDS.

30

" L."—Letter, Messrs. Gray & Smith to E. T. Richards.

25th February, 1950.

Dear Sir,

We have been consulted by Mr. M. A. Gibbons relative to your letter of 27th ultimo on behalf of Mr. Admon Gabriel Vieira.

Our client complains that your client has erected a fence upon his land and cut marks upon his cottage. Our client further states that the

" L."
Letter, Messrs. Gray & Smith to E. T. Richards, 25th February, 1950.

Exhibits
 ———
 " L. "
 Letter,
 Messrs.
 Gray &
 Smith to
 E. T.
 Richards,
 25th
 February,
 1950—
continued.

common boundary between the two properties is a line drawn in prolongation of the Western boundary of the property of James Gomez (formerly part of the parcel of land which was devised to our client's predecessors in title) which line passes through the old mark stones and is well known to your client.

If your client persists in his claim to a large portion of our client's property we will be pleased to discuss with you the settlement of the dispute out of Court, either by arbitration or under the Boundaries Act, 1788.

In the meantime we suggest that your client should not re-erect the fence in question—otherwise our client will be compelled to remove the 10 same.

Your early reply will oblige.

Yours faithfully,
 GRAY & SMITH.

E. T. Richards, Esq.,
 Barristers-at-Law,
 Hamilton.

S/E
 C. C. M. A. Gibbons.

In the Privy Council.

No. 33 of 1951.

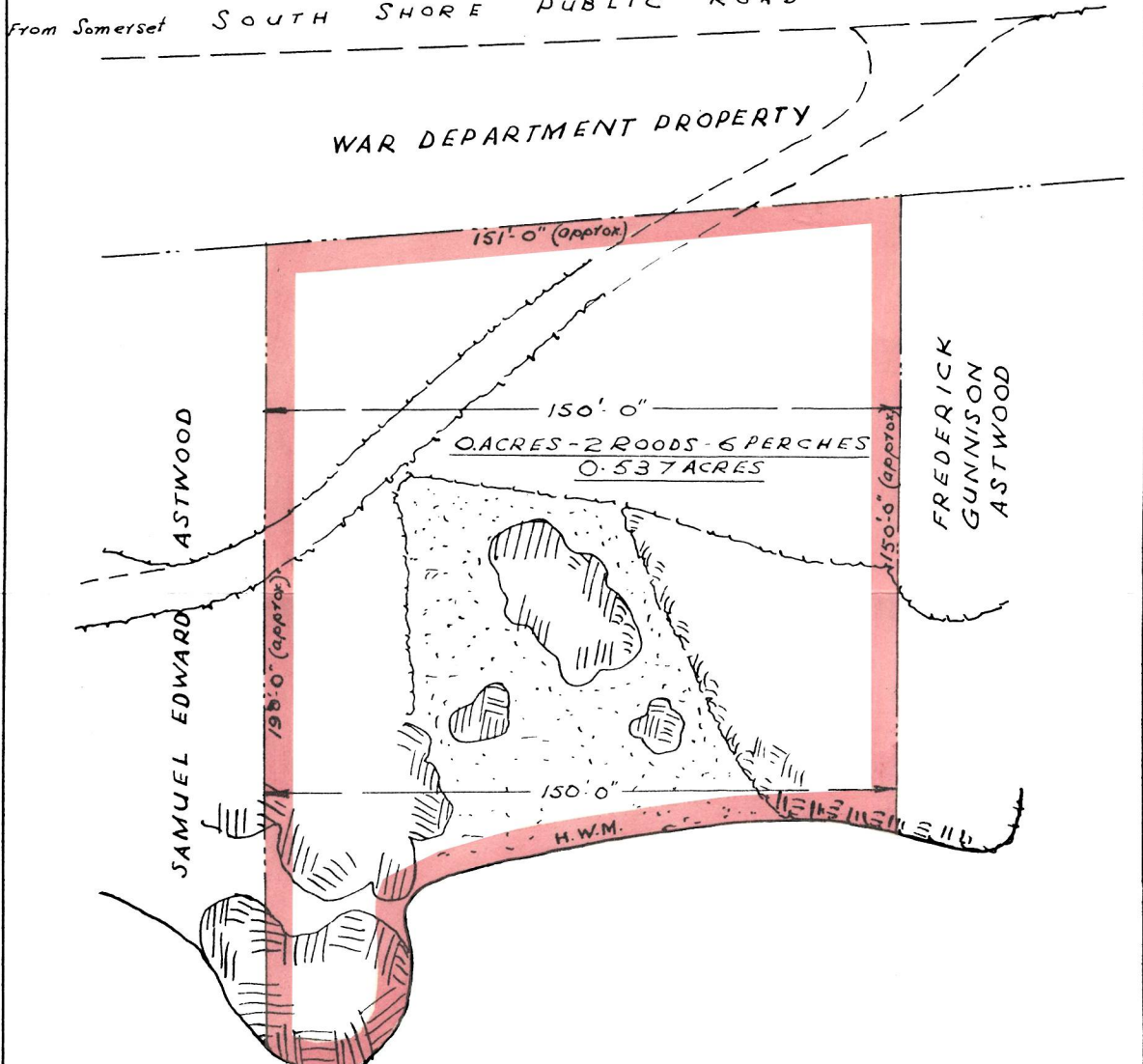
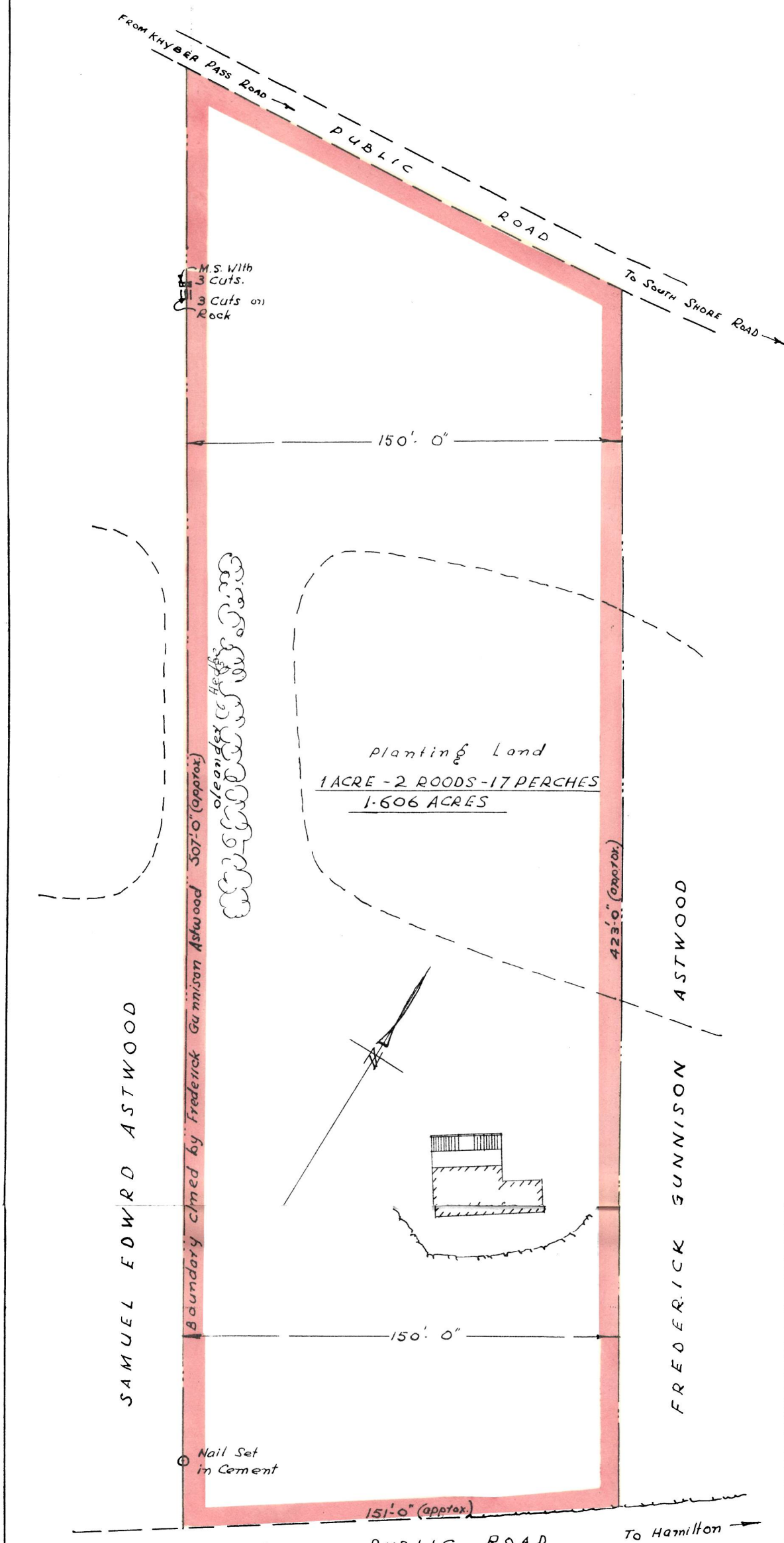
ON APPEAL FROM THE SUPREME COURT OF
BERMUDA.

BETWEEN
ADMON GABRIEL VIEIRA and
MARGARET YOUNG HORNE
(Defendants) Appellants
AND
MORRIS ALVIN GIBBONS
(Plaintiff) Respondent.

RECORD OF PROCEEDINGS

WALMSLEY & STANSBURY,
6 New Square,
Lincoln's Inn, W.C.2,
Solicitors for the Appellants.

WOODCOCK RYLAND & CO.,
15 Bloomsbury Square,
London, W.C.1,
Solicitors for the Respondent.



PLAN OF LAND
IN
WARWICK PARISH
BERMUDA

Referred to in the Annexed Indenture
Scale 40 Feet to 1 Inch

CERTIFIED TRUE COPY

Robert H. Clarke
JUNE 11TH 1951

Robert H. Clarke
ENGR & SURVEYOR
HAMILTON BERMUDA
MARCH 1948