

as shown on Exhibit J.O.E. to Defendants Answer. Then we went up to the woods west from the Tobacco House and Creek where we supposed a line would pass drawn from the Centre of the West line running straight East through the Centre of the property making Sixty Eight and one half acres adjoining the Burger or Messett property. We sighted East. There was a Tobacco House East from there, near the Creek. Warren feltz said when he sighted down that he thought the line would go East near the tobacco house, I sighted down and thought it would ^{come near the tobacco house}. Then my brother James sighted down and he said that he thought the line would be to the right of the tobacco house on the South side. Warren feltz said it made no difference whom it fell to, as he said whoever it fell to, got it. Then Warren feltz said that Claggett said that the line would run near the Spring. The Spring is near the house that Buzzard now lives in. The Spring would have fallen on the side of that part that Page has the refusal of. Drawing a line from West to East striking the Tobacco House, the Spring would be fifty yards or more south of such line. There was a fence running from the woods where we stood and sighted as heretofore stated in the testimony, down to the Creek. That fence was to be put on the dividing line no matter on whose side the fence falls. The fence passed the Tobacco House at the Creek on the South side about twenty yards from it. We told Warren feltz that we would take the Sixty Eight and one half Acres of which he had shown us the lines adjoining the Burrece property. And also the forty two acre lot. Then he said we should not go to see Claggett until we were ready to make the payments, and then we should tell him that he Warren feltz had sold us the Sixty Eight and one half acre and the forty two acre lots, and that we should tell Claggett what we have to pay, forty five dollars, \$45.00 per Acre. He told us how to make the payments, and that we should draw writings with Claggett describing how the payments were to be made.

3rd Sub. - State whether Claggett ever said any thing to you about his having an agent to sell those lands in Controversy? And if so, who did he say was his Agent?

Answer. - I had no Conversation with Claggett at all as regards the Land before we made the payment. He never said about having an Agent.

4th Sub. - State whether or not you ever told Claggett or Warren feltz that you wanted them in running the line, to begin as far South on the Western line as possible, so that you would get as much woodland on the ridge as possible, or any thing to that effect.

Answer - No! Never told either one of them to that effect.

5th Sub. - State whether you ever took or had possession of any part of said lands South of the red line from C to E on Plat J.O.E. to answer of Defendants. How far did you take possession of said land? Why did you not take possession of the land on the East of the red line?

Answer - Never took possession of the land South of the red line from C to E on Exhibit J.O.E. to answer of Defendants. We have taken possession on the Eastern side of the Sixty Eight and one half acre lot with the dotted line "D.E." to the point where it crosses the red line C.E. Then with said red line to "C". The reason was this, because Warren feltz and Claggett surveyed the land to us according to the dotted line "E.D." The next reason is that they had not surveyed it up to the red line.

They said that it lacks our quantity according to that survey, and that they would have to come down and survey it again. At one time Warren feltz said it lacks five acres, at another time seven and one half acres.

Another reason was that a Negro had the tobacco house, marked on the same Exhibit marked "H". A negro had it in possession when we got there. He bought this land the tenth of October and it was to