

the number of the concentric layers in the wood of trees and the years of their age, has been so demonstrated by observation and proof, as the term of gestation of animals has been, &c., there can be no clear and sure foundation for the hypothesis, that the number of such concentric layers does denote the age of trees, or the progress of their growth. But even if this notion were shewn to be well founded, it would call for evidence destructive of that by which it was given. The production of the necessary evidence of the lapse of years, by cutting out, as in this instance, a block of sufficient dimensions to exhibit a distinct view of the number of the concentric layers, formed since the time in question, might occasion the death of the very boundary tree intended to be shewn and re-established; so that the production of such evidence would, by destroying that of which it had been a component part, prevent a recurrence to the same kind of proof thereafter; or, in other words, to prove a living boundary by such means, it would be necessary to destroy it. This hypothesis, however, resting, as it yet does, altogether upon speculation and conjecture, cannot be judicially regarded as affording evidence worthy of any consideration whatever.

Rejecting this hypothesis, the testimony of the witnesses stands in all respects unimpeached, and the line must be carried to the black oak, as called for and proved; and consequently, no vacancy is left between Jolly's First Attempt, and Long Fought and Dear-Bought, over which a resurvey from Litten's Fancy, can be so extended as to embrace any part of M'Causland's First Attempt.

Whereupon it is ordered, that the caveat of Robert M'Causland be sustained; that the caveat of Patterson & Ellicott be overruled; and that Patterson & Ellicott pay the costs of both caveats, to be taxed by the register.

95

HEPBURN'S CASE.

NATURE OF OUR GOVERNMENT AND OF THE JUDICIARY POWER.—RIGHT OF EMINENT DOMAIN.—CURRENT MONEY IN MARYLAND BEFORE THE REVOLUTION.—LACHES AND LIMITATIONS IN EQUITY.—CONFISCATION ACTS.—ATTACHMENTS.

Where jurisdiction in a particular case is conferred on the Chancellor by a special Act, he follows the authority exactly as given.

All our governments are mere delegations of power for the benefit of a sovereign people.

No unlimited discretionary power can be conferred on the judiciary by the Legislature.

By virtue of the power of eminent domain, private property may be taken for public uses; but private property cannot be taken from one and given to another in any way.