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E. C. LACEY,

Complainant,

VS.

J. C. MITCHELL ET AL,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY.

FINAL DECREE

This cause coming on to be heard on this day is submitted on behalf of the Complainant upon the original Bill of Complaint, original Injunction Bond, Writ of Injunction issued by this Court on April 11, 1949, Amended Bill of Complaint, second Injunction Bond, Writ of Injunction issued by this Court on June 15, 1949, Motion for Decree Pro Confesso against J. C. Mitchell. Decree Pro Confesso against J. C. Mitchell, Motion for Decree Pro Confesso against Andrew Garth Mitchell, Decree Pro Confesso against Andrew Garth Mitchell, upon consideration of all of which the Court is of the opinion that the Complainant is entitled to the relief prayed for in the said Bills of Complaint; WHEREUPON, it is, therefore, Ordered, Adjudged and Decreed by the Court that the said Writs of Injunction issued by this Court in this cause be and the same hereby are made permanent and the said J. C. Mitchell and Andrew Garth Mitchell are hereby enjoined from failing to close all gate or gates situated on the Northwest Quarter of the Northeast Quarter of Section 4, Township 6 South, Range 4 East in Baldwin County, Alabama, and from damaging the said gate or gates in any way or manner.

This Court retains jurisdiction of this cause to make any further orders or decrees that may be proper.

Ordered, Adjudged, and Decreed this the 7th day of October, 1949.

Jefferson G. Madhury Jr.
Judge.

INJUNCTION BOND

STATE OF ALABAMA
BALDWIN COUNTY

KNOW ALL MEN BY THESE PRESENTS: That we, E. C. Lacey, as principal, and the undersigned as sureties, are held and firmly bound unto Alice J. Duck, Register, and her successors in office, in the sum of Two Hundred Dollars (\$200.00), for the payment of which we bind ourselves, our heirs, assigns, executors or administrators, jointly and severally, by these presents.

The condition of this bond is this: That, Whereas, the above bounden E. C. Lacey, in a bill filed by him against the said J. C. Mitchell and Andrew Garth Mitchell, prayed for and obtained a Writ of Injunction out of the Circuit Court of said County upon the approval of this bond, restraining and enjoining the said J. C. Mitchell and Andrew Garth Mitchell from leaving any gate or gates on the land of the said E. C. Lacey open and from damaging them in any way or manner.

Now, therefore, if the said E. C. Lacey shall pay or cause to be paid all damages which any person may sustain, by the suing out of said injunction if the same be dissolved by the said Court on the bill filed by the said E. C. Lacey, as aforesaid, then this obligation to be void, otherwise to remain in full force and effect.

WITNESS our hands and seals on this the 13 day of June, 1949.

E. C. Lacey (SEAL)
E. C. Lacey (SEAL)
E. C. Lacey (SEAL)

Taken and approved this 15th day of June, 1949.

Alice J. Duck
Register.

Filed 6-15-49
Alice J. Duck
Register

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E. C. LACEY,

VS.

J. C. MITCHELL,

Complainant,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

WRIT OF INJUNCTION

TO J. C. MITCHELL:

WHEREAS, E. C. Lacey has exhibited his Bill of Complaint in Equity in the Circuit Court of Baldwin County, Alabama and has obtained from the Honorable Telfair J. Mashburn, Jr. an order for the issuance of an injunction to restrain you as hereinafter mentioned; and,

WHEREAS, the said E. C. Lacey has, in accordance with the said order, entered into bond with security in the sum of Two Hundred Dollars (\$200.00), payable to and approved by the Register of the said Court and conditioned according to law:

NOW, THEREFORE, you, the said J. C. Mitchell, are hereby enjoined from failing to close all gate or gates situated on the Northwest Quarter of the Northeast Quarter of Section 4, Township 6 South, Range 4 East in Baldwin County, Alabama, belonging to the Complainant, E. C. Lacey, and this injunction you are required to obey under the penalties of law, until further order of this Court.

WITNESS my hand this 11 day of April, 1949.

Alice F. Lusk
Register.

TO THE SHERIFF OF BALDWIN COUNTY, ALABAMA:

You are hereby commanded to execute this writ and return the same with your endorsement thereon to this Court with all convenient speed.

WITNESS my hand this 11th day of April, 1949.

Alice F. Lusk
Register.

E. C. LACEY,

Complainant,

VS.

J. C. MITCHELL,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NO. 2269.

TESTIMONY TAKEN IN OPEN
COURT ON MAY 5, 1949

APPEARED for Complainant,

Hon. J. B. Blackburn

For Respondent,

Hon. C. L. Thompson

MR. THOMPSON: The attorney for the Respondent respectfully represents to the Court that inasmuch as Judge Telfair J. Mashburn, Jr., had represented the Complainant in this cause in a matter arising out of the same road against a former holder of the same property owned by the Respondent in this cause, that His Honor recuse himself in this instance.

THE COURT: The Court refuses.

MR. BLACKBURN: Your Honor, this hearing is on a contempt proceeding. An injunction issued on April 11th, of this year, commanding the respondent, Mr. Mitchell, to keep gates across forty acres of land, the Northwest Quarter of the Northeast Quarter of Section 4, Township 6 South Range 4 East, in Baldwin County, Alabama, which belongs to Mr. Lacey, the complainant, closed. A copy was served on the respondent on April 12th, the day after it was issued, and on the 19th of April, we filed a petition in the case reading as follows:

"The Complainant, E. C. Lacey, respectfully represents unto the Court and your Honor as follows:

1. That the temporary injunction or temporary restraining order heretofore issued in this cause was served on the Respondent,

J. C. Mitchell, prior to April 18, 1949.

2. That on Monday, April 18, 1949, the Respondent, J. C. Mitchell, went on the property described in the injunction and left the gate or gates situated thereon open in direct violation of the said temporary injunction or restraining order.

WHEREFORE, Complainant prays that the Court will make and enter a proper order or decree requiring the Respondent, J. C. Mitchell, to appear at a time and place to be fixed by the Court and show cause why he should not be adjudged in contempt of court for violating the provisions of the said injunction. Complainant further prays that such other orders be made and decrees rendered as may be proper in the premises."

MR. THOMPSON: The respondent pleads not guilty.

Edward C. Lacey, Jr., being first duly sworn
testified as follows:

ON DIRECT EXAMINATION

By Mr. Blackburn

Q. What is your name?

A. Edward C. Lacey, Jr.

Q. What relation are you to the gentleman sitting behind me?

A. Son.

Q. Mr. Lacey, do you know where the forty acres of land involved in this proceeding is situated?

A. I do.

Q. Is there one or more main gates on that piece of property?

A. There are more than one.

Q. How many?

A. Two.

Q. Explain just where the gates are situated?

A. The first gate, the property gate, it isn't on the property line, sits back just a little bit, called the property gate. The second gate, or the operational gate, used for livestock in on pasture. The second gate is the south gate.

- Q. Let me ask you this, the first gate, the property gate, is that gate on, or substantially on your father's property line?
- A. That's right. The gate is near to- Highway 90, approximately forty acres in.
- Q. From the highway?
- A. Yes.
- Q. And it is referred to as the north gate?
- A. That's right.
- Q. The other gate is located where with reference to the first, how far from it and in which direction?
- A. It would be approximately ten acres deep from the south of the north gate.
- Q. Mr. Lacey, on the 18th day of April of this year, what was planted on that forty acres in between the two gates?
- A. Sericea Lespedeza.
- Q. Is that, Mr. Lacey, what is known as the pasture?
- A. Yes.
- Q. Did your father have any cattle on that pasture on this, on April 18th?
- A. Yes.
- Q. Now what time that day did you see this tract of land, this pasture?
- A. I walked over there that day.
- Q. Do you know what time that day?
- A. I went over to pick up the tractor and bring it back to the house on account of the inclement weather. It was approximately 4:30 in the afternoon.
- Q. Did you come through those gates at that time?
- A. We did, both gates.
- Q. Were the gates closed as you went through?
- A. Yes.
- Q. After you went through about 4:30, what was the next thing that attracted your attention toward this pasture?
- A. Well, that same evening my wife, myself and my father were sitting in the front room listening to the radio and mother called from the kitchen and said there was a woman out in the yard calling to her. I went out to find out what she wanted. It was a colored

woman, Eva George, and she said Mr. Lacey's cattle are out on the highway so mother told us that. My wife, father and myself immediately got up and went out to get in the car and go over to these people's house. As father was walking out the door he asked mother what time it was and she said 7:15. We got in the car and drove over to Sammy George's house, a colored fellow.

Where is it with reference to the North gate?

A. Coming straight out the road in question it would be about five hundred feet west on the highway from that road.

Q. This main gate on U. S. 90?

A. That's right, on U. S. 90.

Q. What side of Sammy George?

A. South side.

Q. What did you find there?

A. When we got over there we found three colored men holding the herd of cattle in their yard.

Q. What size herd and what kind were they?

A. Angus black cattle. There would be about, at that time about thirty head in that.

Q. Have you bought and sold cattle of that kind and know their value?

A. We do.

Q. For the information of the Court, what would be the average worth of those animals?

A. Per head?

Q. Yes?

A. The average worth would be about four hundred dollars per head straight through.

Q. You found the cattle there at the George place, what did you do with them?

A. Before we did anything with the cattle in the yard after father and my wife got out of the car they told me to go back and check the gate and check any tire prints.

Q. Did you do that?

A. I did.

Q. What did you find?

A. As I started to go back down the road, had to go through what we call the water hole, there are two water holes, they are puddles, I went through the first and picked up the tracks of a vehicle.

Q. What kind of vehicle?

A. Well, the tracks that I saw I could identify definitely as those of Mr. Mitchell's truck.

Q. Why could you identify those as belonging to Mr. Mitchell's truck?

A. Well I can. Two weeks before this happened the gate was left open another time and we did, my father and myself, followed the tracks, tire tracks back all along the road from the first water hole a hundred feet off the main highway to Mr. Mitchell's yard, then checked the tracks with the tires on the truck.

Q. You examined the tracks on the truck?

A. Right.

Q. Were the tracks you saw on the 18th day of April made by the Mitchell truck?

A. They were.

Q. What did you find at the north gate with reference to the tracks?

A. When we got up to the north gate I didn't pull completely up to the north gate, but stopped back far enough so I could be sure. I had my lights burning on the tracks and checked them and found two sets of fresh tracks, the first set had cow prints over them and the second set was over the cow tracks.

Q. Both sets of tracks up to the north gate were made by the Mitchell truck?

A. That's right.

Q. What else did you do?

A. After checking the tracks I found the gate was closed at that time and opened the gate back so that it would be clear passage way to drive the cattle back into the pasture from the highway.

Q. What did you do then?

A. Went back to where the cattle were being held in the front yard at the Georges.

Q. Did you drive them back into the pasture?

A. We did. I stayed in the car and furnished the lights. The three colored men and my father and my wife drove the cattle in. As they were coming out of the yeard they scattered quite a bit, then they headed down into that road.

Q. After you got the cattle back into the pasture did you see Mr. Mitchell anywhere?

A. Mr. Mitchell? We did see Mr. Mitchell.

Q. Where was Mr. Mitchell?

A. Parked just to the west outside our property, outside the gate, the east gate of our pasture.

Q. Was that outside of what you referred to as the north gate?

A. The north gate.

Q. That the east gate you had opened to let the cattle in?

A. Yes.

Q. What did you see with reference to Mr. Mitchell there? Was your father there at the same time?

A. He was.

Q. Did you see your father do or hear or say anything?

A. Not at that time.

Q. Later?

A. Yes.

Q. What was that?

A. From what I saw, I parked with my headlights of the car on Mr. Mitchell's truck. I saw my father go up to the truck fender and it being closed he proceeded to open the door.

Q. Which door was that?

A. On the right hand side.

Q. Not the driver's side?

A. No sir.

Q. Who was sitting next to that door?

A. Mr. Mitchell.

Q. The gentleman here?

A. Right.

Q. What happened then?

A. From what I saw, after the door opened it seemed like a few seconds-

MR. THOMPSON: We object to that. It has no connection with this hearing.

THE COURT: This is a contempt proceeding; that is leading up to the facts. This gentleman came to see me and he had a black eye. It is part of the contempt proceedings. I overrule your objection.

MR. THOMPSON: We except.

Q. Then what happened, Mr. Lacey?

A. The door opened and it seemed like a matter of a few seconds that I saw my father stagger back six or seven feet and immediately after I saw him stagger Mr. Mitchell's foot kicked out very viciously.

Q. Did Mr. Mitchell get out?

A. Immediately following the kick he got out of the truck.

Q. What did he do or say?

A. I didn't hear what was said at that time.

Q. Who was in the truck with Mr. Mitchell at that time?

A. There was a man I believe was his son, driving the truck and I believe Mr. Mitchell's son's wife in the middle between them.

Q. While you and your father and the respondent, and particularly while the difficulty was going on and Mr. Mitchell was there, were any statement made by any of those parties, by the young Mr. Mitchell's wife or the young Mr. Mitchell?

A. Well, after Mr. Mitchell got out and came at my father his daughter-in-law got out of the truck to- I imagine she stepped between- what she did was to stop any further fight so after they stepped between them Mr. Mitchell's son got out from the driver's-

MR. THOMPSON: We object

THE COURT: Overrule the objection

MR. THOMPSON: We except

Q. The son got out of the truck on the driver's side and came around to where you-

MR. THOMPSON: We object

THE COURT: Overrule the objection

MR. THOMPSON: We except

A. After he came around there as I saw- I figured I had better get out. I left my headlights burning and went up to the group.

Q. Did the son make any statement while you were there referring to the gate?

MR. THOMPSON: We object

THE COURT: Overrule the objection

MR. THOMPSON: We except

A. The son after coming around said: "Mr. Lacey, I closed that gate".

Q. Was the son's wife present when he made that statement?

A. She was.

Q. Did she subsequently make a statement or before that to you? In the same crowd?

A. I heard no statement before that.

Q. Was your father's face bloody up there that night.

A. Yes, he had a cut- split on the above and upper lip.

Take the witness

ON CROSS EXAMINATION

By Mr. Thompson

Q. Mr. Lacey, you said you were moving the cattle out about seven fifteen P. M?

A. That would be the approximate time, the time we were notified.

Q. What time was it the last time you were through that gate prior to the time of the notification?

A. I believe between four thirty and five o'clock that same evening.

Q. What was the condition of the gate at that time?

A. Both gates were closed.

Q. That was between four-thirty and five?

A. That's right.

Q. Now you stated you checked the tire tracks after you examined the cows there to see if you had all of the herd penned, is that correct?

A. I hadn't looked at the herd before that, no.

Q. You stopped at the north gate?

A. That's right.

Q. Before you went on to check the cattle?

A. Right.

Q. You have identified the tracks as belonging to the truck operated by Mr. Mitchell?

A. That's right.

Q. Describe those tracks.

A. The tracks, the way I saw them, had good tread in the middle and both sides barren on the edges-

Q. You would not be able to describe the type or what make?

A. Never looked at the make.

Q. It would be possible for any other vehicle to have tires in similar condition?

A. Could be possible.

Q. Now you stated that your father walked up to the door of the truck and opened it?

A. That's right.

Q. Had Mr. Mitchell made a statement or any sound up to that time that you know of?

A. Not that I know of.

Q. Had he made any move toward your father?

A. Not that I saw.

That's all

ON RE DIRECT EXAMINATION

By Mr. Blackburn

Q. Just one further question. When your father was hit by Mr. Mitchell, was he on his own forty acres of land?

A. His own property.

That's all.

Mrs. E. C. Lacey, Jr., being first duly sworn
by the court, testified as follows:

ON DIRECT EXAMINATION

By Mr. Blackburn

Q. What is your name, please?

A. Mrs. E. C. Lacey, Jr.

Q. You are the wife of this gentleman?

A. I am.

Q. Mrs. Lacey, were you down at Mr. E. C. Lacey's, E. C. Lacey, Sr.,s place on the late afternoon or early evening of April 18th, of this year?

A. Yes.

Q. What first attracted your attention about the cattle being out?

A. Well, when someone came to the door and told us.

Q. What did you do?

A. Got in the car and went over and the party has the cows in their yard.

Q. Is that yard inside or outside of Mr. Lacey's pasture?

A. Outside.

Q. How far from the north gate of Mr. Lacey's pasture?

A. Well, it's about forty acres.

Q. About the width of forty acres?

A. Yes.

Q. Did you help drive the cattle back down in the pasture?

A. Yes, I did.

Q. After you got them back into the pasture, do you know whether or not you saw Mr. Mitchell?

A. Yes, I did.

Q. Who was with him?

A. A fellow and a girl there.

Q. While Mr. Mitchell, this defendant here, was there with you, and the man and the girl there in Mr. Mitchell's presence, in this gentleman's presence, did you hear anybody make any statement of any kind?

A. Yes, said- one said he closed the gate first.

Q. Who said it?

A. He said he had closed the gate.

Q. Who is "he"?

A. Mr. Mitchell.

Q. This Mr. Mitchell?

A. Yes.

Q. Later, did you hear a lady make a statement?

A. Yes, she said she had closed it.

Q. Did you see Mr. Mitchell there at that time do anything to Mr. Lacey, Sr?

A. Yes, I did, he hit him. He kicked at him as Mr. Lacey staggered back.

Q. Did you make an examination of the truck tracks?

A. No I didn't.

Take the witness.

ON CROSS EXAMINATION

By Mr. Thompson

Q. Did you see Mr. Lacey do anything before Mr. Mitchell hit him?

A. No. He opened the door of the truck.

Q. You just testified that Mr. Mitchell opened the door?

A. No, Mr. Lacey opened the door.

THat's all.

Mr. E. C. Lacey, Sr., being first duly sworn by the Court, testified as follows:

Q. Are you the complainant and petitioner in this case, Mr. Lacey?

A. I am.

Q. On the late afternoon or early evening of April 18th, of this year, I will ask if you helped to get the cattle back into the pasture?

A. Yes, I did.

Q. Did you go with your son earlier to bring the tractor out?

A. Yes, I did.

Q. At that time were both of the gates to your pasture closed?

A. They were.

Q. When you went back over there to drive the cattle in did you make any examination of the tracks or did your son do it?

A. I had my son do this as we pulled up in front of the George place.

Q. Were you driving the cattle back?

A. They held the cattle there.

Q. Did you then with the help of the colored man drive them back into the pasture?

A. With the help of my son, my son's wife and three colored men.

- Q. After you got the cows back in the pasture did Mr. Mitchell come up?
- A. No, Mr. Mitchell was parked just outside the pasture gate.
- Q. Just to the west? Of which gate?
- A. North.
- Q. That the one next to the highway?
- A. Next to the highway.
- Q. What did you do there?
- A. I was a little father back than the daughter. She was a little farther up and as the cattle went into the gate, closed it and walked up to Mr. Mitchell's truck and about that time the daughter-in law was there. I opened the door on the right hand side and said: "Mr. Mitchell, you left the gate open."
- Q. What happened then?
- A. Mr. Mitchell said: "I did not leave the gate open". I said: "Mr. Mitchell, three people saw your truck come out and the cattle followed out immediately". I got smashed in the mouth and nose and a vicious kick followed.
- Q. What did the lick on your face do to you?
- A. My teeth cut my lower and upper lip and something on Mr. Mitchell's hand cut on the outside.
- Q. What else happened after that?
- A. After I reached the end of my stagger I glanced around to see who was around to hold up my part. My son was in the car and my son's wife was standing there. Mr. Mitchell had got out of the truck and came around talking: "You can't call me a liar" "You can't talk to me like that" "You talk to me like a gentleman". His daughter-in-law got out immediately following that and walked in between- before the daughter-in-law got out I had a flash light- the daughter in law got between and I saw this other man coming from around the front of the truck and said that was no time to start any physical fighting, just before the son reached there the daughter-

in-law, if that's who it was in the truck, said: "Mr. Lacey, I got out and closed that gate".

Q. That statement wasn't heard by anyone but Mr. Mitchell and the three there?

MR. THOMPSON: We object. That calls for a conclusion of the witness.

THE COURT: Sustain the objection.

Q. Eliminating that, tell the court where this Mr. Mitchell was standing?

A. Standing right behind here, possibly that close together (indicating). He was out front when he made the statement that he got out and closed the gate.

Q. Did anybody else say anything about closing the gate?

A. Immediately following that the other man in the truck came running around right up to me and said: "You can't talk to dad that way. I got out and closed that gate".

Q. Was "dad" or the gentleman here standing there when both statements were made?

A. Yes.

Q. All within hearing along about the time she made that first statement?

A. Yes.

Q. When the lady made the statement was the son in there?

A. No sir.

Q. When you were struck you were on your own piece of property?

A. On my land.

Take the witness

ON CROSS EXAMINATION

By Mr. Thompson

Q. Mr. Lacey, you heard your son testify that you all went into that gate about four thirty that afternoon, is that correct?

A. Yes sir.

Q. Did you see Mr. Mitchell leave the gate open?

A. At four thirty?

Q. At anytime?

A. No sir.

Q. Do other people go through that road occasionally?

A. Occasionally.

Q. Now you admit, I believe that you went over to the truck and opened the gate?

A. I do.

Q. Opened the truck door you testified that you told him three people saw him leave the gate open?

A. No sir, come out of that road.

Q. Come out of the road?

A. That's right.

Q. Did they tell you what time they saw him come out?

A. About- between six-thirty and a quarter to seven.

Q. Was he going into his property at that time?

A. Coming out.

Q. Which way was his truck headed when you saw him?

A. Coming out.

Q. They didn't tell you they saw him going in?

A. They did.

Q. What time did they tell you they saw him?

A. At fifteen minutes after seven we were notified. We arrived there within five minutes and Mr. Mitchell, during that interval of George coming and notifying us and the time we got back, Mr. Mitchell went in. From the time she left the house, somewhere around ten after seven.

Q. How long did it take those cows to go from your gate to where you found them?

A. From our gate? Five minutes or less.

Q. Did you track them to see if they stayed in the road all the way?

A. They stayed in the road all the way.

Q. Did you see any traffic on that road of your own personal knowledge?

A. No.

Q. Did you bring those witnesses who saw, Mr. Lacey, to testify, whom you said saw Mr. Mitchell, to testify in this court today?

A. No.

Q. Up until this time since the injunction was issued, so far as you know, has Mr. Mitchell closed these gates?

A. Yes.

That's all.

ON RE DIRECT EXAMINATION

By Mr. Blackburn

Q. Mr. Lacey, he asked you if you brought those people and you answered his question no. I would like to ask you this. Why did you not bring them?

A. They are colored people and Mr. Mitchell is buying some property from them and I didn't want to get them in trouble with Mr. Mitchell or myself.

Q. I will ask you a further question. Did you go out late in the afternoon to bring the tractor out over that same road?

A. Yes sir.

Q. Travel in the same ruts?

A. There is no ruts, its flat sand road and each individual car leaves a very distinct track.

Q. You did bring the tractor out through that gate?

A. Yes.

Q. The gate where you son said he saw this set of tracks?

A. Yes.

We rest.

MR. THOMPSON: We make a motion to exclude the evidence. We don't think it has been shown that Mr. Mitchell left the gate open. The nearest thing to it was the statement that was made that he was seen coming out. This matter that comes up is serious and if they had the evidence to prove the case- It is the duty of the complainant to produce substantial evidence. The situation is this, that this man is in and out of there and just in view of complainant's statement on the stand others used the gate as well.

THE COURT: Deny the motion

MR. THOMPSON: We except

Mrs. Esther Mitchell, having been first duly sworn by the Court testified as follows:

ON DIRECT EXAMINATION

By Mr. Thompson

Q. What is your name?

A. Esther Mitchell.

Q. What relation are you with the defendant in this case, Mr. J. C. Mitchell?

A. He is my father-in-law.

Q. Mrs. Mitchell, do you have any knowledge of Mr. J. C. Mitchell's whereabouts on Monday, April 18th, the date under discussion?

A. I do.

Q. Will you state at what time he left the property going through Mr. Lacey's gates as nearly as you know the time and the time he returned?

A. Well, about nine o'clock in the morning. When he left he went over to the farm at about nine and stayed there about a half hour and went back to town.

Q. This is for clarification purposes. To go to the farm you go through these gates?

A. Yes sir.

Q. You stay in there about a half hour?

A. Yes.

Q. Then where did you go to your knowledge?

A. We all three went to Mobile.

Q. Who?

A. My husband, my father-in-law, myself and Mrs. Hunt.

Q. At what time did you return to the farm if at all?

A. Not until around seven o'clock. I couldn't be sure, around seven, somewhere along there, seven-thirty.

Q. When you returned, how long did you stay?

A. Oh, about half hour.

Q. When you went out that morning what was the condition of the gates?

A. The gates were shut that morning.

Q. And when you came in that afternoon?

A. The first gate was wide open.

Q. When you came in?

A. Yes.

Q. The first gate is the gate nearest to the highway?

A. Yes sir.

Q. What was the condition of the second gate?

A. The second gate was closed but not latched.

Q. Was anything done to either of the gates when you passed through?

A. We closed it.

Q. How long did you stay at the farm?

A. About half hour I guess.

Q. When you came back what was the condition of the gates as you came to them?

A. The gate nearest the house was closed and the gate nearest the road was open again.

Q. What did you do when you came through the gate nearest the road?

A. Drove on through and papa got out and closed the gate.

Q. Then what took place?

A. Then we seen headlights coming and a bunch of cows. We couldn't drive on so we stopped. Papa got out and opened the gate for him to let the cows in.

Q. Your father-in-law was standing at the gate?

A. He opened the gate and come got back in the truck.

Q. What took place after the cows were put in in relation to the other people present?

A. My husband was driving. I was in the middle and papa was on the outside. Mr. Lacey come out and snatched the door open and drew back a flash light to hit papa.

Q. Then what took place?

A. Papa poked him in the mouth.

Q. Then what took place?

A. Then we all jumped outside the truck.

Q. After you got outside the truck did you see any licks passed?

A. I don't believe so.

- Q. After you got out of the truck did you make a statement that you had closed the gate?
- A. I certainly did. Mr. Lacey said papa didn't close the gate and I said he did, he certainly did.
- Q. Who closed the gate?
- A. Papa closed it.
- Q. Did you make the statement that you closed it?
- A. No, I didn't, I said papa closed it.
- Q. He had gotten out of the truck when he made that statement?
- A. Yes. He said we certainly left the gate open and I said we didn't do it.

That's all

ON CROSS EXAMINATION

By Mr. Blackburn

- Q. How many times did you go across Mr. Lacey's tract of land on this Monday, April 18th?
- A. Four.
- Q. One- First, do you live with your father-in-law?
- A. No.
- Q. Did you spend the night with him on the night of April 17th, at his home?
- A. No sir.
- Q. All right, when you got to his home on the 18th did you go through the pasture?
- A. Yes.
- Q. In what way?
- A. In the truck.
- Q. In the truck?
- A. Yes.
- Q. Then the Mitchell truck was not at home on the night of April 17th?
- A. No.
- Q. Where was it?
- A. He spent the night with us.
- Q. Where do you live?
- A. At Robertsdale, right back of Mr. Joe Baldwin.
- Q. What time did you leave Robertsdale?

Q. What time did you leave Robertsdale?

A. Around nine o'clock.

Q. You went to Mr. Mitchell's home?

A. Yes.

Q. Across this piece of property?

A. Yes.

Q. How long did you stay at the Mitchell home?

A. About half hour.

Q. Where did you go then?

A. Went to Mobile.

Q. What time did you next come back?

A. Around seven O'clock.

Q. Went into the place?

A. Yes.

Q. Did you stay into the place until you came out when this difficulty happened?

A. Certainly.

Q. Then, were you in that truck all the time that day, go, make every move the truck did?

A. Yes.

Q. Lady, isn't it a fact that somebody drove that truck out there that afternoon around five o'clock in the afternoon?

A. What is that?

Q. Didn't someone drive the truck out there around five o'clock in the afternoon, between five and seven o'clock on Monday, April 18th?

A. No. Nobody except us.

Q. Who do you mean?

A. My father in law, my husband and myself.

Q. What time did you go out there?

A. About seventhirty.

Q. I will ask if you went out between five and seven?

A. We did not.

Q. Did anybody go out?

A. No.

Q. The only time the truck went out there on this Monday was after seven o'clock?

A. Yes.

Q. After Mr. Lacey's cattle were out?

A. Yes.

Q. Did you hear your husband there at this time, this conversation that was had after Mr. Lacey was hit in the mouth, say he closed that gate?

A. My husband?

Q. Yes?

A. No.

Q. Did you hear Mr. Mitchell say he had closed it?

A. Yes, I did.

Q. He said that he closed it? You are not friendly toward Mr. Lacey, are you?

A. I don't know Mr. Lacey. That was the first time I ever seen him.

Q. Your father-in-law did hit him in the mouth that night?

A. Yes.

Q. What time did you tell me you went back into that pasture that afternoon when you came from Mobile?

A. Around seven o'clock.

Q. Wasn't the cattle out then?

A. Yes, they must have been. We didn't see them. The gate was wide open.

Q. You were in there about seven o'clock?

A. I didn't see any cows.

Q. The truck didn't go out between five and seven?

A. No.

That's all.

Mrs. Mae Hunt, after having been first
duly sworn by the Court, testified as follows:

ON DIRECT EXAMINATION

By Mr. Thompson

Q. What is your name?

A. Mae Hunt.

Q. Miss or Mrs.?

A. Mrs.

Q. Mrs. Hunt, do you know J. C. Mitchell here?

A. Yes sir.

Q. Do you know anything as to his whereabouts on Monday, April 18th.

A. Yes sir.

Q. Just state shortly, was he at your place or with you during the
day at anytime?

A. Yes sir, from about eight o'clock until about six-thirty.

Q. Who else was in the car?

A. He was, his daughter-in-law, two daughter-in-laws.

Q. Did you go in the truck out to Mr. Mitchell's farm?

A. No sir.

Q. Were you with Mr. Mitchell from twelve o'clock that day on?

A. Yes.

Q. Where about?

A. Here in Bay Minette about twelve o'clock.

Q. Then where?

A. Left Bay Minette about a quarter to two.

Q. To where, to Mobile?

A. Yes sir.

Q. Were you with them all the time until you returned to Robertsdale?

A. I got out of the truck at six-thirty at my house.

Q. Where is your house?

A. Just a little piece from where his daughter-in-law lives, where he
stopped.

Q. You didn't go out to the farm?

A. No sir.

Q. You are positive it was about six-thirty in the afternoon when you got out of the truck?

A. I know it was.

ON CROSS EXAMINATION

By Mr. Blackburn

Q. What time did you first see this gentleman, Mr. J. C. Mitchell on Monday?

A. Quarter to eight.

Q. Where was that?

A. Robertsdale.

Q. Where?

A. At my house.

Q. He came to your house, who was with him?

A. Nobody.

Q. How long did you stay together?

A. He went back down to the house.

Q. Down to whose house?

A. His daughter-in-law's.

Q. How long before he come- how much time elapsed between the time he left to go there and the time you next saw him?

A. About thirty minutes, and the truck was in sight all the time.

Q. When you saw him at the end of the thirty minutes, who was with him?

A. His daughter-in-law and son and Mr. Stanford.

Q. What happened then?

A. We got in the truck and went to Robertsdale and went to the post office and come here.

Q. How long did you stay in Bay Minette?

A. We got here about eleven o'clock, and we had to get two car licenses, we got through with all that about a quarter to two and that's when we left.

Q. Then you left? Where did you go then?

A. To Mobile.

Q. How long did you stay there?

A. At five-thirty we were on Government Street.

Q. What time did you get back to Robertsdale?

A. I left Mr. Mitchell at six thirty.

Q. You left Mr. Mitchell at six-thirty, at Robertsdale?

A. Yes.

Q. Who was with him?

A. His son and daughter-in-law, both daughters-in-law and Mr. Stanford.

Q. Where did you leave him in Robertsdale?

A. In the city limits, I can't tell you the number of the streets.

Q. Where in the city limits, please mam? You know where he put you out, don't you?

A. Put me out at my house. The streets haven't got no names.

Q. Where is your house?

A. About a half-mile from the post office.

Q. In which direction? In the direction of Bay Minette?

A. No sir, on the other side.

Q. On the east side of the railroad?

A. Yes.

Q. How far east?

A. The railroad comes right down the side of the house almost, about a quarter .

Q. Your house joins the railroad?

A. My house is east of the railroad.

Q. Between, - on the side Robertsdale is on?

A. Sir?

Q. Is the railroad between you and the post office?

A. No sir.

Q. In other words, your house is on the wesr side?

A. It's pn the side Robertsdale is on.

Q. On the same side the post office is on?

A. Yes.

Q. Toward Bay Minette from the post office?

A. No, this way. (indicating).

Q. This way in the direction of Bay Minette?

A. No. The other way. You got to come through Robertsdale.

Q. How far is it below the post office?

A. About a half mile.

Q. Do you know where Mr. Mitchell lives?

A. No sir.

Q. You say he left you at six-thirty?

A. Yes.

Q. You didn't see him any more?

A. He stayed there, down at his daughter-in-law a right smart while.

Q. How far does his daughter-in-law live from where you live?

A. About as far to that brick building (indicating).

Q. Did you stand and watch him continually?

A. No, I didn't stand and watch him. I was doing the night work, getting wood.

Q. What interest you got in this case?

A. Not any.

Q. Who has talked to you about it?

A. Nobody.

Q. You didn't talk to Mr. Mitchell?

A. No.

Q. Talk to his daughter-in-law?

A. No sir.

Q. To his son?

A. This man, no sir.

Q. Was Mr. Sanford with him when he left you?

A. Yes.