

ESTHER BYRD XID – 810

Commentary: Esther Byrd (1880 – 1864) married Hubbard Upchurch in 1822 in Wake County, NC. Hubbard is the head of the Nathan Upchurch/Hubbard Upchurch subclan. The couple lived out their entire adult lives in western Wake County, NC. They were active in Salem Baptist Church. This couple and their siblings and their children added significantly to Upchurch lore of western Wake County in the 1800's.

We are yet to detail the heritage of Esther Byrd. She is certainly of the historic Byrd family that we find firmly established in western Wake County by 1880 or before

- RPU 13 Sep 2016

Acknowledgements: Biofile transcribed by Allied Families collaborator, Teresa L. Churchill
April 2016.

(1.) Per Attach #1 Belle West Letter (See also BIRD) to RPU 18 May 1975
-- Hubbard U. [XID - 83] m **Esther Byrd** 24 Oct 1822.

(2.) Same as **Ester Bird** XID - 810 - need to settle which is right.

(3.) See Will of **Ester (Byrd)** U. wife of Hubbard U. Wake Co., NC
Will written 21 Jul 1864 - does not mention Hubbard
mentions only 1 child - Green Berry U.

Grandchildren named

A. Theodocia U.

B. Hudson - Frances, James B, Syntha Ann, Adline.

C. Holleman - Nathan, Sarah Jane, Henry, Issac, Estha Ann.

[Nathan, Sarah Jane, Henry W., Jesse Jackson, Esther Ann - Transcriber TLC 4/3/2016]

Witnessed by R. H. Jones, A. K. Clements. Executer - A. K. Clements.

(4.) See Wake Co., NC Marriage Bonds - Attach to 31 Oct 1977 Letter Mrs L. W. Priest to RPU
[Also see Hubbard U. for photo copy]
Hubbard U. m **Esther Bird**. Date of Bond = 24 Oct 1822
- Bondsman = Burtess U., Witness - S. H. Pullen.

(5.) See Wake Co., NC Census - 1860 - Morrisville PO
Parker U. 31 M Farmer \$ 300 RE, \$ 376 PP, b in NC
Esther U. 63 F \$ 0 RE, \$ 1000 PP, b in NC
Lorena U 36 F \$ 0 RE, \$ 180 PP, b in NC

(6.) See 1850 Wake Co., NC Census - Western Division
Hubard Upchurch M 50 Farmer \$317 RE born NC
Esther Upchurch F 50 born NC

(7.) See 1860 Census - Wake Co., NC - Southern Division - Slave Holdings
Esther U. + 7 others are listed as having 1 Female Black slave age 16

(8.) COMMENTS ON THE FAMILY OF HUBBARD U. 1800-1859 RPU 25 Feb 2011

These comments are derived largely from the will of Hubbard written 31 Aug 1858 probated May 1859 and a deed made by the heirs of Hubbard on 22 Nov 1859 both presented in the biofile of Hubbard, the deed to RPU by Kenn L. Hicks on 11 Feb 2011 in a email.

The will gives all of his land to son Green Berry U. on condition that he care for his parents for their lives.

Daughter Lorena given non real estate items to equal gifts already given to his other children - not named.

The Nov 1859 deed is not exactly in sync with the will in that it indicates a dower of land has already been set aside by the widow nee **Ester Byrd** (she died in 1864 leaving a will) and the remainder of the property is in the hands of Hubbard's children who sell their undivided shares to their brother PARKER U.

The sellers are styled as follows:

1. ARMEALLY { her X mark } HUDSON [ARMELIA U.]
+ Husband HINTON HUDSON
2. TABBITHA { her X mark } HOLLEMAN [TABITHA ESTHER U.]
+ Husband - shown as WILLIE HOLLEMAN
But signed as [WILEY W. HOLLEMAN]
3. G. B. U. [GREEN BERRY U.]
4. LINDERMON { his X mark } U.
5. LORENA { her X mark } U. [NOTE; BORN 1824, STILL SINGLE 1859 AGE 35]

Note that the deed does not mention a daughter of Hubbard named OTELA U. [BORN 1840 PRESUMED DIED BEFORE 1859]

Note that the deed in first paragraph mistakenly lists Wiley W. Holleman as W.W. Upchurch.

Note the deed reserves a one acre cemetery where Hubbard rests.

Deed land adjoins LEVI BAUCOM, HINTON HUDSON, ET.AL,
Witness GEORGE L. BARBEE

Hubbard purchased land in 1823, 1834, 1837 - how the three tracts relate to the Nov 1859 deed is unknown. It is presumed to lay just SW of Upchurch Station and is probably what is now UPCHURCH FARMS SUBDIVISION.

On 18 Jul 1983 RPU & John Lee U. walked the woods looking for the cemetery without success.

Proof that TABITHER ESTHER U. had the middle name " ESTHER" is lacking.
Hubbard had a sister TABITHA & his wife = ESTHER

(9.) RECORDS FOR HUBBARD & SON GREEN BERRY U. RPU 29 Feb 2012

I. Nathan U. - Head of Clan

A. Hubbard Upchurch md Esther Byrd

1. Lorena U. b. 1822
2. Green Berry U. b. Sept 1824 (Wake Co., NC) d. after 1900
Md (1st) 10 Sept 1858 (Wake Co., NC) ANN MARIAH BROWN
Md (2nd) 1870 () SARAH WILLIS
 - a. Calvin U. b. 1859
 - b. Elizabeth U. b. 1864
 - c. Luther U. b. 1870
 - d. Issac U. b. 1876
 - e. Patric U. b. 1879 md 1899 () MARY BENSON
 - i. LATTICE DELOVA U. B. 1907 () D. 1964
3. Amelia U. b. 1826
4. Tabitha Esther U. b. 1830
5. Lindermon U. b. 1832
6. Otelia U. b. 1840
7. FURTHER ISSUE ?

- As of 29 Feb 2012 there are only 6 named children of Hubbard U.

He could have had unnamed children who died as infants - 1828, 1834, 1836, 1838 or 1840, 1842, 1844, 1846 - Esther was 50 in 1850.

1850 Census - Western Division, Wake Co., NC

Hubbard Upchurch age 50 male 1800

Esther Upchurch 50 female 1800

Lorena Upchurch 26 female 1824

Green Upchurch 25 male 1825

Amelia Upchurch 25 female 1826

Tabitha Upchurch 20 female 1830

Linaman Upchurch 18 male 1832

Otelia Upchurch 10 female 1840

1860 Census - Southern Division, Wake, North Carolina

Green Benj Upchurch M 35 1825

Mariah Upchurch F 27 1833

Calvin Upchurch M 11/12 1859

Simeon Scott M 14 1846 Mulatto, day laborer

1870 Census - Lenoir Co., NC, Mosely Hail, PO - Kinston

G B Upchurch M 45 1825

Annie M Upchurch F 35 1835

Calvin Upchurch M 10 1860

Elizabeth Upchurch F 6 1864

Luther Upchurch M 5/12 1870

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(9.) Continued

1880 Census - Clayton, Johnston, NC

G Berry Upchurch Self M 56 1824

Sarah Upchurch Wife F 37 1843

Isac Upchurch Son M 4 1876

Patric Upchurch Son M 1 1879

Matilda Willis Aunt-in-law F 80 1800

1900 Census - Clayton Township, Johnston Co., NC

Grew B Upchurch Head M 76 Sept 1824 married 30 years

Sarah Upchurch Wife F 57 Sept 1843

1910 Census - neither Green Berry or Sarah found

----- UPCHURCH FAMILY TREE (from Ancestry.com)

Green Berry Upchurch

Born Sept 1824 in Wake, North Carolina

Death

10 Sep 1858 Wake County, North Carolina Marriage to Ann Mariah Brown

[per Holly Springs town clerk]

Age 34

William C. Upchurch, bondsman [first cousin to Green Berry]

1870 Marriage to Sarah Willis

Age 46

Family Members

Parents

Hubbard Upchurch 1787 - 1859

<u>Esther Bird</u> 1797 - 1870
--

Spouse & Children

Ann Mariah Brown

Spouse & Children

Sarah Willis 1843 -

Isac Upchurch 1876 -

Patric L. Upchurch 1879 -

(9.) Continued

UPCHURCH FAMILY TREE

Patric L. Upchurch 1879 -

Birth 1879min North Carolina

Death

1899 Johnston, North Carolina Marriage to Mary Upchurch

Age 20

Residence 1900 Clayton Town, Johnston Co., NC

Age 21

Family Members

Parents:

G. Berry Upchurch 1824 -

Sarah Willis 1843 -

Spouse & Children:

Mary Benson spouse

Lattice Delova Upchurch 1907 - 1964

Spouse & Children >
Mary Upchurch 1883 -

(10.) UPCHURCH STORY By Olive Morgan - pg 42a

Esther U. age 50 years, female is shown as wife of Hubbard U. age 50, male on 1850 Census of Wake Co., NC. [Esther U is nee Esther Byrd - RPU]

(11.) Stone at Hillcrest Cemetery - Apex, NC

Ester U - Stone 1' x 2' with name - no date

[Note: this could be nee Esther Byrd as no other burial place for her is known - RPU 29 Jan 2002]

(12.) N. C. Wills: A text for Index, 1665 -1900

- By Thornton W. Mitchell Vol II K-2 1987

Esther U { nee Esther Byrd } 1864 Wake Co., NC RB -33 / 284

(13.) See pg 44 of RPU visit 10 Dec 2001 (Mon) to the Superior Court of Wake Co., NC. There are 48 Volumes on Record of Estates (Distict from Wills) Two illustrative cases were taken from Vol 33 - One of which was -

Vol 33 1863 - 1866 1 - 274 - Index 275 - 572

Parker U. 282 - 283 -- Died in Civil War, S/O Hubbard U., GS/O Nathan U. Head of Clan

Esther U. 284, 390 - 393 -- nee ESTHER BYRD mother of Parker U.

Mrs. H. H. U. 343 -- nee HARRIET HAWKINS BRADWELL, widow of Parker U. she got 214 acres from Parker U.

(14.) NC Marriages -- 5 Sep 2005 -- Peterson - Wake Co.,

Mary Upchurch	Odom Barns	3 Feb 1806
Mary Upchurch	Odam Bunn	5 Feb 1806
Whiting Upchurch	Elizabeth Goodwin	3 Jan 1811
Mackey Upchurch	Edmund Cole	9 Aug 1816
Gilbert Upchurch	Elizabeth Upchurch	20 Mar 1819
Murray Upchurch	Nancy Scott	23 Aug 1820
Hubbard Upchurch	<u>Esther Bird</u>	24 Oct 1822
Frances Upchurch	Blake Baker	18 Nov 1829
John Upchurch	Angelina G. Green	29 May 1830
Kerney Upchurch	Emila Perry	22 Nov 1830
Sims Upchurch	Abigail Olive	11 Dec 1832
Aeriel Upchurch	Mary Olive	30 Mar 1833
Quilla Upchurch	Nathaniel Mitchell	2 Dec 1833
Abel Upchurch	Nancy Sorrell	27 Nov 1839
Eliza Upchurch	William Beddingfield	2 Dec 1839
William C. Upchurch	Adline Royster	15 Dec 1840
Stephen Upchurch	Ann Medlin	16 Mar 1841
Gilbert Upchurch	Margaret Bird	23 Sep 1842
Bartley Upchurch	Jane Whitaker	27 Dec 1842
Clargy Upchurch	William Wilson	24 Feb 1843
Betsey Upchurch	Haywood Laurence	2 Dec 1844
Nancy Upchurch	William Hobby	19 Dec 1845
Clargy Ann Upchurch	Wesley M. Odaniel	11 Mar 1846
Candis Upchurch	John Mann	19 Dec 1847
Mariah Upchurch	Robert Rollins	13 Oct 1849
Alferd Upchurch	Adelia M. Crowder	23 Dec 1850
Armelia Upchurch	Hinton Hudson	31 Dec 1850

(15.) From: UPCHURCH STORY - By Ada Morgan pg 42a

The will of Gilbert Upchurch named **Esther Byrd** and Green B. among the heirs.
1859 bk 31-223 Wake Co. NC

The will of **Esther (Byrd)** Bk 33-284 Wake Co. NC 1864 names Green Berry Upchurch as a devisee.

(16.) Per attach # 35 West Ltr 18 May 1975 - Wake Co., NC Court House - Wills

A. " Gilbert U. to Green B, Esther - 1859 Book Rec. 31 - page 223 "

B. " **Esther U.** to Green Berry, Theodosia, et al - 1864 Book 33 page 284 file 1141.

(17.) Per attach # 24 - West Ltr 18 May 1975 - Wake Co., NC Court House - Wills

B. " **Esther U.** to Theodosia, et al 1 Aug 1864 Book 33 page 284 file 1141.

(18.) See will of **Ester (Byrd) U.** - nee Esther Byrd wife of Hubbard U.

(19.) cc to NC Trip file spring 2010

Subject : Upchurch References

From: Hope Blackford <WCGS-Journal@nc.rr.com>

Date: Sat Apr 10, 2010 10:38 pm

To: "Upchurch, Phil (Write Article)" <phil@upchurchstory.com>

Hi Phil,

I was typing an index, and copied these entries for you. Hope they may be of use to you.

Hope

Wake County Division of Land Dower -- General Index

1820-1854

ORL Microfilm C.099.50108

	Name of Widow	Book	Page	Date	Comments
1	UPCHURCH Eleanor M.	G	488 & 185	1896	O&D added by J.D.E.
2	<u>UPCHURCH Esther</u>	31	279	1859	
3	UPCHURCH Margaret	26	180	1836	
4	UPCHURCH Martha	34	444	1867	
5	UPCHURCH Rebecca J.	29	397	1855	

The above are almost certainly the following

1. = nee Eleanor Marks U. - XID-617 - widow of William George U.
2. = nee **Esther Byrd** - XID - 810 - widow of Hubbard U.
3. = nee Margaret Yates - XID - 81 - widow of Burtis U.
4. = nee Martha Goodwin - XID - 10 - widow of Ruffin U.
5. = nee Rebecca Jane Whitaker - XID - 3043 - widow of Bartlett U.

(20.) North Carolina Marriages 1759-1979

Hubbard Upchurch marriage: 24 Oct 1822 Wake, North Carolina

spouse: Esther Bird

ESTHER BYRD

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(21.) Per Attach # 34 Belle West Letter 18 May 1975 -- Wake Co., NC Marriage Records " 24 Oct 1822 Hubbard U. m Esther Bird -- witness Burtess U. and S H Pullen "
(see also BYRD)

(22.) Same as Ester Bird XID - 810 - need to settle which is right.

(23.) See will file for Hubbard's will written 31 Aug 1858
at which time wife Ester was noted to be alive: Ester's maiden name not given.
Hubbards son Green B. U. (XID - 1011) was charged with taking care of Hubbard & wife Ester
and he received eventually all lands, property etc. for this. Slave Chloe is to help take care of
Hubbard & Ester & after their was to be sold to Hubbard's surviving
children (to high bidder) .

[The following was provided by transcriber TLC April 2016]

(24.) The Breaking of the will of Hubbard U. written 31 Aug 1858
probated May 1859 leading to the land deed made by the heirs of Hubbard U.
on 22 Nov 1859 both presented in the biofile of Hubbard U. items 33 and 34.

The will was broken by Esther Byrd Upchurch in several legal steps. -- Time line --

Hubbard U. will written 31 Aug 1858

Hubbard U. will probated May Term 1859

A. Application for a years support for Ester U. & to be named administrator - May 1859

B. Ester U. petition for dower - May Term 1859

C. Ester U. widow vrs Green B. U. heir - May Term 1859 - Petition for dower Granted

D. Easter Upchurch Dower - Aug Term 1859

F. Bacon n Cotton - Aug Term 1859 - a years support Granted to Ester U.

G. Survey of Ester's dower filed

(24.) Continued

A. Application for a years support for Ester U. - May Term 1859

The petition of Ester U. widow of Hubbard U....

and that letters of administration with the will annexed on his estate have been granted
to Leroy Mitchell during the present term.

The petitioner disputes this appointment and announces her right to administer.

No executor having been named in the will.

The petitioner further desires to have her years supply of stock and provisions
from her husbands estate...

B. Ester U. petition for dower - May Term 1859

... **Ester U.** widow of Hubbard U....

That her husband died in the County of Wake in the month of [blank space] last...
having a last will which has been proven by this court...

The said husband at the time of his death had a tract of land
containing by estimation 195 acres...

she desires to have her dower in the said land allotted to her...

including the dwelling house and all out buildings and improvements...

She further shows that her said husband Hubbard U. left surviving him

Lorney U., Green B. U., Parker U., Lindamon U., Amelia Hudson wife of Hinton Hudson,

Tabitha Holliman wife of Willie Hollimon, his only heirs at law, who are his

children and that they are all of age... Please order subpoeas to the children named to
appear at the next court to show cause if any they have.

C. Ester vrs Green Upchurch 1 - 2

Left side of page

Ester U. widow vrs Green B. U. heir - May Term 1859 - Petition for dower Granted

It appears to the court that service of the Petition has been accepted by

G. B. U., H. Hudson Amelia Hudson, Willie W. Holliman & wife Tabitha, ParkerU.,

Lindamon U., & Lorney U..

On motion the sheriff is ordered to summon a jury to allot to Ester U. her dower...

according to the acts of Aplimby in such case made and provided.

Witness Thomas Utley Clerk of the court in Raliegh on the 3rd Monday of May 1859.

Right side of page

To the sheriff of Wake County Greetings

You are hereby commanded to summon a jury ...

to allot to **Ester U.** her dower ... and return to our next court to be filed

on the third Monday of August 1859.

Witness Thomas Utley Clerk of the court in Raliegh on the 3rd Monday of May 1859.

(24.) Continued

D. Easter Upchurch Dower - Aug Term 1859

I G. A. Upchurch Sheriff and jury of (12) good and lawfull men . . .

who after being sworn in according to law proceded on the 29th day of July 1859...

to lay off and allot to **Ester U.** her dower and thirds in the lands of Hubbard U.

deceased . . .

Easter Upchurch Dower Aug Term 1859 Recorded in Book G. G. Page 279

F. Bacon n Cotton - Aug Term 1859 - a years support Granted to **Ester U.**

200# bacon, 200# beef, 50# picked cotton, 3 good sacks fodder, 6# clean wool,

etc. to make comfortable provisions for the widow... plus \$ 18.50 money

(25.) North Carolina, Estate Files, 1663-1979 - Hubbard Upchurch
- Wake, North Carolina - Application for a years support - May Term 1859

State of North Carolina Wake County }
Court of Pleas & Quarter Sessions May Term 1859

To the worshipful the justices of the said County

The petition of Esther Upchurch widow of Hubbard Upchurch respectfully sheweth unto your worships that her said husband died interstate in the County of Wake since the last term of this Court and that letters of Administration with the will annexed on his estate have been granted to Leroy Mitchell during the present term. Your Petitioner having dissent as required by law from said last Will and Testament and announces her right to administer. No executor having been appointed in said will.

Your petitioner further shows that she desires to have her years supply out of the estate of her said husband allotted to her according to law, and to that end she prays your worships, to appoint one justice of the peace and three freeholders unconnected with her to view the said estate, and to allot and set apart to her so much of the crop stock and provisions belonging thereto as may be adequate to the support of herself and family for one year, and if their shall not be a sufficiency on hand to afford such allowance, then to assist the deficiency in money and report their proceedings under their hands and seals to the next Term of this Court. And your petitioner as is duty bound will ever pray

S. H. Rogers Atty. for Peter.

Wake County Court May Term 1859
I certify that the foregoing is a true copy
of a petition filed in my office this term
List Thomas J. Utley Clerk

(26.) North Carolina, Estate Files, 1663-1979 - Hubbard Upchurch
- Wake, North Carolina - Ester U. petition for dower - May Term 1859

State of North Carolina Wake County }
Court of Pleas & Quarter Sessions May Term 1859

To the worshipful the justices of the said County

The petition of Esther Upchurch widow of Hubbard Upchurch respectfully sheweth unto your worships that her husband died in the County of Wake in the month of [blank space] last having a last Will and Testament which has been duly proven at this present Term of this court and that during the same time she hath duly entered her dissent from the said will.

Your petitioner further sheweth that her said husband at the time of his death was sized in feesimple of a tract of land situated in said County, adjoining the lands of Rufus H. Jones, John Johns and others containing by estimation one hundred and ninty five acres.

Your petitioner further shows that she desires to have her dower in the said land allotted to her and to that end she prays your worships to order a writ to be issued to the sheriff Commanding him to summon twelve freeholders, connected with the parties, neither, by Consanguinity or

affinity and entirely disinterested to view the aforesaid tract of land, and to allot and set apart to her one third part thereof including the dwelling house and all out buildings and improvements appertaining to the same, for the time of her natural life, and to report this proceedings in due form of law. She further shows that her said husband Hubbard Upchurch left surviving him Lorney Upchurch, Green B. Upchurch, Parker Upchurch, Lindamon Upchurch, Amelia Hudson wife of Hinton Hudson, Tabitha Holliman wife of Willie Hollimon, his only heirs at law, who are his children and that they are all of age. May it please your worships to order subpoenas with copies of this petition to be issued to the said Lorney, Green B., Parker, Hinton Hudson & wife Amelia, Willie Hollimon & wife Tabitha & Lindamon Upchurch, requiring them to appear at the next court to show cause if any they have

[why this prayer of your petitioner shall not be granted and your petitioner will ever pray ????
S. H. Rogers atty for Piter.

The first 3 lines of the next page / Item (27.) appears to belong at the bottom of this page -
Transcriber TLC April 24, 2016]

(27.) Ester U. widow vrs Green B. U. heir - May Term

Left side of page

why this prayer of your petitioner shall not be granted and your petitioner will ever pray ????
S. H. Rogers atty for Piter.

Wake County Courts May Term 1859
Esther Upchurch widow }
vrs Green B. Upchurch ????? }

Petition for Dower

It appearing to the County that service of the Petition has been accepted by
G. B. Upchurch, H. Hudson, Amelia Hudson, Willie W. Holliman & wife Tabitha,
Parker Upchurch, Lindamon Upchurch, & Lorney Upchurch

On motion, it is ordered by the County that a writ be issued to the sheriff of Wake County Commanding him to summon a jury to allot to the Pititioner **Ester Upchurch** her Dower in the lands of her late husband Hubbard Upchurch, which said lands are discribed in her Petition according to the Acts of Assembly in such case made and provided.

Witness Thomas J. Utley Clerk of said Court az
Office in Raliegh the 3rd Monday of May AD 1859.

Thomas J. Utley Clerk

Right side of page

State of North Carolina

To the sheriff of Wake County Greetings

You are hereby commanded to summon twelve freeholders.

Connected with the parties neither by consanguinity nor affinity, and entirely disinterested. Who after being duly sworn by you are to allot and set off to **Ester Upchurch** by proper mets and bounds, one third part of all the lands, tenaments and hereditaments including therein the Dwelling House and all outhouses buildings, and improvements thereunto belonging or in any way appertaining, during the time of her natural life, and to put her in possession of the same, and the allotment of Dower made by the said jury, after being nduad [turned ?????? - TLC] into writing and signed by them, you are to return to our next Court of Pleas & Quarter Sessions to be filed for the County of Wake at the Court House in Raliegh on the third Monday of August next, together with this writ

Herein fail not.

Witness Thomas J. Utley Clerk of said Court
az office in Raliegh the 3rd Monday of May AD 1859.

Issued 27th day of June AD 1859

Thomas J. Utley Clerk

(28.) Easter Upchurch Dower - Aug Term 1859

State of North Carolina }

Wake County }

I G. A. Upchurch Sheriff of Wake County attended by the following Jury of good and lawfull men, viz J. R. Whitehead, Jno. Womble, Willie Maynard, Samuel Morgan, Jno Pollard, Josiah Teoth, James W. Hilliard, Amos Maynard, Jerratt Broadwell, Lazurus Whitehead, H. G. Rogers, B. G. Sears, who after being duly sworn according to law, proceeded on the 29th day of July in obedience to the annexed writ, to lay off and allot to **Ester Upchurch** her dower and thirds in the lands of Hubbard Upchurch deceased as described in said writ, according to the following mets and bounds, viz;

Beginning at a pointer on R. H. Jones line running South 97 poles to a Poast Oak on R. H. Jones line, thence West 113 poles to pointers in a branch, thence North 97 poles to a White Oak thence East 113 poles to the first station containing 68 acres and a half, and procedded also to put her in possession of the same.

Given under the hands and seals of the said Jurors,
required me this day 29th July A.D. 1859

W H Hugh G J H

List G A Upchurch sheriff

J. H. Whitehead,{ seal } Willie Maynard, { seal } Samuel Morgan,{ seal }
John Womble, { seal } Jas W. Hilliard, { seal } John Pollard, { seal }

Amou Maynard, { seal } J B Broadwell, { seal } H. G. Rogers, { seal }
Barby G. Sears, { seal } Lazurus Whitehead, { seal } Cut off signature

Back side of the page:

Easter Upchurch Dower Aug Term 1859 Recorded in Book G. G. Page 279

(29.) Survey of Ester's dower filed

A plan of **Easter Upchurch** Dower

Beginning at a pointer R. H. Jones corner running South 97 pole to a Poast Oak
in the said Jones line thence West 113 pole to a pointer thence North 97 pole
to a White Oak thence East 113 pole to the first station containing 68 1/2 acres

2. Roods scale 50 pole per inch+Y. C. Hunten C. S.

Surveyors fee paid Survys do not charge

Back side of the page:

Dower **Easter Upchurch** Recorded in Book G. G. Page 279

(30.) Bacon n Cotton - Aug Term 1859

State of N Carolina }

Wake County } To the Worshipful Justices of the Court of Wake and Quarter Sessions for
said County Aug Term 1859.

The A. H. Clements Justis of the peace for said County and William Grey &
R. H. Jones freeholder in obedience the recent order proceded on the 25th day of July to View
the estate of Hubbard Upchurch Decd. and out of the crop, stock and provisions on hand we have
laid off and allotted to **Esther Upchurch** widow as fallows Viz.

200# Bacon, 200# Beef, 600# Pork, 30# lard, 25 barly corn, 3 good sacks fodder.

1 pen chickens, 25 bushel wheat, 1 sow & 5 pigs, 1 choice cow & calf Hack fine tack

6 # clean wool, 50 # picked cotton, ~~1 bed and its aecessorie furniture and~~ 25# soap

the (unreadable word [TLC]) The patch of potatoes in front of the house, 4 bushels fresh
potatoes, and being not sufficent of the crop, stock and provisions on hand to make a

comfortable provision for the said widow and family for a year, we assess the

defecency to the sum of \$18.50 in money to be paid to the said widow by the Admi. of the

Hubard Upchurch and as have further ~~Esther Upchurch~~ laid off and allotod to the said **Esther**
Upchurch 1 whorl, & pr of cards, ~~as her absolute~~ and one bed and its necessary furniture as her

absolute property and have just in her possession

given under our hands and seals July 29th 1859

A. H. Clements { seal }

William Grey { seal }

cut off signature

Back side of the page:

Easter Upchurch Yrs. Support Aug Term 1859 Recorded in Book G. G. Page 280

(31.) The children of Hubbard Upchurch and his wife Esther Byrd that are known to have survived infancy are:

Lorena	xid 1012 - b. 1824
Green Berry	xid 1011 - b. 1825
Armelia	xid 3070 - b. 1826
Parker	xid 3075 - b. 1829
Tabitha	xid 3071 - b. 1830
Lindermond	xid 3072 - b. 1832
Otela	xid 3074 - b. 1840

(32.) The Will of Esther Byrd Upchurch

In the name of God Amen;

I Estha Upchurch of the county of Wake and State of North Carolina do on the 21st twenty first day of July in the year of our Lord One thousand eight hundred and sixty four make and publish this my last will and testament as follows, to wit;

I give to my granddaughter Theodicia Upchurch, my clock, my new red painted chest, my falling table, and my side saddle to her and her heirs and assigns forever.

I give to my granddaughter Frances Hudson one feather bed and furniture, meaning my low bedstead, also twenty five dollars in money to her and her heirs and assigns forever.

I give to my grand children James B. Hudson, Syntha Ann Hudson, Adline Hudson, each twenty five dollars in money to them their heirs and assigns forever.

I give to my grand children Nathan Holleman, Sarah Jane Holleman, Henry Hollemon, Issac Hollemon and Estha Ann Holleman each twenty five dollars in money to them their heirs and assigns forever.

I give to my son Green Berry Upchurch one feather bed and furniture meaning my curtain bedstead, also my trunk to him and his heirs and assigns forever. And after paying my debts and expenses are paid my will is that the balance of my property of every kind, shall be equally devided and given to my son Green Berry Upchurch and my granddaughter Theodicia Upchurch to them their heirs and assigns forever.

Given under my hand and seal this day and date above mentioned.

Esther Upchurch her X mark {seal}

Witness; R. H. Jones, A. K. Clements.

N Carolina } Court of Pleas and Quarter Sessions
Wake County } Aug Term 1864

A paper writing perporting to be the last will and testament of Esther Upchurch deceased" is exhibited for probate in open court and the due execution thereof by the said Esther Upchurch was proven by oath and examination of R. H. Jones one of the subscrbing witnesses thereto where upon it is considered by the court that said paper writing and every part thereof is the last will and testament of Esther Upchurch and thereupon A. K. Clements is qualified as executor thereto taking the oath required by law. J. J. Yenell { alk }

Note: Holleman / Hollemon - Nathan, Sarah Jane, Henry, Issac, Estha Ann.

[Nathan, Sarah Jane, Henry W., Jesse Jackson, Esther Ann - Transcriber TLC 4/3/2016]

(33.) Thoughts on a family cemetery: - Email from Teresa Churchill May 12, 2016

Documentation :

- 1850 we have mom dad and 7 children

Hubbard, Esther, Lorena, Green Berry, Armelia, Parker, Tabitha, Lindermond, Otelia

- Hubbard Upchurch Biofile item # (34.) Wake Co., Deed 22 Nov 1859 pgs 403-405 whereby the heirs of Hubbard U. sell to his son Parker U. their interest in Hubbard's Land presents doth give grant bargain sell and convey unto the said party of the second part all our undivided interest in a certain tract of land wherein Hubbard Upchurch Decsd lived and died reserving to the widow Esther her life time right in her dower which hath been laid off for her in said land and also we reserve to ourselves the acre around the grave where the said Decsd is buried for a grave yard Said land is adjoining the lands of Levi Baucom, Hinton Hudson and others....

The Raleigh Standard, May 4, 1859

DIED, on the 6th ult., at his late residence in Wake County, of consumption, after an illness of 11 months, HUBBARD UPCHURCH, in the 60th year of his age. The deceased had, for the last seven years, been an acceptable member of the Baptist Church.

- Esther Byrd Upchurch Biofile item # (26.) North Carolina, Estate Files, 1663-1979 - Hubbard Upchurch

- Wake, North Carolina - Ester U. petition for dower - May Term 1859

The petition of Esther Upchurch widow of Hubbard Upchurch

She further shows that her said husband Hubbard Upchurch left surviving him Lorney Upchurch, Green B. Upchurch, Parker Upchurch, Lindamon Upchurch, Amelia Hudson wife of Hinton Hudson, Tabitha Holliman wife of Willie Hollimon, his only heirs at law, who are his children and that they are all of age.

- Hubard Upchurch dies April 06, 1859

- Otela died before May Term 1859 -- on 1850 Census, not named as a survivor of Hubbard May Term 1859

- Lindamond Upchurch -- [1862 civil war service] not found after 1862
not named in mother's will written July 21, 1864
this suggests that Lindamond was deceased by January 1863
(Lindermond xid 3072 (several spellings) I show he probably died 1866. His will was written Nov 1866 and was proven in the Nov 1866 court. It is likely he never recovered from war wounds. [RPU])

- Parker Upchurch -- [1863 civil war service] not found after 1863
not named in mother's will written July 21, 1864
this suggests that Parker was deceased by January 1864

(33.) Thoughts on a family cemetery: Continued

- Amelia d. between 1863-1870 -- on 1860 census has a 7 year old dau. on 1870 Census
not named in mother's will written July 21, 1864
this suggests that Amelia was deceased by July 21, 1864
(Armelia U. xid 3070 [RPU])

- Tabitha died abt 1864 -- on 1860 census, last known child born July 06, 1859,
not named in mother's will written July 21, 1864
husband post's marriage bond 30 Mar 1866 W W Holleman Bride:Martha A Collins
assuming 1 year for courting and 1 year for mourning
this suggests that Tabitha was deceased by July 21, 1864

- Lorena -- on 1860 census as a 36 yr old spinster not found 1870
Lorena received a bed from her father in his will, Esther was given a bed along with her years worth of provisions in item # (30.) above, however Esther gives away 2 beds in her will in item # (32.) above.
Lorena is not named in mother's will written July 21, 1864
this suggests that Lorena was deceased by July 21, 1864

- Esther names Tabitha and Amelia's children but not Tabitha or Amelia
this suggests that Tabitha and Amelia were both deceased by July 21, 1864

- Esther names Theodocias eldest daughter of Lindamond but not Lindamond
this suggests that Lindamond was deceased by July 21, 1864

- Lorena & Green Berry both named in Hubbards will, only Green Berry is named in Esther's will
this suggests that Lorena was deceased by July 21, 1864

- Esther Byrd Upchurch dies Abt. Aug 1, 1864 - will written July 21, 1864 probated August 1864 [possibly 3rd monday in Aug.]

- Green Berry U. died after 1870

Conclusion : 1850 we have mom dad and 7 children

- 1860 Census mom has lost husband and youngest daughter Otela
- July 21, 1864 mom apparently has 1 living child
- 1870 Census only Green Berry Upchurch is still living

I believe the entire family is buried with Hubbard in a single family cemetery on the original 68 acres that Esther received for her dowry.

(34.) Intriguing coincidence - Email from Teresa L Churchill May 12, 2016

The survey for Esther's Dowry land, # (29.)

.... Said land is adjoining the lands of R. H. Jones

- Hubbard Upchurch Biofile item # (34.) Hubbard Upchurch Decsd lived and died reserving to the widow Esther her life time right in her dower which hath been laid off for her in said land Said land is adjoining the lands of Hinton Hudson and others

- Hinton Hudson married Hubbard and Esther Upchurch's daughter Armelia

- Wiley W. Holleman married Hubbard and Esther Upchurch's daughter Tabitha

What I really find intriguing is Jones Park downtown Apex, NC.

The streets that bracket the park are -- Upchurch St. - Holleman St. - Hudson Ave. - Moore St. - with the park bisected by Jones St.

(35.) Summons for Action 2nd day of March 1869

Printed and for sale by Nichols & Gorman, Raleigh, N. C.

A K Clements Adm.	}	
with the will annexed of	}	
<u>Estha Upchurch</u>	}	Summons in Actions for the Recovery of Money only.
Against	}	(COMPLAINT FILED)
Jarrett Broadwell	}	
F. G. Moorning	}	

STATE OF NORTH CAROLINA,

To the Sheriff of Wake County --- Greeting :

You are hereby commanded to summon, Jarratt Broadwell, F. G. Moorning the Defendants, above named, if they be found within your County, to appear at the office of the Clerk of the Superior Court for the County of Wake, within twenty days after the service of this summons on them exclusive of the day of such service, and answer the complaint, a copy of which will be deposited in the office of the Clerk of the Superior Court for Wake County, within ten days from the date of this summons; and let them take notice, that if they fail to answer the said complaint within that time, the Plaintiff will take Judgment against them for the sum of Two hundred and thirty Dollars with interest on One hundred & seventy seven 70/100 dollars (?), ~~from the day of~~ to the ____ day of judgement.

Hereof fail not, and of this summons make due return.

Given under my hand and seal of said Court, this 2nd day of March 1869

J. N. Bunting Clerk of Superior Court, Wake County

(36.) Legal suit on behalf of the estate of **Esther Upchurch**

(Complaint on Bond for the Payment of Money by Administrator.)

Printed and sold by Nichols & Gorman, Raleigh, N. C.

State of North Carolina	}	
Wake County	}	SUPERIOR COURT.

A K. Clements Adm. of Esther Upchurch deceased, Ptff.	}
Against	}
Thomas W. Young, Jaratt Broadwell and F. G. Moring Deft.	}

The PLAINTIFF above named, complaining of the DEFENDANTS alleges:

I. THAT on the 10th day of February, 1863, at and in the County of Wake, the DEFENDANTS covenanted with the said Esther Upchurch, under their hands and seals, to pay the said Esther Upchurch, the sum of One hundred & seventy seven 20/100 dollars, (?)

II. nine months after the Auth time up (?) THAT no part thereof has been paid.

III. THAT on the _____ day of _____, 186____, at & in the said County the said Esther Upchurch, died intestate.

IV. THAT at the time day of the county court of said county 186____, letters of Administration upon the estate of the said Esther Upchurch, were duly issued by the ~~Probate Judge~~ said court of the County of Wake afore said to the PLAINTIFF, by which he was appointed Administrator of all the goods and credits belonging to the said Esther Upchurch, at the time of her death.

WHEREFORE the PLAINTIFF demands judgment against the DEFENDANTS for the sum of One hundred & seventy seven 20/100 dollars (?), with interest on that sum ____-/100 Dollars, from th 10th day of November, 1863, together with the costs and disbursements of this action. _____ Ptff. Atto_____.

(VERIFICATION)

A. K. Clements, the above named PLAINTIFF, being duly sworn, says, that the foregoing complaint is true, to his own knowledge, except as to those matters therein stated, on information and belief, and as to those matters, he believes it to be true.

Roger Batcheler att, retained as my Attorneys in the above entitled action, upon whom service of all pleadings and notices may be made, at their office, in Raleigh, N. C.

A K Clements Plaintiff