

## Greed, Betrayal, and Eviction of the Elderly at Shiloh, Louisiana

by Timothy Dean Hudson

Between 1876 and 1882, a sad drama played out on the McLelland farm located two miles northwest of Bernice near the Claiborne Parish line. The saga involved an elderly couple, David Ward and his wife, Ellen Brazeal McLelland Ward, and the stepfather of Ellen's grandchildren, Thomas N. Bailey and his wife, Elizabeth Gee McLelland Bailey, who happened to be Ward's niece. This unfortunate family squabble pitted grandmother against grandchildren, mother against daughter-in-law, and uncle against niece.

David Ward (1806–1882) was a pioneer of Union Parish, settling on what we know today as the Wards Chapel Road in January 1837. He served as the first tax assessor of Union Parish in 1839, helped to construct many of the earliest roads in that region, and gave land for the first Methodist Church in the parish. Over the next thirty years, he built and operated a large plantation and cotton gin. David's sister, Mary, followed him to Union Parish in about 1840 with her husband, Richard Gee. When Mr. Gee died in 1843, David helped Mary manage his estate and served as the guardian to her children, including her daughter, Elizabeth Frances Gee (1840–1926).

Ellen Brazeal (1804–1884) moved with her family from Georgia to southern Arkansas in about 1817. Soon after their arrival, at the age of only thirteen, Ellen married James McLelland, Jr., a man some twenty years her senior. In 1834, McLelland contracted a disease and died, leaving Ellen to raise their eight children. With the help of her brothers, she and her children managed to maintain their farm near El Dorado, and the family prospered. In 1847, Ellen moved her family to a farm several miles west of Shiloh, settling in Union Parish near the Claiborne Parish line.

In 1860, Ellen's youngest son, Frederick Marion McLelland (1834–1870) married David's niece, Elizabeth F. Gee, and they settled on the McLelland farm near Shiloh with Ellen. David Ward was a widower by 1866, and in early 1867, David and Ellen married. They initially moved in together on Ward's plantation east of Farmerville, leaving Fred and Elizabeth in possession of "*the McLelland old place*," as the locals referred to Ellen's old farm. By all accounts a devoted son, Frederick M. McLelland missed his mother and decided that he wished to build her and his stepfather, "*Uncle Davy Ward*," as he called him, a retirement home on a 160-acre tract of vacant land he had purchased from the government in 1854; this land adjoined the old McLelland farm, now Fred's home.

On a visit to the Wards during the fall of 1867, McLelland made this proposition to his mother and stepfather. David's children were grown with families of their own by this time, and so Ellen

and David Ward accepted Fred's offer. They all agreed that Ellen and David would not need to pay Fred any rent for use of the property, and they had the right to remain there for the rest of Ellen's life.



**FREDERICK MARION  
MCLELLAND  
1834–1870**

Upon his parents' acceptance of his offer, Frederick M. McLelland proceeded to have a house built for them on their farm. For lumber, he went to a nearby steam sawmill located in Claiborne Parish about seven or eight miles from McLelland's house. He was only slightly acquainted with the sawmill operator, Mr. R. Dearman. While getting the lumber, McLelland told Dearman that he wanted to buy lumber,

*...to build a house for his mother to live in and he said he wanted to put the house on a piece of land he had near so that he could attend to her as she was getting old...that he intended for his mother to occupy the house as long as she lived...*

McLelland also explained the arrangement to three of his close friends: future Farmerville Mayor William B. H. Poer, Henry N. Fain, and William Edmonds. William B. H. Poer knew Fred McLelland

well, for they served together for four years in the same Confederate Army unit. Poer said that McLelland

*...came to me to employ me to build a house...for his mother & uncle Davy Ward as he called him to live in their lifetime. That he wished the house built on a retired place from the road & that they were getting old & he wished them to be comfortably situated so long as they lived.*

McLelland made similar statements to his neighbors, Henry Fain and William Edmonds, telling them that,

*...he built the house for his mother and Uncle David Ward...to live on during their life time that they were getting old and that he wanted his mother near him so that he could attend to her if it was necessary.*

In late fall of 1867, David and Ellen Ward left his plantation east of Farmerville on the Wards Chapel Road and moved into their new retirement home west of Shiloh along with two of Ellen's orphaned grandchildren. They obviously liked their new location, for the next spring, David sold his 520-acre plantation on the Wards Chapel Road east of Farmerville to his eldest son. With the blessings of Fred McLelland, over the next twelve years David Ward made numerous improvements to the McLelland retirement home where he believed he would spend the rest of his life. He made many of them himself and paid to have the rest done. Ward said:

*...I planted 325 peach and apple trees, their value I think was at least \$1.00 per tree which is \$325.00. I cleared at least 30 acres of land and had about 10,000 rails cut and split and had them put up in fences on the place the above fences are still on the place. The clearing and fences above mentioned are worth at least \$300.00... [I built] A lane running west through the plantation 250 yards long, and two large gates attached to the lane. I had one long ditch cut through the farm and two short ditches all three cost me \$132.00. I had two wells dug, one at the quarter, and one where I lived, worth \$15.00 each, they were in good condition. I built two corn cribs they were worth \$50.00. I built three stables all worth \$30.00. I built two cotton houses worth \$10.00 each, and one at my house worth \$15.00. I built one kitchen worth \$15.00 also one stove house worth \$10.00. I built at the quarter one dwelling house, one smoke house a cotton house and corn crib, all worth \$80.00. I built or enclosed one garden with sawed lumber worth \$25.00. I built one Buggy house worth \$15.00...*

Despite his obvious good intentions in building a house for his mother and stepfather and giving them full use of the place for the remainder of their lives, Frederick M. McLelland never placed the retirement home in their names nor signed any legal paperwork giving them the right to occupy it until they died. This oversight created costly and unpleasant consequences for David and Ellen.

The problems began with Fred McLelland's premature death from "consumption" (tuberculosis) on 20 March 1870, leaving his three young children as the legal owners of the

property he possessed prior to his marriage to David Ward's niece Elizabeth Gee, including the farm and house he gave to his mother and David Ward as their retirement home. In most families, this would not have presented a problem – in that pre-Social Security era, most people readily supported their elderly relatives until their deaths, as McLelland was clearly prepared to do himself. But it soon became clear to David and Ellen Ward that not everyone was as philanthropic towards their relatives.

In 1872, Thomas N. Bailey arrived in David Ward's neighborhood and became acquainted with Ward's farming operations. Ward may have hired Bailey as a farm worker or Bailey may have operated his own nearby farm. In any case, in 1873 Bailey married McLelland's widow, David's niece Elizabeth Gee McLelland. Fred McLelland's heirs owned a substantial amount of property, after Elizabeth married Tom Bailey, the court had to appoint a legal guardian to the young children. The court appointed close relatives, including David Ward's son and Elizabeth's first cousin Elijah Hubbard Ward, to choose guardians for the McLelland children. Naturally, the family chose to grant joint guardianship to Elizabeth and her new husband, Thomas N. Bailey.

Following the Baileys' marriage, Thomas Bailey moved in with Elizabeth and her children, who were then living on "*the McLelland old place*," the 120-acre farm that Ellen McLelland bought in 1847 when she moved to Shiloh. Thomas and Elizabeth continued to live there for several years after their marriage, even though it was now over twenty-three years old. Neighbors stated,

*...the place was in a dilapidated condition at the time Bailey went on it... It was in a dilapidated condition at the time Bailey & wife left it...in 1876 or 1877.*

During this period, Tom Bailey made poor financial decisions with the money and property of Fred McLelland's estate. Although McLelland himself was an industrious farmer and died with valuable assets, by 1876 Bailey had squandered the McLelland estate, leaving it bankrupt. Family tradition claims that Bailey gambled away much of the McLelland estate. To pay his debts, Bailey sold part of the McLelland property, meaning that he, Elizabeth, and Fred McLelland's children needed a new place to live. David and Ellen Ward's 160-acre farm and their new retirement home located ¾-mile away provided too great of a lure.

On 18 March 1876, Tom Bailey demanded in writing that David and Ellen Ward give possession of their house and farm to him in his capacity as guardian to his stepchildren, the Fred McLelland heirs. Obviously, the Wards resisted, as McLelland had this house built specifically for their use as a retirement home for the rest of their lives, rent-free. David and Ellen Ward refused to leave, not even bothering to respond to Bailey's demand. After this, Bailey did not visit again the premises of the Ward home. Persisting in his demand for the Wards to leave their home, in January 1878 Bailey

filed suit in the Union Parish District Court against the Wards, requesting that the court order them to vacate the McLelland farm occupied by the Wards, but that legally now belonged to Elizabeth's children. He claimed that Ward

*...is now residing on said tract of land and has possession of it and refuses to give petitioners possession of it although amicable demand has been made upon him so to do...*

Over the next two years, Bailey repeatedly notified the Wards to leave and turn possession of the home to him, but the Wards refused. Bailey also claimed that Ward had cultivated at least 55 acres of the farm since 1874, and so Ward was indebted for rent of the land since that time. Bailey demanded \$550 in rent for the years 1874 through 1878.

To represent them in their effort to evict the Wards from their home, the Baileys hired Farmerville attorney James A. Ramsey. In response, David Ward hired the law firm of Trimble & Rutland to represent him. By his choice of legal counsel, Ward's battle with Bailey took on another dimension, for Judge James E. Trimble and Ramsey were political archrivals. Trimble answered Bailey's petition in court for David Ward on 12 April 1878. Ward claimed that prior to his death, Frederick M. McLelland "*...set apart the property described...for the sole use of...*" David and Ellen Ward, "*...free of any charge during her natural life.*" Ward demanded that if the court ordered him to surrender their retirement home, they should be reimbursed \$1550 they had spent to improve the property.

During the remainder of 1878, the court took depositions from a wide variety of relatives and neighbors, including Ward's grandson and Harry McLelland, a black sharecropper who lived with the Wards, formerly one of Ellen's slaves. Later that year, Tom Bailey entered the Ward plantation brandishing his firearm, demanding that the Wards vacate the premises. Ward sent for the local constable, who arrested Bailey. In April 1879, a grand jury indicted Bailey for "*entering plantation with firearms.*" In October 1879, a jury of twelve men convicted him of the charge.

After Bailey's criminal indictment in April 1879, the court began to hear arguments in the Bailey case against the Wards. Although aged and living over twenty miles from the courthouse, David Ward attended court daily and testified on his own behalf. Under cross-examination by Judge Trimble (Ward's attorney), Tom Bailey admitted that he told Ellen's son-in-law that he knew that McLelland's desire was that "*the old people [David and Ellen Ward] were not to pay rent for the land they were occupying.*" Despite his admission, on a technicality, District Court Judge E. M. Graham ruled Ward's testimony and that of all those who testified for him inadmissible. Judge Graham ruled in favor of Thomas Bailey, ordering David and Ellen Ward to immediately yield possession of their home to the Baileys, and to pay Bailey rent.

Five days after the court issued its ruling, Ward's lawyers filed a motion stating their intent to appeal the district court ruling to the Louisiana Supreme Court, and they heard the appeal a few months later, in June 1879. Louisiana's highest court ruled that the district court erred in not allowing Ward's testimony into evidence in the case. Moreover, the Supreme Court ruled that Ward could prove McLelland intended for him to live on the land, rent-free. The court remanded the case back to the district court for a second trial, ordering the Baileys to pay all costs associated with the appeal. Immediately, the Baileys' lawyers filed a motion for a re-hearing of the case by the Supreme Court, which the court summarily refused. The next month, the Supreme Court issued a warrant to collect the costs of the appeal from the Baileys, a sum of \$39.10. The Baileys could not pay the costs, so on July 29<sup>th</sup> the sheriff seized forty acres of land belonging to the Fred McLelland estate and auctioned it to pay the costs of Tom Bailey's appeal.

The second District Court trial opened that fall on 7 October 1879, with Judge E. M. Graham again presiding. Now seventy-three years of age, David Ward again travelled the twenty miles to Farmerville to attend court and testify on his own behalf, together with numerous witnesses across the parish who personally knew Fred McLelland and Ward. All agreed that it was common knowledge that McLelland intended for his mother and stepfather to have use of the farm and house until their deaths. Judge Graham issued his ruling on October 14<sup>th</sup>, again deciding the case in favor of the Baileys and decreeing that David Ward must yield possession of his retirement home to Tom Bailey. Three days later, Judge Trimble filed a motion to again appeal the District Court's ruling to the Louisiana Supreme Court.

The Supreme Court heard Ward's appeal on 17 June 1880 at its session held in Monroe. Chief Justice Bermudez wrote the opinion for the court the next day, stating that while McLelland had given his parents permission to occupy the land for life, the Wards were merely tenants at will, occupying the land at the pleasure of the owners. The Louisiana Supreme Court ruled that the Wards must yield possession of the land to Bailey, although it did reserve the right for Ward to sue Bailey for the value of the improvements Ward placed upon the land. The court also ordered Ward to pay all costs associated with this appeal.

Later that day, Judge Trimble made a final attempt to put an end to the matter in Ward's favor and prevent further litigation. He filed a petition for an immediate rehearing of the case, making an impassioned plea suggesting the immorality of the Baileys' attempts to evict the Wards from their retirement home. Clearly with his wording, Trimble endeavored to appeal to the judges'

emotions, stating that in the entire jurisprudence there is no express law that was precisely applicable to this peculiar case. Trimble argued that if equity were to determine this case,

*...it does appear that natural law and reason should maintain the ancestors of the actual plaintiffs in the possession of the little home made dear to them by memory and association, and render the few years of earth before them years of contentment and peace.*

Trimble encouraged the justices to use a liberal interpretation of the law “...on behalf of two aged citizens each now long since past the prime of life...” The Supreme Court refused a rehearing but encouraged Ward to file his request for reimbursement from Bailey for the improvements had placed on his retirement home in the District Court.

One month later, on 19 July 1880, pursuant to the Louisiana Supreme Court decision, the District Court ordered Union Parish Sheriff Benjamin Franklin Pleasant to immediately ensure that Tom Bailey was placed in possession of the Ward retirement home. Sheriff Pleasant went with Bailey to Ward’s residence on July 28<sup>th</sup>, accompanied by several neighbors, friends of David and Ellen Ward. Ward consented to Bailey entering the property and taking possession of it. Bailey then agreed to rent the property to Ward for the next four months. Bailey agreed to not disturb Ward in the gathering of the 1880 crops, whereas Ward agreed to entirely vacate the premises effective December 1<sup>st</sup>.

Although David Ward remained physically active and in fairly good health through October 1879, his physical condition deteriorated by the summer of 1880. In June 1880, he was “*maimed, crippled, or otherwise disabled.*” By May 1881, he suffered from bladder problems that left him bedridden. In this physical state, uprooting from his retirement home and moving elsewhere would have proved even more difficult and disheartening for him and Ellen.

While preparing to vacate their home in the fall of 1880, from his bedridden state Ward prepared his lawsuit against Bailey for the value of the improvements he had made on his retirement farm. He had his attorney, Judge James Trimble, file suit in October 1880 against Bailey for \$1210. Trimble claimed that all of Ward’s improvements were immovable in nature and were made with the express permission of the owner, Fred McLelland. Ward stated that before filing his suit, he had demanded payment from Bailey, but Bailey had refused. In response, Bailey’s attorney, James A. Ramsey, ridiculed the claims that Ward made, stating that the improvements were worthless.

In May 1881, Judge Trimble petitioned the District Court, stating that David Ward was

*...far advanced in life very infirm and confined at this time to his bed by a dangerous illness which there is much reason to apprehend will be his last.*

Trimble stated that Ward's condition prevented him from traveling to the courthouse in Farmerville to testify. Over Ramsey's objections, the court ordered Justice of the Peace E. P. Bolton to visit Ward's bedside at his house west of Shiloh and record his testimony for the trial. Bolton stated to the court that, along with Ward's son, Elijah Hubbard Ward, and grandson, Hillory Hubbard Ward,

*...I went to Mr. Ward's house & I found him quite sick in bed... Mr. Ward was at the close of the examination much fatigued and physically his fever was rising, so I thought it not prudent to ask him to sign his name to this document believing it best for his good for me not to worry him any longer and instruct him to compose himself as soon he could. I think it doubtful whether he could have signed his name... He was unable to write... & he had to get his grandson to do that for him...*

After spending the night of Wednesday, 4 May 1881, at his father's home near Shiloh, the next morning Elijah H. Ward arose early and visited his father's bedside. E. H. Ward said "...my father...appeared to be very feeble. He was lying on the Bed when I left him..." Elijah H. and his son, Hillory H. Ward, then headed east towards Farmerville for the trial scheduled to begin that afternoon, May 5<sup>th</sup>. It seems unlikely that the Wards could have made the twenty-mile trip from the McLelland farm to the courthouse in Farmerville until late afternoon at the earliest, even if they departed very early in the morning, so they may have missed the opening arguments.

As the trial began on Thursday, Bailey's lawyer James A. Ramsey attempted to have Ward's testimony before Justice of the Peace Bolton thrown out of court, but the judge overruled Ramsey's motion and allowed it. Henry Fain, the owner of the farm next to David Ward's retirement home, testified first, giving much of his detailed personal knowledge of the improvements Ward had made between 1867 and 1878. Farmerville mayor William B. H. Poer testified next, describing his conversations with McLelland about the arrangement.

When the trial resumed the next day, Friday, May 6<sup>th</sup>, David Ward's grandson, Hillory H. Ward, testified first. H. H. Ward had lived with his grandfather for several years and helped him operate the farm, so he had first-hand knowledge of the farming operations. He spoke at length about the value of the many improvements his grandfather had made to the place, all at his own expense. Hillory even stated that he personally witnessed his grandfather give cash to Fred McLelland to pay for some of the improvements. Elijah H. Ward followed his son on the witness stand, questioned first by Judge Trimble and then by Ramsey. Ward gave the precise acreage that his father had cleared on the McLelland farm after moving there in 1867. After Elijah Ward's testimony, the prosecution rested its case.

Ramsey then called several witnesses in Bailey's defense who contradicted the testimony of Fain, Poer, and the Wards. T. W. Harper, a witness for the Baileys, testified that David Ward had not actually cleared any of the land. Under cross-examination by Judge Trimble, Harper admitted that his surveying skills were questionable, as he had no formal training, whereas Elijah H. Ward served as the official Union Parish Surveyor. The trial concluded later that afternoon. After a brief deliberation, the jury foreman, Samuel Smith, returned the verdict to the court. Smith wrote, "*We the Jury after considering the claims of the Plaintiff and Defendant Renders Verdict [for] Plaintiff Sum of Fifty five Dollars.*" The next Friday, May 13<sup>th</sup>, Judge E. M. Graham issued his final judgment in the case, certifying the jury's decision in Ward's favor, and officially awarded him \$55, far less than the \$1210 originally requested. From David Ward's standpoint, this final judgment certainly brought a rather bittersweet ending to the saga.

Despite his poor health during the May 1881 trial, David Ward held on to life for another year. The next spring, sixty acres of Ward's new home, Ellen's former home, known as the "*McLelland old place*," was planted in cotton and corn by several sharecroppers, including Ellen's former enslaved workers, Dan, Peter, and David McLelland.

David Ward died on 4 May 1882 at his home eight miles west of Shiloh, one year to the day after Bolton took his testimony for his last trial against the Baileys. His sons took Ward's body back to eastern Union Parish in a wagon and buried him by lantern light at night beside their mother in the Wards Chapel Cemetery, located on the edge of the government land he purchased in December 1837. Elijah Ward paid \$10 for his father's casket and for having his grave dug. Ellen continued to manage her old farm for the 1882 growing season, with the black McLelland men tending to and harvesting the corn and cotton crops that year. Soon afterwards, Ellen moved in with her daughter, Sarah McLelland Taylor, wife of former Union Parish Judge John Taylor, on the Taylor farm east of Farmerville. She died there on 21 March 1884.

David Ward's courtroom battle with his nephew, Thomas N. Bailey, over possession of his retirement home had a tragic epilogue long after the Louisiana Supreme Court made a final decision on the matter. The extended legal squabble between 1876 and 1881 that pitted uncle against niece and grandmother against grandchildren was argued by their attorneys, former Judge James E. Trimble and James A. Ramsey.

By the latter 1870s, the opposing lawyers had become the leaders of the bitter political factions within Union Parish. While these factions originated as an outgrowth of Reconstruction politics, Ramsey and Trimble also had a very personal feud. Ironically, they also lived in adjoining houses in Farmerville at the time they argued the Ward vs. Bailey court battles. Both also had public

forums for their opposing political viewpoints: Trimble served as owner and editor of the *"Gazette"* and Ramsey was a close friend and political ally of Judge Thomas C. Lewis, former owner/editor of the *"Union Record"* and now owner/editor of *"The Home Advocate."*

After their courtroom rivalry between 1878 and 1881, the Trimble/Ramsey feud intensified during the 1880s and culminated on 19 December 1887. The bitter rivals had a chance meeting that evening at 5:15 in front of Daniel Stein's store on Farmerville's courthouse square. A large crowd gathered in anticipation of their encounter, and the attorneys exchanged hot words. As the discussion became heated, both men pulled their pistols, and five or six shots were fired. Both Trimble and Ramsey fell to the ground dead, Ramsey with bullet wounds to the hip and heart fired from Trimble's gun. Trimble suffered bullet wounds in both arms and on the left side of his temple, fired from the gun of an unknown bystander in the crowd. No one was ever convicted of Trimble's murder.

