Chrisman, Daniel
Carter, Eli

v. Armstrong, John; Churus, Michael & Mary; Campbell, Eliza, John, & Robert; Aid, Jacob & Ann; Williams, Edward T.; Abbott, Samuel & Mary; Ellsworth, Wm. & Margaret; Widney, Stephen & Eliza

1850

Warren

181/15

Ejectment

Great Armstrong et al $60 damages. $3/mo ~~for~~ restitution

Land; Possession; Survey

Detailed Accounts of Early Claims to Land

1

State of Missouri } ss. Be it remembered that
County of Warren } on the 15th. day of March 1848, John Armstrong
and others filed in the office of the Clerk of the
Circuit Court in and for said County of Warren
in the State of Missouri, their Declaration in Ejectment
against Daniel Chrisman, which Declaration is
in words and figures following to wit:

"State of Missouri } Circuit Court
County of Warren } Spring Term 1848

John Armstrong, Michael Churus and Mary A.
Churus his wife, Eliza Campbell John S. Campbell
Robert Campbell, Jacob Aid, and Ann Aid his
wife, Edward T. Williams Samuel Abbott and Mary
Abbott his wife, William Ellsworth and Margarett
Ellsworth his wife, Stephen Widney and Eliza Widney
his wife, plaintiffs, complain of Daniel Chrisman de-
fendant of a plea of Ejectment. For that heretofore
to wit, on the first day of January in the year
of our Lord eighteen Hundred and forty eight at the
County aforesaid, the said plaintiffs were lawfully
entitled to the possession of the north half of Section
thirty three in Township forty Seven of Range two west,
containing three Hundred and twenty acres, and
being so entitled to the possession thereof, the said
Defendant afterwards to wit, on the day and year afore-
said entered into the said premises and unlawfully with-
holds from the plaintiffs the possession thereof to the damage
of the plaintiffs of five thousand Dollars, and therefore
they sue.

Campbell & Wells.
attys for Plaintiffs.

2

2

And afterwards to wit, a Summons was issued in said cause in words & figures following to wit:

State of Missouri
County of Warren ss. The State of Missouri to the Sheriff of Warren County Greeting. These command you that you Summon Daniel Chrisman if he be found in your County that he be and appear before the Judge of our Circuit Court on the first day of the next Term thereof, to be begun and held at the Court House in the Town of Wauenton, in and for said County of Warren, on the fourth Monday in April next then and there to answer unto John Armstrong Michael Chynes, and Mary A. Chynes his wife Eliza Campbell, Wm S. Campbell, Robt Campbell, Jacob Sipe and Ann Aid his wife, Edward T. Williams, Samuel Abbott and Mary Abbott his wife, William Ellsworth and Margaret Ellsworth his wife, Woodney and Eliza Woodney his wife in an action of Ejectment to the damages of said plaintiffs of Five Thousand Dollars; and have you then there this writ.

Writ

Witness Thomas J. Marshall clerk of our said Circuit Court with the seal thereof hereto affixed, at office in Wauenton, this 15th. day of March 1848. Thomas J. Marshall clerk.

L. S.

On which Summons is the following return endorsed by the Sheriff of said Warren County, To wit: "Served the within writ by handing Daniel Chrisman a copy of the declaration attached to the within Summons, and reading this to the within Daniel Chrisman in Wauenton, Warren County Missouri.

Return

3

March 15th 1848."

J. D. Gordan Shff
W. C. Mo.

And afterwards to wit at a Circuit Court begun and held at the Court House in the Town of Waunton in and for said County of Wauna, and State of Missouri on monday the tenth day of April 1848. to wit. on thursday the fourth day of said term, and the 27th. day of said month the following proceedings were had in said cause and entered of Record in said Court in words and figures following to wit:

"John Armstrong + others,
v.
Daniel Chrisman:
Ejectment.

Now, at this day, appears said defendant by his Attorney, and files his plea of general issue; And also, files his Motion for Security for Costs; Thurston, Joseph B. Wells Attorney for said Plaintiffs, files his bond for the cost in this cause, which is approved."

Plea + Motion

And afterwards towit at a Circuit Court begun and held at the Court House in the town of Wauneton, within and for said County and State, On monday the 25th day of September 1848. to wit. on Wednesday the 27th day of the month and the third day of said term, the following proceedings were had in said in said cause, and entered of record in said Court in words and figures following to wit:

John Armstrong et al
v.
Daniel Chrisman
Ejectment.
Continued.

4 And afterwards to wit at a Circuit Court begun and held at the Court House in the Town of Wanenton in and for said County and State, on monday the 23d. day of April 1849. to wit on monday the first day of said term, the following proceedings were had and entered of record in said Court in words and figures following to wit:

John Armstrong et al
vs.
Motion Daniel Chrisman } Ejectment.

Now here Eli Carter by his Attorney files his motion to be made a Defendant to this cause.

And afterwards towit, at the same Term of said Court on thursday the 4th. day of said Term, it being the 26th. day of said month the following proceedings were had and entered of record in said cause.

John Armstrong et al
vs.
Daniel Christman } Ejectment. Continued.

And afterwards to wit, at a Circuit Court begun and held at the Court House, in the town of Wanenton, within and for said County of Wanen and State of Missouri, on the 24th day of September 1849. to wit on wednesday the third day of said Term and the 26th day of said month, the following proceedings were had in said cause and entered of record in said Court, in words and figures following towit:

John Armstrong & others
vs.

5- Daniel Chrisman & Eli Carter } Jedgment.

The parties appeared by their respective attorneys and neither party requiring a jury the issue in the cause was submitted to the Court; and the Court after hearing the evidence finds that the Defendants are guilty of unlawfully withholding from the plaintiffs the premises in the Declaration mentioned in manner and form as is alleged in said declaration, and assess the plaintiffs damage sustained by reason thereof, to the sum of sixty dollars; and the Court also finds that the monthly value of said premises is three dollars and thirty three cents. It is therefore considered by the Court that said plaintiffs have and recover of said Defendants the premises aforesaid and also the damages of sixty dollars assessed as aforesaid, and also the said sum of three dollars and thirty three cents per month until possession of said premises be delivered to the said plaintiffs; and that said plaintiffs have their writ of restitution for said premises, and their execution for said damages, and monthly value as aforesaid, and also for their costs herein expended.

And afterwards to wit on the same day of the same said Term, the following proceedings were had in said cause, and entered of record in said Court, in words and figures following to wit:

John Armstrong & Thos
vs.
Daniel Chrisman &
Eli Carter

Ejectment.

Now here, the defendants by their Attorney file their motion for a new trial, which is overuled by the Court. Thereupon said defendants, file their bill of exceptions to the opinion and decision Of the Court in this cause. which is allowed and signed by the Court: and said Defendants by their Attorney, file their affidavid and pray, an appeal from the judgment and decision of this Court, to the Supreme Court of this State. Whereupon Rufus K. Sanders as principal and Harold Sanders and Thomas H. Kelley as Securities, acknowledge themselves to be jointly and severally indebted to the said plaintiffs, in the Sum of two Hundred dollars to be levied upon their respective goods and Chattles lands and tenements, upon this condition; that should the said Defendant prosecute their appeal with due diligence to a decision in the Supreme Court, and if the judgment herein appealed from is affirmed or the appeal dismissed, they will pay whatever damages and costs have been recovered against them by the judgment of this Court, and that they will also pay the costs and damages that may be adjudged against them in the Supreme Court, upon this appeal, then this recognizance to be void, else to remain in full force. And thereupon said appeal is granted by the Court.

7 Which bill of Exceptions is in words and figures following to wit:

John Armstrong & others
vs.
Daniel Chrisman & Eli Carter

Ejectment.
September Term 1849.

Be it remembered that at the trial of the above cause, the plaintiffs give the following evidence to wit: A patent dated the 10th day of May 1826. in words and figures following:
"John Quincy Adams President of the United States of America, To all to whom these Presents shall Come Greeting: Know Ye that William Armstrong assignee of Angus L. Langham having deposited in the General Land Office a Certificate of the Register of the land Office at St. Louis, in Missouri, Whereby it appears that full payment has been made for the North half of Section Thirty three in Township forty Seven, north of Range two west, containing Three Hundred and twenty acres. of the Lands directed to be sold at St. Louis, by the Acts of Congress providing for the Sales of the Lands of the United States in Missouri, There is Granted, by the United States unto the said William Armstrong & to his Heirs the half lot or Section of land with the appurtenances unto the said William Armstrong & to his heirs and assigns forever.

In Testimony whereof I have caused these letters to be made Patent and the Seal of the General Land Office to be hereunto affixed. Given under my hand at the City of Washington, the tenth day of May, in the Year of our Lord One Thousand eight Hundred and twenty six, and of the

L. S.

Independence of the United States of America the fiftieth.

J. Q. Adams.

By the President.

Recorded in Volume 7 Page 17. G. W. Graham

Commissioner of the General Land Office.

Defendants admit that they were in the possession of the premises as charged in the declaration.

The plaintiffs then read the following Depositions to wit:

Margaret Williams of lawful age being produced and after first being duly cautioned and solemnly Sworn deposeth and says:

1st. Quest: Please state whether you was acquainted with Capt. William Armstrong? if you state whether he is living or dead? and if deceased state the time he died as near as you can recollect.

Ans: I saw Capt William Armstrong a few times in his life time. He is now dead as I am informed & verily believe he deceased sometime in the year eighteen Hundred and twenty Seven.

2nd. Quest. Was he ever married?

Ans. No he was not. I never heard of him being married.

3rd. Ques. Did he have any children?

Ans. He left none.

4th. Ques. Did Mr. Armstrong make and leave a Will or not when he died?

4 Ans- He made and left a Will.

5th. Ques- Did Mr. Armstrong leave any brothers or sisters? if yea, what were their names? and the names of their decendants? their inter-marriages, and with whom did they intermarry?

Ans- He had one brother by the name of John and one by the name of Hugh, he had one sister by the name of Jane, inter-married with Campbell; one by the name of Eliza, inter-married with Samuel Williams, and one by the name of Ann, intermarried with Jacob Aid. Hugh Armstrong is dead, and never was married. Jane Campbell I believe is dead. I don't know the names of his children. Eliza Williams is also dead. She left four Children Viz: Mary A. inter-married with Samuel J. A. Abbott; Edward D. Williams- Margaret W. inter-married with William D. Ellsworth. Eliza Jane inter-married with Stephen Widney.

6th. Ques: State as near as you can the time the above marriages took place.

Ans- I do not know when John Armstrong was married. I do not know when Jane Campbell was married. I think Eliza Williams was married in the year 1809. and Ann Aid in 1820. Mrs Abbott was married about 1832. Margaret Ellsworth was married in 1839. Eliza Jane Widney was married in 1844.

7th Ques. State whether the plaintiffs in this suite are the heirs of Capt. William Armstrong Decd and whether they are all of age or married?

Ans: Those that I have innumerated above are the heirs of Capt. William Armstrong and are of age and maried as above stated.
At 6, O'clock P.M. this depposition continued till tomorrow to the hour named in the annexed notice

Rob Moor
associate Judge.

July 26th. 1848.

The above named Margaret Williams, appearing, pursuant to adjournment, and now for answer to so much of the last question as she may not already answered, says that those of the plaintiffs that I have not innumerated are reputed to be the heirs of Capt. William Armstrong Decd.

8th. Ques. Who are the parents of Mary A. Chums Eliza Campbell, John Campbell and Robert Campbell

Ans. Jane Campbell the sister of Capt. William Armstrong, is their reputed Mother.

9th. Ques: With whom did Mary A. Chums formerly Mary A. Campbell, inter marry?

Ans. I have been informed and verily believe, she was maried to Michael Chums one of the

11. plaintiffs in this Suit.

10th Ques- Are the parents of Capt William Armstrong dead? if so, what time did they die?

Ans- About the year 1808.

Margaret Williams.

John F. Wright being produced and after being duly sworn as hereinafter interrogated Says:

Ques. 1st. State if you please whether you are acquainted with the plaintiffs in this Suit or not?

Ans: I am acquainted with Edward F. Williams Samuel Abbott, William I. Ellsworth Mary Abbott, Margaret N. Ellsworth Eliza I. Woodney and with N. Woodney by reputation

2nd. Question: Are you acquainted with the father of Edward F. Williams Mary A. Abbott Eliza I. Woodney Margaret N. Ellsworth and with whom the last three intermarried?

Ans- I am acquainted with Samuel Williams who is the reputed father of the above named plaintiffs in the Suit. the last three married Samuel Abbott W. P. Ellsworth and Stephen Woodney respectively.

3d Ques- State if you please who was Samuel Williams' first wife.

Ans- I have been informed and do verily believe she was the Sister of Capt William Armstrong and I have been informed and believe her name was Eliza.

4th. Question: Who was the Mother of the aforesaid plaintiffs?

Ans- From authentic information, I believe Mrs. Eliza Williams.

5th. Ques: How long have you been acquainted with Mr. Samuel Williams and his family?

Ans: For more than twenty three years, and I lived in his family the greater part of the year 1825.

John H. Wright

At 6 o'clock P.M. the further taking of these depositions is continued till to-morrow at the time and place mentioned in the annexed notice.

Robt Moor
Associate Judge.

Friday July 28th 1848. Pursuant to adjournment witnesses appeared. William Simmons of lawful age and after being duely sworn as hereinafter certified, deposeth and says:

1st. Question: Pleas state whether you are acquainted

13 with the plaintiffs in this suit.

Ans- I am acquainted with Jacob Aid, Edward Williams, William I. Ellsworth and Margaret W. Ellsworth his wife, Eliza Widney and Mary Abbott, the others I am not acquainted with.

2nd Ques: Who are the parents of Edward I. Williams, Margaret W. Ellsworth, Eliza Widney and Mary Abbott.

Ans- They are the children of Samuel Williams Williams by a former wife who was reputed to be the sister of Capt. William Armstrong Dec'd.

3d Ques- With whom did Mary A. Abbott & Eliza I. Widney intermarry?

Ans- Mary a. abbott formerly Mary A Williams married Samuel S. A. abbott, and Eliza I. Widney formerly Eliza I. Williams, married Stephen Widney, as I have been informed and do verily believe.

4th Ques:- How long have you been acquainted with Mr. Samuel Williams and family?

Ans- Since the fall of the year 1822.

William Simmons.

Friday 28th July 1848. at 6. O'clock P. M. The further taking of these deppositions is continued till tomorow at the time and place mentioned in the annexed notice

July 28th 1848. Robt Moor associate Judge

July 29th 1848.

The further taking of these depositions is now resumed pursuant to adjournment.

Samuel Williams being produced and sworn as hereinafter certifyed, deposeth and says as follows:

1st Question: Please State whether you were acquainted with Capt William Armstrong or not.- if yea, State whether he is living or not.

Answer:- I was acquainted with Capt William Armstrong from his boy-hood until his death which occured at Pensacola in Florida, about the 11th of February 1827.

2nd Question:- State whether his parents are living or not: and did he leave a widow and children or not?

Answer: The parents of Capt William Armstrong died, the one about forty years since, the other three or four years prior. He never married; Of course he left at his death neither widow nor

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children.

3d. Question: Did he die intestate or not?

Answer:- He made a Will on his death-bed which was set aside by a Decree of the Court of Common Pleas for Ros County Ohio, at its June Term 1833. on account of material defects and informality; an authenticated transcript of which Decree I now submit as part of my answer and which is marked A. and attached to my opposition in the case of John Armstrong & others vs. Daniel Chrismar.

4th. Question: Did the said Capt William Armstrong leave at his death any Brothers or Sisters or not- if yea, State their names. Whether or not any are dead, if yea, State their names and the names of their descendants- their intermarriages- When and with whom- Whether they are are all of age or not?

Answer: Capt William Armstrong left at his death one brother- John Armstrong (who is still living) and two Sisters, namely: Jane Campbell and Ann Aid; and the children of his Sister Eliza Williams- who died in March 1820. His Sister Ann Aid is still living, and resides in Brown County, and intermarried with Jacob Aid in 1820. His sister Jane Campbell died some four or five Years since: leaving the following Children, to wit: Mary A. Campbell Eliza Campbell

John S. Campbell and Robert Campbell. Mary A. Campbell intermarried (as I have learned and verily beleive) some year or two since to Micheal Churms, all of which children of Jane Campbell, reside in the State of Pensylvania. His Sister Eliza Armstrong, was married to myself in 1809 and died as above stated in March 1820. leaving four children to wit: Mary Armstrong Williams Edward Tiffin Williams Margaret Widney Williams & Eliza Jane Williams.

Mary A Williams intermarried (I think) in 1832. with Samuel J.H. Abbott, both living in the State of Indiana. Edward J. Williams is living and resides in the State of Tennessee. Margaret W. Williams intermarried in 1839. with William J. Ellsworth and resides in the City of Cincinnati. Eliza J. Williams intermarried in Jan 1845 with Stephen Widney both of whom are living and reside in Miami County Ohio. Capt William Armstrong had besides the brother and sister above named two sisters and one brother. One of these sisters to wit, Sarah Armstrong died about the year 1807. was never married and of course left no children. and the other Catharine Armstrong, was married to Robert Blackburn in 1799. and died the year following leaving no children. The brother last alluded to was Hugh Armstrong who never married & had no children and who died in Kentucky about the year 1822 or 1823. as well as I now reccollect.

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The aforesaid persons to wit: John Armstrong Ann Aid, Jacob Aid, Mary A Chunns, Michael Chunns Eliza Campbell John L. Campbell Robert Campbell Edward T. Williams, Mary A. Abbott, Samuel I. H. Abbott Margaret W. Ellsworth William I. Ellsworth Eliza I. Rodney & Stephen Rodney are to my certain Knowledge the heirs, and the only heirs of Capt. William Armstrong, aforesaid, Deceased. I cannot state with certainty that all the aforesaid Children of Jane Campbell deceased, are of age; although I believe they all are. But all the other heirs named are to my certain Knowledge, of Lawful age.

Sam Williams.

And also the Record marked "B." as follows to wit:

Ross Common Pleas June Term 1833. Friday June 7th.

Jacob Aid & wife Compl.

vs

In Chancery.

James Campbell & wife et al Respt.

An issue in this cause having been directed by the Court at June Term 1833. the same was continued from time to time until the present Term. And now this day came the Solicitor by his counsil and the Defendant being in Court the infants by their Guardian, thereupon came a Jury to wit: "James H. King Johnson Lofland Joseph Tiffin John Rodgers Thomas Bruce George Eyestone Samuel Cole John Long Wm. Hewitt Adam Kerr Abraham Day & Henry Heikel who were elected tried and sworn the truth to speak upon the issue aforesaid to wit: Whether the writing refered to in the bill, in this cause

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and now produced to wit a writing purporting to be a non-cupative will made by William Armstrong (18) now Deceased and recorded in this cause to the last will and testament or non-cupative will of said testator or not and the Jury having heard the evidence & arguments of Counsel in the matter aforesaid do say we the Jury do find that the said paper is not the non-cupative will nor the last will and testament of the testator aforesaid. The Court do thereupon order and decree that the Verdict aforesaid be final and conclusive between the parties in the matters aforesaid, that the said will or paper be and the same is hereby cancelled rescinded or vacated and that the Administrator of said William Armstrong distribute the assets of said Estate as in cases of intestacy and in accordance with the act regulating the distribution of intestate Estates and it is further ordered that the adult Defendants pay the costs of this Suit.

The State of Ohio }
Pike County } ss I Humphrey Fullerton Clerk of the Court of Common Pleas for the County aforesaid do hereby certify that the aforegoing is truly copied from the minutes of said Court.

In Testimony whereof I have hereunto set my hand & affixed the Seal of said Court this 2nd day of July A. D. 1833 & of this State the 31st

L. S.

Humphrey Fullerton
Clk.

19. Amt of Estate as settled by Court — $2050.94.

| | |
|---|---|
| Locke fee | $ 5.00 |
| Clerk | 5.14 |
| Shff Martin | 1.49 |
| do Tarlton | 83 |
| Jury fee | 6.00 |
| Deposition | 50 |
| Printers fee | 4.00 |
| | 22.96. |

Also the Deposition of Charles T. Armstrong in words and figures as follows to wit:
Charles T. Armstrong being of lawful age produced and sworn deposeth and says:
Question by Plaintiffs Counsel: "Have you any interest in the suit in which this deposition is to be made as evidence?

Ansr:— I have none.

By same: Do you or not, Know when & where Capt. William Armstrong brother to the plaintiffs John Armstrong died?

Ansr: He died about the year 1827 or 1828. at Pensecola, Florida.

By same: Did or not Capt Armstrong leave a widow?

Answ: He died not.

By Same: Were or not the Father & Mother of the said Capt William Armstrong dead at the time of his death?

Ansr. They were.

By Same: Did or not the said Capt William Armstrong leave Children?

Ansr. He did not leave any Children.

By Same: Did he or not leave a Will at his death?

Ansr. He did not make a Will to my Knowledge.

By Same: Please State if you Know the brothers & Sisters of the said Capt William Armstrong and if any of them are dead, the names of their descendants, & if any are married, with whom they intermarried, & at what time they married.

Ansr. The names of his brothers & Sisters were John Armstrong, Anne Aid who intermarried with Jacob Aid, she married I think about 25 years ago. Jane Campbell who intermarried with James Campbell the time I do not Know. & Eliza Williams who intermarried with Saml Williams the time I do not Know.

21 John Armstrong Ann Aid, Jane Campbell and Eliza Williams were all the brothers & sisters of the said Capt. William Armstrong. Jane Campbell died about years ago leaving as I understand, four children Robert Campbell John S. Campbell Eliza Campbell & Mary, who intermarried Michael Churms time not known. Eliza Williams is also dead, she left four children, Edward T. Williams, Mary, who intermarried with Saml Abbott, Margaret, who intermarried with William Ellsworth, & Eliza who intermarried with Stephen Woodney. I cannot state positively when either Mary, Margaret or Eliza Williams married: their Mother Eliza Williams died about twenty two years ago.

By Same: Are not John Armstrong, Ann Aid, (who intermarried with Jacob Aid) Mary Churms, who intermarried with Michael Churms Eliza Campbell Robert Campbell & John S. Campbell heirs and children of Jane Campbell late Jane Armstrong dec'd, Edward T. Williams, Mary Williams who married Saml Abbott Margaret Williams who married William Ellsworth, & Eliza Williams who intermarried with Stephen Woodney, heirs & children of Eliza Williams, late Eliza Armstrong, who are the plaintiffs in the suit in which this deposition is to be made as evidence the heirs of the said Capt William Armstrong dead, & are they not all the heirs he left.

Ansr. They are the heirs of Capt William Armstrong dec'd, and the only heirs he left. (22)

By Same: Do you or not know that all of the aforesaid heirs are of age?

Ansr. I well know that all of them are of age, unless it is the youngest of Jane Campbells children, and from all I know, in relation to said children, I believe the one alluded to by me is of age.
And further deponant saith not.

C. T. Armstrong

Justices fee. $1.00 paid by John Armstrong.

The plaintiffs proved the annual rents to be worth about forty Dollars and the monthly rent to be about three Dollars. Here Plaintiffs closed their evidence.

The Defendants then read the Sheriff's Deed in words and figures following to wit:

"Whereas, The State and County taxes for the year herein specified on the following described real Estate lying and being in the County of Warren and State of Missouri, and which was assessed in the name of the person herein set forth Remained due the State and County amounting to the sum of thirty one dollars.

23. and (ninety) cents including the interest and other incidental costs.

| To whom Assessed | No. of Acres. | 100 ths. | Parts of Section or No. of Survey | Section. | Township. | Range. | For what year the taxes remained due. | Local Description. |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | 1828 - 1831 - 1832 - 1835 - 1836. 1837 & 1838. | |
| Angus L. Langham | 320 | . . | North half | 33 | 47. | 2. | | |

And the Register of Lands of said State having advertised, the said real Estate for Sale according to law, to pay and satisfy said taxes and the penalties and the said taxes and penalties remaining due and unpaid on the fourth day of September in the year one thousand eight Hundred and forty three; I, the undersigned Sheriff of said County, did offer for Sale according to the said advertisement and thereupon on the day last aforesaid, at the place of holding Court in said County, did sell the said real Estate and Eli Carter being the highest bidder became the purchaser thereof for the sum of Three Hundred and thirteen Dollars and — cents. Now therefore I, Anthony Wyatt Sheriff of said County in consideration of the premises and in pursuance and by authority of an act of the General Assembly of said State in that case made and provided, have granted, bargained and sold and do by these presents grant bargain and sell unto the said Eli Carter and to his heirs and assigns forever the said real Estate last mentioned and described subject however to redemption by any person

interested who is a minor under the age of twenty one years as by law it is provided. Provided, nevertheless and it is expressly understood that the words grant bargain and sell herein used, shall not be construed or adjudged to amount to a covenant that the grantor or bargainor, was, or is seized of an indefeasible Estate in fee simple in the above described real Estate, or that the same was or is free from incumbrances: or for further assurance thereof to be made by the bargainor. To have and to hold the aforesaid granted bargained and sold real Estate, unto the said Eli Carter and his heirs and assigns forever.
In Testimony whereof I have hereunto set my hand and affixed my seal the thirteenth day of October, A.D. 1843.

Anthony Wyatt (Seal)
Sheriff of Warren County Missouri.

State of Missouri }
Warren County } ss. Be it remembered that on this thirteenth day of October in the year of our Lord Eighteen Hundred and forty three before me William W. Adams a Justice of the peace within and for said County of Warren and State aforesaid, personally appeared Anthony Wyatt Sheriff of Warren County aforesaid, who is personally known to me to be the person whose name is subscribed to the foregoing deed as Sheriff of Warren

County as aforesaid and as a party to said Deed and he acknowledged the same to be his official signature & his act and Deed for the purposes mentioned in said Deed. Taken and certified the day and Year aforesaid in said Warren County and State of Missouri.
Filed for Record October 18th 1843.

William H. Adams Justice of the Peace.

Plaintiffs admit that said Deed is in conformity with a printed form furnished the Sheriff by the Register of Lands.

It was admitted by the Plaintiffs that the land sold by Wyatt Sheriff to Eli Carter is in Range ten west of the 5th principal Meredian.

Here the Defendants close their evidence.

The Plaintiffs here gave the following rebutting evidence.

The deposition of Jacob A. Sharp and the documents accompanying the same.

State of Missouri
Montgomery County } ss.

Be it remembered that on the tax book filed by the assessor of said County in the office of the Clerk of the County Court in and for said County for the year one thousand eight Hundred and twenty eight the following entries appear.

| Present Claimant | original Claimant | Quantity of Land | | Part of Section or No. of Survey | Section | Township | Range | Water course | Valuation in Dollars | amt of State Tax | | amt of County Tax | | Arrearages |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | acres | hds. | | | | | | | dolls. | cts. | dolls. | cts. | |
| Langham Angus L. | A. L. Langham | 320 | . | S 1/2 | 28 | 47 | 2 | | 400 | | | | | 1821-22-23-24-25-26-27. |
| Same | Same | 320 | . | N 1/2 | 33 | 47 | 2 | | 400 | 8 | 34 | 4 | 17 | 1821-22-23-24-25-26-27. |

And on the list of taxable Lands furnished for Montgomery County aforesaid, by the Auditor of Public accounts of the State of Missouri, for the year one thousand eight Hundred and thirty eight aforesaid, appears the following entries.

A complete list of all the Lands subject to taxation for the year 1838 lying in Montgomery County:

| Names of Purchasers | quantity in acres and hundredths of an acre. acres | hds. | Parts of Section & their numbers. quantity & Section &c | Section | Township | Range | Years for which it is supposed no assessment was made consequently the taxes not paid. |
|---|---|---|---|---|---|---|---|
| Angus L. Langham | 320 | . | S 1/2 | 28 | 47 | 2 | 1821. 22. 23. 24. 25. 26. 27 |
| Same | 320 | . | N. 1/2. | 33 | 47 | 2 | 1821. 22. 23. 24. 25. 26. 27. |

And on the Tax book Returned by the Collector of said Montgomery County for the year 1829. the following entries appear.

(turn over)

| Present Claimant | Original Claimant | Quantity of acres | Hundredths | Part of Section & No. of Survey | Section | Township | Range | Water course | Valuation in dollars | amt of State Tax | | amt of County tax | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | Doll. | Doll | Cts | Doll | cts | |
| Langham Angus L. | A.L. Langham | 320 | " | S 1/2 | 28 | 47 | 2 | | 400 | | | | | |
| Same | A.L. Langham | 320 | " | N. 1/2 | 33 | 47 | 2. | | 400 | | | | | |
| Same | A.L. Langham | 152 | 89 | S.E. fl | 1 | 45 | 6. | Missouri River | 450 | | | | | |
| Same | A.L. Langham | 89 | 73 | fl | 11+12 | 45 | 6 | do do | 268 | | | | | |
| Same | A.L. Langham | 50 | 20 | fr | 3+4 | 45 | 6. | do do | 150 | 4 | 17 | 2 | 08½ | |

On the tax book returned for said County of Montgomery by the Assessor of said County for the year 1830 the following entries are found.

| Witness Names | Original claimants. | Quantity of acres | Hundredths | Part of Section & No. of Survey | Section | Township | Range | Water Course | Value of land in dollars. | Value of tax for each year in arrears | | amt of Tax | | Years in arrears. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | Doll | cts | |
| Langham Angus L. | Angus L Langham | 320 | " | S 1/2 | 28 | 47 | 2 | Charette Water | 400 | 400 | | | | 1821.22.23.24.25-26.27. |
| Same | do do do | 320 | " | N. 1/2 | 33 | 47 | 2 | do do | 400 | 400 | | | | 1821.22.23.24.25-26.27 |
| Same | do do do | 152 | 89 | S.E fl. pr. | 1 | 45 | 6 | Missouri River | 400 | 400 | | | | 1821.22.23.24.25-26.27 |
| Same | do do do | 89 | 73 | fl | 11+12 | 45 | 6. | do do | 268 | 268 | | | | 1821.22.23.24.25-26.27. |
| Same | do do do | 50 | 20 | fr. Sec | 3+4 | 45 | 6 | do do | 150 | 150 | | 32 | 36. | 1821.22.23.24.25-26.27. |

27 And for the year 1831 on the tax book returned for said County of Montgomery the following entries are found.

(28)

| Present Claimant | Original Claimant | Acres | Hundredths | Parts of Section & No. of Survey | Section | Township | Range | Water course | Value in Dollars | | amt of State Tax | | amt of County Tax | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | Angus L. Langham | 320 | | | | | | | | | | | | |
| Same | Same | 320 | | S. 1/2 | 28 | 47 | 2 | Charitee | 400 | | | | | |
| Same | Same | 320 | | N. 1/2 | 33 | 47 | 2 | Same | 400 | | | | | |
| Same | Same | 152 | 89 | | | 45 | 6 | Missouri | 400 | | | | | |
| Same | Same | 89 | 73 | S E fr. qr. | 1 | 45 | 6 | Same | 268 | | Dolls | Cts | Dolls | Cts |
| Same | Same | 50 | 20 | fractional 1 1/2 | 12 | 45 | 6 | Same | 150 | | 2 | 69 | 2 | 69 2/3 |
| Same | Same | 50 | 20 | fractional 3 1/4 | | 45 | 6 | Same | | | | | | |

And on the Tax books returned for said County of Montgomery for the year of our Lord 1832 the following entries are found.

| Present Claimant | Original Claimant | Quantity of Land | Hundredths | Part of Section Number of Survey | Section | Township | Range | Water Course | Valuation in Dollars | State Tax | | County Tax | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | Dolls | Cts | Dolls | Cts |
| Langhams Angus L. | Angus L Langham | 320 | " | S. 1/2 | 28 | 47 | 2 | | 640 | 1 | 06 2/3 | 1 | 06 2/3 |
| Same | Same | 360 | " | N. 1/2 | 33 | 47 | 2 | " | 640 | 1 | 06 2/3 | 1 | 06 2/3 |

State of Missouri
Montgomery County } ss. I, Jacob L. Sharp Clerk of the County in and for said County certify that the foregoing is a true abstract from the Tax Book for the years therein expressed, and Auditors List of taxable lands for the year 1828 which said Copy and list are now on file in my office and that the same is all that is to be found in my office in relation to the lands therein mentioned.

In witness whereof I have hereunto set my hand and affixed the seal of said Court at office in the Town of Danville, the twelfth day of September in the year of our Lord 1848.

L. S.

Jacob L. Sharp Clerk

28

29

The Plaintiffs also gave in evidence the assessment for the Years 1835. 1836. 1837 & 1838. in Warren County as follows:

Two manuscript books were brought into Court which had no official authentication upon them. The Clerk stated that these were the only books purporting to be tax books in his office for the years 1835- 1836- 1837. & 1838. that they were on file in his office when he came into office— The following are correct extracts & Copies from said Books, at the head of the page is written as follows:

"A list of Non-Residents lands charged with tax in the County of Warren for the year 1835,"
The Columns on sd page are Laid off & headed as follows:

| Present Owners | Original Claimants. | | | | | | | Amt of State Tax | | Amt of County Tax | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | $ | cts | $ | cts |
| Langham Angus L. | A.L. Langham | 320 | | S 1/2 | 28 | 42 | 2 | | | | |
| Same | Same | 320 | | N 1/2 | 33 | 47 | 2 | 1280 | 1 | 60 | 1 | 60 |

The above is a correct copy of the manner in which the Land in Controversy & no other tract is Taxed— Extracted from the book above mentioned.

The following is a correct Extract from the book of 1836.

| Names of Present Owners of Land | Original Owners of Land | No. of Acres | State | Part of Sec. No. of Survey | Sec. | Town | Range | Valuation | Amt of State Tax | | Amt of County Tax | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | Angus L. Langham | 320 | " | S 1/2 | 28 | 47 | 2 | | | | | |
| Same | Same | 320 | " | N 1/2 | 33 | 47 | 2 | 1280 | 1 | 60 | 1 | 60 |

The following is a correct extract of the book of 1839.

| Names of owners of Land | original owners of land | Quantity of acres | Part of Sec & No of Survey | Sec | Town | Range | Value | Amt of State Tax | Amt of County tax |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | $ ct | $ ct |
| Langham | Angus L. | Angus L. Langham | 320 | N½ | 28 | 47 | 2 | | |
| Same | | Same | 320 | N½ | 33 | 47 | 2 | 1280 | 1 06 8/12 | 1 06 8/12 |

The following is a correct extract of the book of 1838.

| Names of owners of Land | original owners of Land | Quantity acres | Part of Section & No. of Survey | Sec | Town | Range | Value | Amt State Tax. | Amt of County tax. |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | $ ct | $ ct |
| Langham | Angus L. | Angus L. Langham | 320 | N½ | 28 | 47 | 2 | | |
| Same | | Same | 320 | N½ | 33. | 47 | 2 | 1500 | 1 25 | 2.50 |

The following is an extract of the list sent by the Register to the Clerks Office, by virtue of which the Sheriff sold so far as said list relates to the land in question.

| To Whom assessed | Acres | parts of Section or No of Survey | Sec | Town | Range | 1828 | 1831 | 1832 | 1835 | 1836 |
|---|---|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S. half | 28 | 47 | 2 | 178 70 | 66⅔ | 66⅔ | 106⅔ | 106⅔ 80 | 160. 80 | 2 00 |
| Same | 320 | S. half | 33. | 47 | 2 | 178 70 | 66⅔ | 66⅔ | 106⅔ | 106⅔ 80 | 160.80 | 2 00 |

The Table to be extended.

| 1837 | 1838 | State | County |
|---|---|---|---|
| 27 27 | 62 125 | 15.07 | 16.83 |
| 27 27 | 62 125 | 15.07 | 16.83 |

31 There are many other tracts & other columns on this page but this is all relating to these lands.
~~There~~
Also the Deposition of William O. Applebee with the accompanying documents.

Wm O. Applebee of lowful age being produced sworn and examined on the part of the Defendant deposeth and saith that he is a clerk in the office of the Register of lands of the State of Missouri — that he has examined the Records of said office, and that the following are true copies of the entries relating to the lands hereinafter mentioned and described (except the assessors Books) to wit: It appears from the Record that Angus L. Langham became the purchaser from the United States Government on the 19th day of September 1818. of the South half of Section twenty eight Township forty seven Range two west containing 320 acres and A. L. Langham purchased from the same at the same time, the North half of Section thirty three Township forty seven Range two west containing 320 acres — The following are copies of entries in the Delinquent lists of Lands in the Counties of Montgomery & Warren for the years hereinafter set forth to wit:

| To whom assessed | acres | Pts of Section | S. | T. | R. | Water course | Valuation | Total | Tax. | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | From Delinquent list Montgomery County 1828. | | | | | | | |
| Langham Angus L | 320 | S. ½ | 28 | 47 | 2 W | Missouri | 400 | | | Double taxed 1821 22. 23. 24. 25. 26 & 27 |
| Saine | 320 | N. ½ | 33 | 47 | 2 | | 400 | 12 | 60 | Doubled Taxed 1821. 22. 23. 24. 25. 26 & 27. |
| | | | The taxes on these two & three other tracts amount to | | | | | 12 | 51 | |

From the Delinquent list 1829.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | 4 00 | |
| Same | 320 | N. 1/2 | 33 | 47 | 2 | 4 00 | |

Assessed with three other tracts tax on all 6 25

From Delinquent list 1830

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | 4 00 | 1821.22.23.24.25.26.27 |
| Same | 320 | N 1/2 | 33 | 47 | 2 Charlton | 40 | 1821.22.23.24.25.26.27. |

Assessed with three other tracts make 48.54

From Delinquent list 1831.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 Charlton | 400 | |
| Same | 320 | N. 1/2 | 33 | 47 | 2 " | 4 00 | |

Assessed with three other tracts tax on all 5 39.

From Delinquent List 1832.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | 640 | |
| Same | 320 | N 1/2 | 33 | 47 | 2 | 640 | |

Assessed with three other tracts tax on all 4 26

Copies of entries in the Delinquent lists of Lands in Warren County Missouri. for the years hereinafter set forth to wit:

From the Delinquent List of 1833.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | 640 | | |
| | 360 | N 1/2 | 33 | 47 | 2 | 640 | 3 | 20 |

From the Delinquent List 1834

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus | 320 | S 1/2 | 28 | 42 | 2 | | | |
| | ~~320~~ | N 1/2 | 33 | 47 | 2 | 1280 | 4 | 80 |

From the Delinquent list 1835.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus | 320 | S 1/2 | 28 | 47 | 2 | | | |
| Same | 320 | N. 1/2 | 33 | 47 | 2 | 1280 | 4 | 80 |

From the Delinquent list 1836. (1836) Note. this is taken from the Record of the delingt list for 1836 + not the delingt list.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | | |
| Same | 320 | N 1/2 | 33 | 47 | 2 | | 3 | 26 |

From the Delinquent List 1837.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | | |
| | 320 | N 1/2 | 33 | 47 | 2 | 1280 | 3 | 20 |

From the Delinquent List 1838.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | 3 | 75 |

From Delinquent List 1839.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | 7 | 50 |

From Delinquent List 1840.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | 1500 | 5 | 62 1/2 |

From Delinquent List 1842. 3.44 pd by Angus L. Langham

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | 1450 | 5 | 44 | Dec 4th 1843 — Pd by E. Carter, Dec 4, 1843. |
| State | 320 | N E. | 33 | 47 | 2 | 400 | 1 | 50 | |

The following entries are taken from lists of Lands sold for taxes in the years hereinafter set forth made in Montgomery County Missouri to wit:

August 1st 1829 for Taxes 1828.

| | | | | | | | | | To whom Sold |
|---|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | 400 | 2 | 48 | State |
| Same | 320 | N 1/2 | 33 | 47 | 2 | 400 | 2 | 48 | State. |

June 15th 1832. for taxes 1831.

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | Wales of Charette | 400 | 1 | 33 1/3 | State 1828 |
| Same | 320 | N 1/2 | 33 | 47 | 2 | | 400 | 1 | 33 1/3 | State 1828. |

July 1st 1833 for Taxes 1832.

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | 640 | 2 | 13 | State 1828 |
| Same | 360 | N 1/2 | 33 | 47 | 2 | | 640 | 2 | 13 | State 1828 |

(54)

The following is an entry taken from Record of lists of Lands entered out for sale to the Sheriff of Warren County for the taxes for the years following:

1828 | 1831 | 1832 | 1835 | 1836 | 1837 & | 1838 | Said sale made in the year one thousand Eight Hundred and forty-three- being for the following described Land to wit:

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Langhum Angus L. | 320 | 1 Half | 28 | 47 | 2 | | 31 | 90 | |
| Same | 320 | 1 Half | 33 | 47 | 2 | | 31 | 90 | Which said |

Tracts of Land last mentioned are not returned as unsold And further the Deponent saith not.

William O. Applebee

Sworn to & subscribed before me a Justice of the Peace this 12th day of Sept 1848.

Hiram H. Baber
Justice of the Peace.

Jefferson Township Co. of Cole & State of Missouri.

State of Missouri
County of Cole } ss

I Hiram H. Baber a Justice of the Peace within and for the County of Cole and State of Missouri, do hereby Certify that William O. Applebee the deponent was by me duly sworn to Certify the Whole truth of his knowledge touching the matter in Controversy aforesaid, that he was examined and his examination reduced to writing and by him subscribed in my presence at the day between the hours and at the place in that behalf first aforesaid.

Hiram H. Baber
Justice of the Peace

35

The Plaintiffs then read two Certificates from the Register and Receiver of Land Office at St. Louis. in words and figures following toit.

United States Land Office
Receivers office St. Louis Mo.
April 20th 1849.

I, Richard B. Mallam Receiver of monies in the office above do hereby Certify that Angus L. Langham of the County of St. Louis and Territory of Missouri entered at this office the S½ of Sec 28. T. 47 N. of R. 2. W. containing 320 acres at two Dollars and one cent pr acre on the 14th day of August 1814 pur Receipt 172 upon which he that day paid the Sum of Thirty two dollars and sixteen cents ($32.16/100) that he also paid upon the same One Hundred and Twenty eight dollars and sixty four cents ($128.64/100) upon the 19th day of September 1818. and he also paid by relinquishment of certain other tracts of Land the several Sums of $139.36/100 - $160 00/100 - 96.43/100 - $86 62/100 making in all Six hundred and forty three dollars and twenty cents ($643.20/100) being in full payment on the twenty ninth of September eighteen Hundred and twenty one for the S½ of Sec 28, T. 47. N. R. 2. west of the 5th pl. Meridian, as the same appears upon Record in the Books in this office.

Given under my hand this 20th day of April 1849. at the office above mentioned

Rich.d B. Mallam Receiver
United States Land office.

(37)

Registers Office St Louis Mo.

I Thomas Watson Register of Lands in the above Office do hereby Certify that I have examined the Books in my office as well as those in the office of the Receiver above mentioned and that I find the same to be in accordance with the facts above set forth in the foregoing certificate of the Receiver.

Witness my hand this 20th day of April 1849.

Thomas Watson
Register.

St. Louis Missouri April 20th 1849.

This day personally appeared before me the undersigned a Notary Public within and for the County of St Louis, and State of Missouri, the within named Richard B. Mallam Receiver and Thomas Watson Register who are both personally known to me to be the same persons who are acting as Register and Receiver in said offices and are the same identical persons who have subscribed to the within and foregoing certificates this day and year above written and who severally subscribed to the same in my presence.

Witness my hand and Notorial Seal this 20th day of April 1849. St. Louis Mo.

L. S.

Augustus W. Short Notary Public within & for the County of St. Louis & State of Missouri

37.

United States Land Office
Receiver's Office St. Louis, Mo.
April 20th 1849.

I Richard B. Vallam Receiver of Monies in the above Office do hereby Certify that Angus L. Langham of the County of St. Louis and Territory of Missouri entered at this Office the N.½ of Sec 33. T. 47. N. R. 2. W. containing 320 acres at two Dollars and one cent per acre. on the 14th day of August 1814 per Receipt No. 173. upon which he paid on that day the sum of Sixty two dollars and sixteen cents ($62,16/100) that he also paid upon the same one Hundred and twenty eight Dollars sixty four cents ($128.64/100) upon the 19th day of September 1818, and that also paid upon the same by the Relinquishment of certain other tracts of land the Several sums of $54.15/100 $80.00 $184.00 $164.00 on the 29th day of September 1821 being in full Payment for the N½ of Sec. 33. T. 47 N. R. 2. W. of the 5th Pl. Meridian as appears upon Record on the Books in this Office.

Given under my hand this 20th day of April 1849 at the office above mentioned.

Richd B Vallam Receiver.

United States Land Office
Register Office St Louis Mo.

I Thomas Watson Register of Lands in the above Office do hereby Certify that I have examined the books in my Office as well as those in the Office of the Receiver above mentioned and that I find the same to be in accordance with the facts above set forth in the foregoing Certificate of the Receiver.

Witness my hand this 20th day of April 1849.

Thomas Watson Register.

(38)

St. Louis Missouri April 20th 1849.

This day Personally appeared before me the undersigned a Notary Public within and for the County of St. Louis and State of Missouri the within named Richard B. Mallam Receiver and Thomas Watson Register who are both to me personally known to be the same persons who are acting as Receiver and Register in said offices and are the same identical person who have subscribed to the within and foregoing certificate this day and year last above written who severally subscribed to the same in my presence

Witness my hand and official seal. St. Louis April 25th 1849.

L. S.

Augustus W. Schavit.
Notary Public within & for the County of St. Louis & State of Missouri

It is agreed that the date of entry of said Land was 14th August 1818. instead of 1824 as stated in said Certificate by mistake.

The Plaintiffs here close their rebutting evidence.

The Defendants then read the evidence of Robert H. Kyle as follows to wit:

Robert H. Kyle of lawful age being produced sworn and examined on the part of the Defendant deposeth and saith that he is a clerk in the office of the Register of Lands in the State of Missouri that he has examined the Records of said office and that the follow-

ing are true copies of the entries relating to the Lands hereinafter mentioned and described (except the assessor Books) to wit: It appears from the Record that Angus L. Langham became the purchaser from the United States Government on the 19th day of September 1818. of the South half of Section twenty eight Township forty Seven Range two west, containing 320 acres land and A. L. Langham purchased from the same at the same time the North half of Section thirty three Township forty Seven Range two west containing 320 acres. The following are copies of entries in the delinquent list of Lands in the Counties of Montgomery and Warren Mississippi for the Years hereinafter Set forth to wit:

| To whom assessed | acres | pts of Section | S. | T. | R. | Water Course | Valuation | State Tax |
|---|---|---|---|---|---|---|---|---|
| From Delinquent List Montgomery County 1828. | | | | | | | | |
| Langham Angus L. | 320 | S½ | 28 | 17 | 2 | W Mississi | 400 | Doubled Taxed 1821. 22. 23. 24. 25. 26 & 27. |
| Same | 320 | N½ | 33 | 17 | 2 | | 400 | Doubled Taxed 1821. 22. 23. 24. 25. 26 & 27. |

The taxes on these two & three other tracts amount to — — — 12 57

From the Delinquent List 1829.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S½ | 28 | 17 | 2 | | 400 | |
| Same | 320 | N½ | 33 | 17 | 2 | | 400 | |

assessed with three other tracts on all 6 25

From the Delinquent List 1830

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S½ | 28 | 17 | 2 | Chanelle | 400 | |
| Same | 320 | N½ | 33 | 17 | 2 | | 400 | |

assessed with three other tracts Tax one 48 54.

From Delinquent List 1831

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | Chariton | 400 | | |
| Same | 320 | N 1/2 | 33 | 47 | 2 | 2 | 440 | | |
| assessed with three other tracts tax on all | | | | | | | | 5 | 39. |

From the Delinquent List 1832

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | 640 | | |
| Same | 360 | N 1/2 | 33 | 47 | 2 | 640 | | |
| assessed with three other tracts tax on all | | | | | | | 4 | 20 |

Copies of entries in Delinquent List of Lands in Warren County Missouri for the Years hereinafter set forth to wit:

From the Delinquent List of 1833.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | 640 | | |
| Same | 360 | N 1/2 | 33 | 47 | 2 | 640 | 3 | 20 |

From the Delinquent List of 1834.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus | 320 | S 1/2 | 28 | 47 | 2 | | | |
| " | " | N 1/2 | 33 | 47 | 2 | 1280 | 4 | 80 |

From the Delinquent List of 1835

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | | |
| Same | 320 | N 1/2 | 33 | 47 | 2 | 1280. | 4 | 80 |

From the Delinquent List of 1836. (1836) Note. This is taken from the Record of the Delinquent List for 1836. and not the Delinquent List.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | | |
| | 320 | N 1/2 | 33 | 47 | 2 | | 5 | 26. |

From the Delinquent List 1837.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | | |
| Same | 320 | N 1/2 | 33 | 47 | 2 | 1280 | 3 | 20 |

From the Delinquent List 1838

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | | 3 75 |

From Delinquent List 1839.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | | 3 50 |

From the Delinquent List 1840

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | 1500 | 5 62½ |

From Delinquent of List 1842.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | 1450 | 3.44 |
| State | 320 | N. 1/2 | 33 | 47 | 2 | | 400 | 1.50 |

The following entries are taken from List of Lands sold for Taxes in the years hereinafter set forth made in Montgomery County Missouri, Towit:

August 1st 1829 for Taxes for 1828.

| | | | | | | | | | To whom Sold |
|---|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | 400 | 2 48 | State |
| Same | 320 | N 1/2 | 33 | 47 | 2 | | 400 | 2 48 | State. |

June 16th 1832 for Taxes 1831.

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | Wales of Schuylk | 400 | 1 33⅓ | State 1828 |
| Same | 320 | N 1/2 | 33 | 47 | 2 | | 400 | 1 33⅓ | State 1828 |

July 1st 1833 for Taxes of 1832.

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Langham Angus L. | 320 | S 1/2 | 28 | 47 | 2 | | 640 | 2 13 | State 1828 |
| Same | 360 | N. 1/2 | 33 | 47 | 2 | | 640 | 2 13 | State 1828. |

Delinquent lists have been received from Wasen County in due time from 1835 to 1843 and have been Recorded as the law directs in books Kept for that purpose for each of said Years, and when Taxes have been paid they were thus marked in the Margin of the Record of Delinquent Lists. The South ½ of Sec 28. Town 47. Range 2 is returned delinquent for the years 1835 1836. 1837 & 1838. and is recorded in the Records of Delinquent lists for said years, and does not appear to have been marked paid. The Record of taxes due for the 1835, is marked on the back "Struck off to State 2nd December 1839."

The Record of Taxes due for 1836, is marked on the back, "Struck off to to the State December 7th. 1840."

The Record of Taxes due for 1837, is marked on the back "Struck off to State 6th December 1841." The Record of Taxes due for 1838. is marked on the back. "Struck off to the State 7th. December 1842."

The South half of Section 28 Township 47. Range 2. lies in Wasen County and was advertised in 1843 in Justified list of Lands and contains 320 acres.

The following is an entry taken from the Records of lists of Lands certified out for Sale to the Sheriff of Wasen County for the Taxes of the years following. 1828. 1831. 1832. 1835 1836. 1837 & 1838. Said Sale made in the Year one thousand eight Hundred and forty three. being for the following described Lands to wit:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Langham Angus | L. | 320 | S/2 | 28 | 47 | 2 | 31 90 |
| Same | " | 320 | N/2 | 33 | 47 | 2 | 31 90 |

Which said tracts of land last mentioned are not returned as unsold.

Robert H. Kyle.

Sworn to & subscribed before
me a justice of the Peace
in & for the County of Cole
and State of Misouri this
5th day of August 1849

Hiram H. Baber Justice of the peace.

State of Misouri
County of Cole } I Hiram H. Baber a justice of the Peace
within and for the County of Cole in the State of Misouri
do hereby certify that Robert H. Kyle the deponant
was by me sworn to testify the whole truth of his
knowledge touching the matter in controversy aforesaid
that he was examined and his examination reduced
to writing, and by him subscribed in my presence
on the day, and between the hours, and at the place,
in that behalf aforesaid.

Hiram H. Baber } Cole
Justice of the Peace } County.

And this was all the evidence given in the
case.

The Plaintiffs then asked the following instruc
tions to which the Defendants objected, but which were
given by the Court to the giving of each of which
the Defendants excepted. Said instructions are as
as follows to wit:

Plaintiffs Instructions.

1st. If it appear from the evidence that the land in question
was assessed and valued with another piece of 320 acres
of land & that the piece in question was sold separately
from the other piece for a part of the tax assessed
on both pieces, this is such an irregularity as renders

Given

the Tax Sale under which the Defendant claims void.

2nd. If the land in question was assessed in the name of Angus L. Langham after said Langham was dead the Sale under such assessment is void.

Given

3d. If the land was assessed in the name of Langham when Langham was not the owner thereof but Armstrong or his heirs were patentees & owners thereof according to the Records of the United States Land office, this is such an irregularity as renders the tax sales void

Given

4th., If all the notices & publications given of the non-payment of taxes on said land, was given to persons not the owners & having no interest in said land The tax sales made in conformity with such notices is void as against the real owners.

Given

5th. If the land was entered in 1818. It was not taxable by law for five years thereafter To wit, til the year 1823 & If said land was sold for taxes assessed prior to 1823. such sale is void.

Given

6th. If said land was entered in 1818 and full payment therefor not made til 1821. Then said land was not taxable for five years til after full payment was made: To wit til after the year 1826 and if said land was sold for taxes assessed prior to the year 1826. such sale is void.

Given

45—
7th.,

Given

If the land was assessed in some of the years and valued with several other tracts such assessment was unlawful and the sale under such assessment void.

The Defendants then filed their motion for a new trial in the following words and figures to wit:

John Armstrong & others
vs
Daniel Chrisman &
Eli Carter

Ejectment. Sept. Term 1849.

The defendants move the Court to set aside the Verdict in the above cause and grant a new trial for the following reasons:

1. The Verdict is against Law
2. the Verdict is against the evidence in the cause.
3. The Court gave erroneous instructions in the cause.

R. K. Sanders.

Which motion the Court overruled to which judgment of the Court the Dfts. excepted and tenders this as their bill of exceptions thereto, and prays that the same may be signed and ordered to be made part of the Record in this cause.
Which is done.

Carty Wells.

The following are all the Costs taxed in the above cause of John Armstrong et al v John A Pulliam (Ejectment To Thomas J Marshall Clerk)

| | | | | |
|---|---|---|---|---|
| 1848 | | | | |
| March 15th | To filing | Declaration | | 05 |
| " " | " | Copy of do | | 17 |
| " " | | Certificate & Seal to Same | | 50 |
| " " | | Writ fi fa | 1 | 00 |
| April Term 2 | | appearances @ 10 | | 20 |
| " | | Joining Issue & filing plea | | 30 |
| " | | Motion for Cost 25 filing Same 5 | | 30 |
| " | | Taking Bond 25 filing Same 5 | | 30 |
| June 12 | To 2 | Dedimus 1 Kentucky 1 Ohio | 1 | 00 |
| Augt 31 | " | Postage on Depositions | | 60 |
| " " | | filing 7 papers @ 5 | | 35 |
| Sept term | " | Continuance | | 25 |
| April 1849 Term | | Motion to make Eli Carter Deft 25 filing 5 | | 30 |
| " " | | Continuance | | 25 |
| Sept Term | To 16 | appearances @ 5 | | 80 |
| " | " | Submission 25 Trial 25 | | 50 |
| " | " | Judgment 50 | | 50 |
| " | " | Order for Costs | | 25 |
| " | " | Motion for New trial 25 Order on Same | | 50 |
| " | " | Affidavit of appeal 25 | | 30 |
| " | " | Recognizance 25 filing Same 5 | | 30 |
| | | This transcript 14 000 words @ 10 pr hund | 14 | 00 |
| | | Cert & Seal to Same | | 50 |
| | | | 23 | 22 |

Jonathan Gordon Sheriffs fees
Serving Writ 1 00

47

| | | |
|---|---|---|
| Serving Notice of Depositions | | 50 |
| ~~Summoning 3 Witnesses @ 50~~ | | |
| Calling fees | | 40 |
| Robert Moore Judges fees for taking depositions | 5 | 00 |
| Edward C Roll Clerk Cert on Same | | 50 |
| Stephen H Slaughter for taking depositions | 1 | 00 |
| Thomas Helm Clerk Cert on Same | | 50 |
| Amount of Costs | $32 | 12 |

State of Missouri
County of Warren } ss I Thomas J Marshall Clerk of the Circuit Court in and for Said County & State Certify that the foregoing forty five pages contain a full and complete transcript of the Record and proceedings in the Cause of John Armstrong et al against Daniel Chriman & Eli Carter Defendants on a petition as the same remains in my office

Witness Thomas J Marshall Clerk of said Circuit Court with the seal thereof hereto affixed at office in Warrenton in Said Warren County Mo this 28th January AD 1850

Thomas J Marshall Clerk

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Eli Carter Appellant
vs.
John Armstrong & others

On appeal from judgment of Circuit Court for Warren County.

And the said Eli Carter comes here to the Supreme Court, and says that in the Record and proceedings in said Cause, and in the rendition of judgment therein, there is manifest error in this, to wit:

1st The Court erred in giving each of the instructions on behalf of said Appellees.

2d The Court erred in overruling Appellant's motion for a new trial.

3d The Court erred in giving judgment in favor of said Appellees, whereas said judgment ought to have been given for said Appellant.

Wherefore for the errors aforesaid, and others apparent in said Record, the said Eli Carter prays that said judgment of said Circuit Court be reversed and held for naught; and that he be restored &c.

by his Atty's
R. K. Saunders.
G & W. Porter

Supreme Court
March Term 1850

Eli Carter
vs
Armstrong Letcher
Assignment of Errors

Filed 21 March 1850
W. B. Stanly Clk

Daniel Chrisman & Ele Carter } appts
v
John Armstrong & others } appeal

} Appeal From Warren Circuit Court

This was an action of Ejectment brought by the Appellees against the appellant Chrisman in the Warren Circuit Court, to which the other appellant was made a co defendant. The case was submitted to the court upon the general issue, a verdict and judgment were rendered for the appellees to reverse which this appeal is prosecuted.

At the trial the appellees read in evidence a patent of the United States dated the 10th May 1826. granting to William Armstrong assignee of Angus L Langham, the North half of Section 33. Township 47. in Range two West being the land described in the declaration.

The appellees then read several depositions tending to prove that William Armstrong the grantee died in 1827. unmarried and without issue. and that the appellees are his heirs at law. — And that said William Armstrong made and left a will — The appellees also read an extract purporting to be, of the record or minutes of Court of Common Pleas, of the County of Ross in the State of Ohio June term 1833. stating that a jury was empannelled and sworn to try ~~some~~ issue directed to that Court, in a case of Jacob. Aid & Corps against James Campbell & others; whether a writing referred to in the bill in that cause, purporting to be the nuncupative will of William Armstrong be his last will and testament, and the jury found in the negative whereupon ~~[illegible]~~ the court

ordered that the said bill or paper be vacated &c

The plaintiffs now appellees proved the annual annual ~~value~~ rents to be worth 40 Dollars. and the monthly rent to be about three dollars. and gave no further evidence in chief

The appellants then read in evidence a deed of the Sheriff of Warren County dated 13 Oct 1843. and acknowledged the same day. and was admitted to be in conformity with the printed form furnished to the Sheriff by the register of lands. and that the land described therein as sold to Ele Carter is in Range two West of the 5th Principal Meridian –

The deed recites that the State and county taxes therein specified on the following described real estate, remained due amounting to thirty one dollars. and ninety cents including interest and other incidental costs. – The description is in tabular form ~~[illegible]~~ representing that the land described in the declaration was assessed in the name of Angus L Langham – and that the taxes remained due for the years 1828. 1831 1832. 1835 – 6 – 7 – 8. – The deed further recites that the Register of lands. had advertised the said land for sale according to law. on the 4th Sept 1843. and on that day the said Sheriff did sell the same to Ele Carter the highest and last bidder for 313 dollars. Therefore He the said Sheriff did bargain and sell the same to said Ele Carter – subject however to redemption, by any person interested who is a minor as by law is provided –

The defendants now appellants. here closed their case. and the appellees. read the deposition of Jacob L Sharp and documents accompanying

Daniel Chrisman & Ele Carter } appts
v
John Armstrong & others } appeal

} Appeal From Warren Circuit Court

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The appellees then read several depositions tending to prove that William Armstrong the grantee died in 1827. unmarried and without issue. And that the appellees are his heirs at law. And that said William Armstrong made and left a will. The appellees also read an extract purporting to be, of the record or minutes of Court of Common Pleas, of the County of Ross in the State of Ohio June term 1833. Stating that a jury was empannelled and sworn to try ~~some~~ issue directed to that Court, in a case of Jacob. Aid & Corps against James Campbell & others; whether a writing referred to in the bill in that cause, purporting to be the Nuncupative will of William Armstrong be his last will and testament, and the jury found in the negative whereupon the court

the same. Shewing that the land in controversy was assessed in the name of Angus L Langham in the county of Montgomery, for the years 1821. to 1832 inclusive, that in these assessments. there are several tracts described each of which is separately valued, but the aggregate only of the tax for state and county purposes is given: except for the year 1832. in which the amount of tax on each tract is stated. –

The appellees also gave in evidence extracts from the tax books returned by the assessor of Warren County for the years. 1835. 6. 7. 8. in each of which years there appears to have been assessed in the name of Angus L Langham two tracts each of 320 acres. one S ½ Sec 28. the other N ½ S 33. T 47 R 2. with ~~an aggregate~~ the valuation. and tax opposite the latter –

Also an extract of the list sent by the Register of Lands. to the Clerks office of Warren County under which the sale was made in which the same tracts are described with the taxes on each, for each of the years 1828. 1831. 2. 5. 7. 8. – making an aggregate due on the tract in question of 31.90 –

It appeared in evidence that Angus Langham purchased the land in question from the United States in 1818. – that in the delinquent lists in the counties of Montgomery and Warren the entries of the lands assessed to said Langham corresponded with the taxes books. as before stated ~~[illegible]~~

The plaintiffs also gave in evidence entries taken from the lists of lands sold for taxes in the County of Montgomery. in the years 1828. 1831. 1832 shewing that the land in question had been sold to the state for taxes of those years – in these lists the land in question appears to have been

parately assessed and taxed in the name of Angus L Langham. —

No other material evidence was given

—

The court gave the following instructions on the prayer of the plaintiffs which were excepted to by defendants.

1. If it appear from the evidence that the land in question was assessed and valued with another piece of 320 acres of land and was sold separately for a part of the tax assessed on both pieces this is such an irregularity as renders the tax sale under which the defendant claims void.

2. If the land in question was assessed in the name of Angus L Langham after said Langham was dead the sale under such assessment is void

3 If the land was assessed in the name of Langham when he was not the owner thereof, but Armstrong or his heirs were patentees and owners thereof according to the records of the United States Land office, this is such an irregularity as renders the tax sale void

4. If all the notices and publications given of the nonpayment of taxes on said lands. were given to persons not the owners, and having no interest in said land, the tax sale made in conformity with such notice, is void as against the real owners

5 If the land was entered in 1818 it was not taxable by law for five years, to wit until the year 1823. and if said land was sold for taxes assessed prior to 1823. such sale is void.

6. If the land was entered in 1818. and full payment thereof not made until 1821

then said land was not taxable for five years after full payment was made, to wit until after the year 1826. and if said land was sold for taxes assessed prior to the year 1826. such sale is void.

7. If the land was assessed in some of the years. and valued with several other tracts. such assessment was in law full and the sale under such assessment was void.

After verdict the defendants moved for a new trial assigning as reasons that the verdict is against law and evidence and that the court misdirected the jury. which motion was overruled and the decision excepted to.

Geyer. for appts

Danl Chrisman
& Ele Carter
v
Armstrong et al

appeal

Statement

28.31.32. 35. 6.7.8