

Jefferson County Circuit Court
Case Files - Civil
April Term 1839 - No. 39

Box No. 4 Folder No. 50

Hill, Richard H.

^{vs}
Drennen, William Jr
Breach of Covenant

Dependant deduced 320 acs known
as the Jacob Wickerham Survey
* without holding fee simple;
Damages \$2,000; Original Spanish
Land Grant

State of Missouri Jefferson County Circuit Court,
December term 1838

Richard H Hill complains of William Drenen
in custody &c of a plea of breach of Covenant
for that whereas here before to wit on the twentieth day
of March in the year Eighteen hundred and thirty eight
at the County of Jefferson aforesaid by a certain Indenture
made between the said William Drenen and Elizabeth
Drenen his wife of the first part, and the said Richard
H Hill of the other part, which said Indenture
signed with the hands and sealed with the seals of
of the said William Drenen and Elizabeth Drenen
the date whereof is the day and year last aforesaid
and now here to the Court Shewn, by which
said Indenture the said William Drenen and
Elizabeth Drenen for and in consideration of the sum
of one thousand dollars to them in hand paid by the
said Richard H Hill, the receipt of which they
did thereby acknowledge, did give, grant, bargain
sell, release, relinquish and convey unto the said
Richard H Hill his heirs and assigns forever a
certain tract of land lying and being in the State
of Missouri and County of Jefferson, known by the
name of Jacob Wickham's Survey, confirmed to
him by the Congress of the United States, granted
to him by the Government of Spain by Settlement
right the said Survey containing six hundred and
forty acres, the complement hereby conveyed sold contains
three hundred and twenty acres beginning at a stake
being the South West Corner of said Survey and bearing
Eastwardly on the South line of said Survey as far as
will be necessary to make three hundred and twenty acres
cornering thereon running parallel with the western line
to the North boundary line cornering thereon thence

west to the established corner, the above described tract of land together with all the improvements rights and privileges thereon, or in any wise appertaining therunto for him the said Richard ^H Hill to have and to hold the same, and the said William Drenen and Elizabeth his wife did covenant and agree in said Indenture to and with said Hill, the title to the aforesaid tract of land and premises they would warrant and defend from themselves their heirs and assigns and from all other persons whatsoever to him said Hill his heirs and assigns forever - And the said plaintiff Richard H Hill saith that said defendant ^{for himself and his heirs} William Drenen, in said Indenture did covenant ~~to~~ and with said plaintiff ^{his heirs and assigns} that he said defendant was at the time of making said Indenture, Seized of an indefeasible estate in fee Simple in the real estate and lands in said Indenture mentioned, And the said plaintiff saith that said Indenture on the day of the date thereof, ^{was} acknowledged according to law by the said William and Elizabeth Drenen to be their act and deed before Austin Shelton a Justice of Peace for said County of Jefferson and recorded in the records office of said County on the twentieth day of March 1838, And the said plaintiff in fact saith that the said defendant was not at the date of said Indenture to wit the twelfth day of March in the year eighteen hundred and thirty eight, Seized of an indefeasible estate in fee Simple in the real estate and land in said Indenture mentioned & ascribed to wit at the County aforesaid to the damage of said plaintiff two thousand dollars and therefore he sues &c

Plains for plaintiff

Stie

as {
Crown
Linen

Office of the 1838

W. G. Weather
Book

State of Missouri }
County of Jefferson } The State of Missouri
To the Sheriff of Jefferson County greeting
You are hereby commanded that you summon
William Drenen that he be and appear before the judge
of our Circuit Court at a court to be held at the
Town of Herculaneum in and for said county on
the second Monday in the Month of December
next then and there to answer the complaint of
Richard H Hill and have you then this writ.
(A copy of which complaint is hereto attached)
Witness John G. Mathew Clerk
of our said Court at office in
Herculaneum Nov 9th A.D. 1838

John G. Mathew Clerk

Copy of the Declaration

State of Missouri Jefferson County Circuit
Court December Term 1838

Richard H Hill complains
of William Drenen in custody & of a plea of
breach of covenant for that whereas heretofore
to wit on the Twelfth day of March in the year
eighteen hundred and thirty eight at the County
of Jefferson aforesaid by a certain indenture made
between the said William Drenen and Elizabeth
Drenen his wife of the first part and the said
Richard H Hill of the other part, which said
Indenture signed with the hands and sealed with
the seals of the said William Drenen and Eliza-
beth Drenen the date whereof is the day and year
last aforesaid and now ~~here~~ to the Court thereon
by which said Indenture the said William Drenen
and Elizabeth Drenen for and in consideration
of the sum of one thousand dollars to them in-
handed by the said Richard H Hill the receipt
of which they did thereby acknowledge, did give

grant bargain sell Release relinquish and convey unto the said Richard H Hill his heirs and assigns for ever a certain tract of Land lying and being in the State of Missouri and County of Jefferson known by the name of Jacob Wickersham's survey confirmed to him by the Congress of the United States granted to him by the Government of Spain by settlement right the said survey containing six hundred and forty acres the complement hereby sold contains three hundred and twenty acres beginning at a Stake being the Southwest corner of said survey, and bearing Eastwardly on the South line of said survey as far as will be necessary to make three hundred and twenty acres cornering thereon running parallel with the Western line to the North boundary line cornering thereon, thence West to the established corner, the above described tract of Land together with all the improvements rights and privileges thereon or in any wise appertaining there unto, for him the said Richard H Hill to have and to hold the same, And the said William Drenen and Elizabeth his wife did covenant and agree in said Indenture to and with said Hill the title to the aforesaid tract of Land and premises they would warrant and defend from themselves their heirs and assigns and from all other persons whatsoever to him said Hill his heirs and assigns for ever. And the said Plaintiff Richard H Hill saith that said Defendant William Drenen for himself and his heirs in said Indenture did covenant to and with said Plaintiff his heirs and assigns that he said defendant was at the time of making said indenture seized of an indefeasible estate in fee simple in the real estate and land in said Indenture mentioned, and the said plaintiff saith that the said

indenture on the day of the date there of was acknowledged according to law by the said William and Elizabeth Drenen to be their act and deed before Austin Getten a Justice of the peace for said County of Jefferson and recorded in the records office of said county on the twentieth day of March 1838, and the said Plaintiff in fact saith that the said defendant was not at the date of said Indenture to wit the twelfth day of March in the year eighteen hundred and thirty eight seized of an indefeasible estate in fee simple in the real estate and land in said Indenture mentioned and described to wit at the County aforesaid to the damage of said plaintiff two thousand dollars and therefore he sues ~~for~~ ^{Gives for} Plaintiff

I Certify that within write to be a true Copy of the Original write given under my hand this 20th day of November 1838

John Hammon Sheriff

And of Fernbank Street

December Term 1838

Richard H. Hill

W. J. Shannon

William Drenon

Nov 9th 1838

John Shannon & Son

Dec 14/1838

W. J. Shannon

W. J.

Nov 1st 1838
W. J. Shannon

State of Missouri
County of Jefferson } (The State of Missouri
To the Sheriff of Jefferson County Greeting
You are hereby commanded that you
summon William Drenen that he be and appear
before the Judge of our Circuit Court at a Court
to be held at the Town of Mercuraneum in and
for said County on the second Monday in the
month of December next then and there to
answer the complaint of Richard W Will
and have you then this writ. (A copy of
which complaint is hereto attached)
Witness John S. Mathews Clerk
of our said Court at Office in
Mercuraneum Nov⁹th AD 1838

John S. Mathews Clerk

(Copy of Declaration)

State of Missouri Jefferson County Circuit Court
December Term 1838

Richard W Will complains
of William Drenen in Custody &c of a plea of
breach of covenant, for that whereas heretofore
to wit, on the twelfth day of March in the year
eighteen hundred and thirty eight at the County
of Jefferson aforesaid by a certain indenture
made between the said William Drenen and
Elizabeth Drenen his wife of the first part and the
said Richard W Will of the other part, which said
Indenture signed with the hands and sealed with
the seals of the The said William Drenen and Eliz-
-beth Drenen the date whereof is the day and year
last aforesaid and now here to the Court, thereon
by which said Indenture the said William Drenen
and Elizabeth Drenen for and in consideration
of the sum of one thousand dollars to them in hand

by the said Richard M Will the receipt of which they did thereby acknowledge, did give, grant, bargain, sell, release, relinquish, and convey unto the said Richard M Will his heirs and assigns forever a certain tract of Land lying and being in the State of Missouri and County of Jefferson, known by the name of Jacob Wickham's survey, confirmed to him by the Congress of the United States, granted to him by the Government of Spain by settlement right, the said survey containing six hundred and forty acres, the complement hereby sold contains three hundred and twenty acres, beginning at a Stake being the South West corner of said survey and bearing Eastwardly on the south line of said survey as far as will be necessary to make three hundred and twenty acres, cornering thereon running parallel with the Western line to the North boundary line, cornering thereon, Thence West to the established corner, the above described tract of Land together with all the improvements, rights and privileges thereon, or in any wise appertaining thereunto, for him the said Richard M Will to have and to hold the same, And the said William Drenen and Elizabeth his wife did covenant and agree in said indenture to and with said Will the title to the aforesaid tract of Land and premises they would warrant and defend from themselves their heirs and assigns, and from all other persons whatsoever to him said Will his heirs and assigns forever — And the said Plaintiff Richard M Will saith that said Defendant William Drenen for himself and his heirs in said Indenture did covenant to and with said plaintiff his heirs and assigns that he said defendant was at the time of making said indenture seized of an indefeasible estate in fee simple in the real estate and land in said Indenture —

mentioned, and the said plaintiff saith that said
indenture on the day of the date thereof was acknow-
ledged according to law by the said William and
Elizabeth Drenen to be their act and deed before
Austin Whetton a Justice of peace for said County
of Jefferson, and recorded in the recorder's Office
of said County on the twentieth day of March
1838, and the said Plaintiff in fact saith that the
said defendant was not at the date of said
indenture to wit the twelfth day of March in the
year eighteen hundred and thirty eight, seized
of an indefeasible estate in fee simple in the
real estate and land in said indenture mentio-
ned. ~~and~~ ~~described~~ to wit at the county aforesaid
to the damage of said plaintiff two thousand
dollars and therefore he sues &c

Givens for Plaintiff

I Executed the within write on William Greener
on the 20th day of November 1838 by delivering
him a Copy of the within write and Declaration

John Hammond Sheriff

In Jefferson Precinct Court

December Term 1838

Richard H. Hise

vs } Defendants

William Greener

Nov 9th 1838

Filed Dec 8th 1838

Wm. Hise

Att

This Indenture Made & entered into
the twelfth day of March 1838. by & between
William Dzeanan Jr & Elizabeth Dzeanan his wife
of the one & first part, and Richard H. Hill of the
other part (Witnesseth) That the said William
Dzeanan & Elizabeth his wife have and for and in
consideration of the sum of one thousand Dollars
to them in hand paid by the said Richard H. Hill
the receipt whereof is hereby acknowledged given, granted
bargained, sold, released, relinquished & conveyed, unto the
said Richard H. Hill, his heirs and assigns forever,
(to wit) a certain tract of land lying and being in the
State of Missouri & County of Jefferson, known by the
name of Jacob Wickham's Survey, confirmed to
him by the Congress of the United States, granted
to him by the Government of Spain, by Settlement
right, the said Survey containing six hundred and
forty acres, the complement, hereby sold, contains three
hundred & twenty acres, beginning at a stake being
the South West corner of said Survey, and bearing
eastwardly on the South line of said Survey as far
as will be necessary to make three hundred and twenty
acres, ^{cornering} commencing thereon running parallel with the
Western line to the North boundary line, cornering thereon

Thence West to the Established Corner

The above described tract of land together with all the improvements rights & privileges thereon or in any wise appertaining thereto to have and hold the same, and the said William Dean and Elizabeth his wife doth Covenant and agree to & with the said Hill, that the title to the aforesaid tract of land & premises, they will warrant and defend from themselves their heirs and assigns and from all other persons whatsoever to him said Hill his heirs and assigns forever.

In Testimony Whereof I the said William Dean and Elizabeth his wife have hereunto set our hands and affixed our seals the day & year above written

Signed, Sealed and
delivered in presence

of J. P. Johnston

Johna Herrington

N. B. The word in the 23^d line. Commencing erased, and the word

Cornering ~~passing~~ entered lined before signed

William Dean

Elizabeth his wife
mark

State of Missouri }
County of Jefferson }

Be it remembered that on
this 12th day of March 1838. personally appeared
before the undersigned Justice, William Drennan
and Elizabeth Drennan his wife, both personally
known to me to be the persons whose names
are subscribed to the foregoing Instrument of
Writing as having executed the same &
acknowledged the same to be their act &
deed for the purposes therein mentioned, the said
said Elizabeth being by me first made acquain-
ted with the contents thereof, and examined
separate and apart from her said husband
acknowledged that she executed the same
freely voluntarily & without any undue influ-
ence of her said husband.

GIVEN and acknowledged in his line Sheller Jus-
the day & year above vice of the Peace
mentioned,

State of Missouri }
County of Jefferson } I John S. Matthews Clerk
of the Circuit Court and Ex Officio Recorder
of the County of said, do hereby certify that

The foregoing deed was filed in this office on the
20th day of March 1838 and is truly recorded in
Book D pages 496 & 497. In testimony whereof I have
hereunto set my hand and affixed
my official seal at Office in
Mercurianum March 20th 1838

John S. Mathews

Wm. Duncan & Wife

Deed

Book D. H. H. H. H.

Filed March 20th 1838

John S. Mathews, Secy

Book

Dec 9th 4

Filed Dec 12th 1838

John S. Mathews

Atk

State of Missouri Jefferson County Circuit Court
April term 1839

Richard H Hill complains of William Drenn in Custody of a plan of breach of covenant upon that wherein heretofore took on the twelfth day of March in the year eighteen hundred and thirty eight at the County of Jefferson affirmed by a certain indenture made between the said William Drenn and Elizabeth his wife of the first part and the said Richard H Hill of the other part, which said indenture signed with the hands and sealed with the seals of the said William Drenn and Elizabeth Drenn, the date whereof is the day and year last aforesaid and now here to the Court shewn, by which said indenture the said William Drenn & Elizabeth Drenn for and in consideration of the sum of one thousand dollars to them in hand paid by the said Richard H Hill the receipt of which they did thereby acknowledge, did give grant, bargain, sell release relinquish and convey unto the said Richard H Hill his heirs and assigns forever a certain tract of land lying and being in the State of Missouri and County of Jefferson, known by the name of Jacob Wickerham's Survey, Confirmed to him by the Congress of the United States, granted to him by the Government of Spain by Settlement eight, the said Survey containing six hundred and forty acres, the complement hereby sold containing three hundred and twenty acres beginning at a stake being the south west corner of said Survey and bearing easterly on the south line of said Survey as far as will be necessary to make three hundred and twenty acres covering thence running parallel with the western line to the north boundary line. Covering thence, thence west to the established corner, the above described tract of land together with

all the improvements, rights, and privileges therein
or in any case appertaining thereto for him the said
Richard H Hill to have and to hold the same, and
the said William Drenen and Elizabeth Drenen his
wife did covenant and agree in said indenture to
and with said Richard H Hill, the title to the
aforesaid tract of land and premises they would war-
rant and forever defend from themselves their heirs and
assigns and from all other persons who claimed to have
said Hill his heirs and assigns forever - and the said
plaintiff Richard H Hill saith that said defendant
William Drenen for himself and his heirs in said
indenture did covenant to and with said plaintiff
his heirs and assigns that he said defendant, was
at the time ^{of execution of} making said indenture, seized
of an indefeasible estate in fee simple in
the real estate and lands in said indenture
mentioned, and the said plaintiff saith that
said indenture on the day of the date thereof
was acknowledged according to law by the said
William and Elizabeth Drenen to be their act
and deed before Austin Shelton a Justice of the
peace for said County of Jefferson and recorded in
the Records Office of said County on the twentieth
day of March in the year eight hundred and
thirty eight, and the plaintiff in fact saith
that the said defendant was not at the date ^{and time of execution} of
said indenture to wit the twelfth day of March
in the year eight hundred and thirty eight
at the County aforesaid, seized of an indefeasible estate
in fee simple in the real estate and being in said
indenture mentioned and described, to the damage
of the plaintiff two thousand dollars, therefore
he sues

Gives for plaintiff

File

by {
S. A. C. C. C.
C. C. C.

File & March 6 1839

Wm. M. M. M.

State of Missouri, County of Jefferson Set

The State of Missouri to the Sheriff of Jefferson County Greeting. You are hereby commanded that you summon William Drennan, that he be and appear before the Judge of our Circuit Court at a Court to be held at the Town of Mercuraneum in and for said County on the second Monday in April next then and there to answer the complaint of Richard H Hill on a plea of breach of Covenant, (a copy of which is hereto attached) and have you then there this writ

Witness John S. Matheo, Clerk of our said Circuit Court at Office in the Town of Mercuraneum this 5th day of March in the year of our Lord 1839
John S. Matheo Clerk

State of Missouri, Jefferson County Circuit Court April Term 1839

Richard H Hill complains of William Drennan in custody &c of a plea of breach of Covenant, for that whereas heretofore to wit on the twelfth day of March in the year eighteen hundred and thirty eight at the County of Jefferson aforesaid, by a certain indenture made between the said William Drennan and Elizabeth his wife of the first part, and the said Richard H Hill of the other part, which said indenture signed with the hands and sealed with the seals of the said William Drennan and Elizabeth Drennan, the date whereof is the day and a year last aforesaid and now here to the Court shewn, by which said indenture the said William Drennan and Elizabeth Drennan, for and in consideration of the sum of one thousand dollars to them in hand paid by the said Richard H Hill the receipt of which they did thereby acknowledge, did give, grant, bargain, sell, release, relinquish and convey unto the said Richard H Hill his heirs and assigns forever a certain tract of land lying and being in the State of Missouri and County of Jefferson known by the name of Jacob Wickerham's Survey, confirmed to him by the Congress of the United States, granted to him by the Government of Spain by settlement right, the said Survey containing six hundred and forty acres, the complement hereby sold

contains three hundred and twenty acres, beginning at a stake, being the South West corner of said survey and bearing easterly on the South line of said survey as far as will be necessary to make three hundred and twenty acres, cornering thereon, running parallel with the Western line to the north boundary line ~~established~~ cornering thereon thence west to the established corner, the above described tract of land together with all the improvements rights and privileges thereon or in any wise appertaining thereunto for him the said Richard H Hill to have and to hold the same and the said William Drennen and Elizabeth ^{Drennen} his wife did covenant and agree in said indenture to and with said Richard H Hill the title to the aforesaid tract of Land and premises they would warrant and forever defend from themselves their heirs and assigns and from all other persons whatsoever to him said Hill his heirs and assigns for ever, And the said plaintiff Richard H Hill saith that said defendant William Drennen for himself and his heirs in said indenture did covenant to and with said plaintiff his heirs and assigns, that he said defendant, was at the time of making & execution of said indenture ~~was~~ seized of an indefeasible estate in fee simple, in the real estate and lands in said indenture mentioned and the said plaintiff saith that said indenture on the day of the date thereof was acknowledged according to law by the said William and Elizabeth Drennen to be their act and deed before Austin Shelton a Justice of the peace for said County of Jefferson, and recorded in the recorder's office of said County on the twentieth day of March in the year eighteen hundred and thirty eight, and the plaintiff in fact saith that the said defendant was not at the date and time of execution of said indenture to wit the twelfth day of March in the year eighteen hundred and thirty eight at the County aforesaid, seized of an indefeasible estate in fee simple in the real estate and lands in said indenture mentioned and described to the damage of the plaintiff two thousand dollars, therefore he sues—

Given for plaintiff

I Executed this write on William Greener Sr By
Reading the within write and declaration in his
presence and hearing on the 15th day of March 1839
in the County of Jefferson

John Hammond Sheriff
Sheriff fee \$ 1.00

1839
The Jeff. Co. Court
Office Term 1839

Declar. H. H. H.

as J. Greener

William Greener,

Declaration in court

387

Filed March 22 1839

W. H. Hammond

Sh

William Drumm

@vs

Richard H. Hill } August Term 1839.

And the said defendant by Bent his attorney comes and defends the wrong & injury when he and says that the matters & things in the said declaration of the said plaintiff or the same are above set forth, are not sufficient in law for the said plaintiff to have and maintain his ^{own} said action thereof against the said defendant and that he is not bound by the laws of the land to answer the same and for Reason for his demurrer says that the said plaintiff has not averred or shewn any ouster or distress of the plaintiff.

That said plaintiff has not averred any paramount title - That said plaintiff has not set forth what particular title is adverse and paramount to the title conveyed by the defendant or set forth in the declaration.

Bent for deft

Primer

Ed M. Pennington

Dec

Filed Aug 7 1839

W. M. Matthews

Richard H. Hill

9

William Drennon Senr.

Jefferson County
December Term 1838

And the said defendant by
Bent his attorney comes and says that the matters
and things in the said Declaration of the said
plaintiff as the same are above set forth are
not sufficient in law for the said plaintiff
to have and maintain his aforesaid action
thereof against the said defendant, and that he
is not bound by the laws of the land to answer
the same, and for Reason for his demurrer says
that, the said plaintiff has not averred or shown
any estate or disavow of the plaintiff -

(That said plaintiff has not averred any
paramount title. - That said plaintiff has not
set forth what particular title is adverse and
paramount to the title conveyed by the defend-
ant as set forth in the declaration

Bent for deft
Drennon in demurrer Quins for plff

William Brewster
as E. Seaverns
Richard H. Hill

Filed Dec 13th 1838
J. M. Watson,
Clerk