

Jefferson County Circuit Court
Case Files - Civil
November 1857, No. 27

Box 9 Folder 23

Herrington, Louis

v.

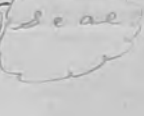
Davis, Joshua

Ejectment

94 $\frac{45}{100}$ acres in S14T42R3E; Damages
\$250.00 for cutting down timbers.

This Deed made and entered into this twenty sixth day of April A.D. eighteen Hundred and fifty one by and between James Hetta brand and Edatha his wife parties of the first part and Joshua Davis of the second part all of the County of Jefferson in the State of Missouri Witnesseth that the said party of the first part for and in consideration of the sum of three hundred Dollars to them in hand paid by the said Joshua Davis ~~party~~ of the second part the receipt of which sum is hereby acknowledged by the parties of the first part do hereby grant bargain sell convey and confirm unto the said Joshua Davis his heirs and assigns for ever all that tract or parcel of land situate and being in the County of Jefferson in the State of Missouri it being the South East fractional quarter (West of River) of ~~Section no three (3) East~~ containing ninety of Section No four ten (14) in Township No forty two (42) of Range no Three (3) East containing ninety four acres and forty five hundredths of an acre ($94\frac{45}{100}$) together with all and singular the appurtenances thereunto, belonging or in any wise appertaining; To have and to hold the above described land unto the said Joshua Davis his heirs and assigns for ever: And the said James Hetta brand and Edatha his wife the aforesaid lands unto the said Joshua Davis his heirs and assigns against the claim or claims of all and every person whomsoever do and will warrant and forever defend by these presents

In witness whereof the said James
Heltabrand and Edatha his wife parties
of the first part have hereunto set their
hands and seals the day and
year first above written

James Heltabrand 
Edatha Heltabrand 
mark mark

State of Missouri }
County of Jefferson }
ss

Be it remembered that on
this th 26 day of April in the year of our Lord
eighteen Hundred and fifty one before me a Justice
of the peace within and for the County aforesaid
personally came James Heltabrand and Edatha
his wife both personally known to me to be the
persons whose names are subscribed to the fore-
going instrument of writing as having executed
the same and severally acknowledged the same
to be their act and deed for the purposes there-
in mentioned the said Edatha being by
me first made acquainted with the contents
thereof and examined separate and apart from
her husband whether she executed the said deed
and relinquishes her dower to the lands and ten-
ements therein mentioned voluntarily freely
and without compulsion or undue influence
of her said husband acknowledged and
declared that she executed the said deed
and relinquishes her dower in the said lands
and tenements therein mentioned voluntarily
freely and without compulsion or undue influ-
ence of her said husband, Taken and cer-
tified the day and year aforesaid } J. B. Wilson J.P.

Jefferson County ss.

I do hereby certify that the
preceding instrument in writing was filed for record in my
office on the 31st day of May A.D. 1851. and is
truly recorded in Book K page 302.

Witness my hand and official
Seal at Stillborn May
31st A.D. 1851. H. B. Fletcher
At Cir. Ct. & Ex. Office Recorder



SE 1/4 NW 1/4 sec 33 T 42 R 3 E 40

James McLaughland

Go } Dead

Joshua Davis

" 13"

Weld for record

May 31st 1857.

Wm. E. McLaughlin

Recorder

\$1.10 paid

Louis Herrington, plaintiff, } In the Circuit
Against } Court of Jefferson
Joshua Davis, defendants } County, Missouri,

Plaintiff states that in the early part of the year 1849, his Father, Samuel Herrington, died, leaving surviving him, as his ^{only} heirs, three children, to wit, the Plaintiff, Editha Herrington, and Cinderella Herrington (afterwards the wife of Joseph Hardisty), and Susan Herrington, widow of said Deceased. That said Samuel Herrington deceased at the time of his death was the owner in fee simple of several tracts of land, which descended to his heirs, as aforesaid, one of which was described as follows, to wit, a tract of land situate in Jefferson County, Missouri, being the South East fractional quarter of Section No. fourteen, in Township No. forty two, of Range No. three East, containing Ninety four acres, $\frac{43}{100}$ of an acre. — That some time after the death of Samuel Herrington, his heirs, aforesaid, (being of age) divided all the lands of said deceased, which had descended to them, and executed & delivered to each other proper deeds of conveyance, by which partition & division the land herein before described fell to the share of said Editha Herrington, and was conveyed to her by the other heirs, & her mother (the widow of said Samuel) by deed, executed and delivered ^{to her} November 24th 1849; by which she became the legal owner thereof in fee.

Plaintiff states that said Editha (who afterwards married James Wattabana) died some time in the year 1851, leaving no children, or, ^{then's descendants} surviving her; and the land herein described ^{therefore} descended to her surviving ^{the Plaintiff} brother & sister, and her

Susan Harrington,
mother, Plaintiff states that he afterwards,
bought the interest of said Cinderella & her
husband, and ^{also} his mother, to the real estate
of said Editha as herein described. By deed
of August 22nd 1853, of said Hardesty & wife
and by deed of 24th of November 1851, of
his mother Susan Harrington. Plaintiff
states that, one third of the land herein
before described, descended to him as one of
the heirs of said Editha, and having bought
the remaining two thirds of his sister & mother
he is therefore entitled ^{in fee} to the whole of said
Ninety four acres & ⁴⁵/₁₀₀ of an acre herein before
described. Plaintiff therefore states that
on the 24th day of November 1851, he was
entitled to the possession of the land herein
before described, and being so entitled to the
possession thereof that the Defendant after-
wards to wit on the 30th day of November
and cut & destroyed timber thereon of the value of fifty dollars,
1851, entered into such premises, and un-
lawfully withhold from the plaintiff the
possession thereof. Plaintiff asks judgment
for the possession of said land, and judg-
ment for his damages sustained by said un-
lawful detention, & for the rents & profits of the
same, and for the timber destroyed thereon
amounting in all to two hundred & fifty
dollars. - Plaintiff annexes hereto, as part of this
petition, a copy of said Deed to Editha, of Nov,
24th 1849, the original not being in his possession,
also, his deeds from said Hardesty & wife, and
Susan Harrington.

Abner Green
Attorney for Plaintiff.

Louis Harrington, Plaintiff, makes oath
and says that the above Petition and the
Matters as therein stated he believes to
be true ^{subscribed to and} ^{to before me} ^{this 15 day of October 1857} Louis ^{his} X Harrington
Thomas W. Floyd Justice of the Peace within and for
the County of Jefferson Mo mark

Justices fee 25^{cts} - paid by Plaintiff
T. W. Floyd J.P.

Louis Herrington plaintiff } In the Circuit Court
Against } of Jefferson County
Johna Davis Defendant } Missouri

Plaintiff States, that in the early part of the year 1849, his father Samuel Herrington died leaving surviving him as his ^{only} heirs three children, to wit: the plaintiff, Editha Herrington and Cinderella Herrington (afterwards the wife of Joseph Hardisty, and Susan Herrington widow of said deceased) that said Samuel Herrington deceased at the time of his death, was the owner in fee simple of several tracts of land which descended to his heirs as aforesaid, one of which was described as follows, to wit, a tract of land situate in Jefferson County Missouri being the South East fractional quarter of Section No fourteen in Township No forty two of range No three East, containing Ninety four acres & $\frac{25}{100}$ of an acre. That sometime after the death of Samuel Herrington his heirs aforesaid (being of age), divided all the lands of said deceased which had descended to them and executed & delivered to each other proper deeds of conveyance by which partition & division the land herein before described fell to the share of said Editha Herrington and was conveyed to her by the other heirs & her mother, (the widow of said of said Samuel) by deed executed and delivered to her November 24th 1849, by which she became the legal owner thereof, in fee. Plaintiff States that said Editha (who afterwards married James Hettabrand), died some time in the year 1857 leaving no children or their descendants, surviving her, and the land herein described therefore, descended to her surviving brother the plain

teff & Sister Cinderella Hardesty, and her mother Susan Herrington. Plaintiff States, that he afterwards bought the interest of said Cinderella & her husband and also his mother to the real estate of said Editha, as herein described By deed of August 23rd 1853, of said Hardesty & wife and by deed of 24th of November 1854 of his mother Susan Herrington. Plaintiff States, that one third of the land hereinbefore described, descended to him as one of the heirs, of said Editha, and having bought the remaining two thirds of his Sister & mother, he is therefore entitled in fee to the whole of said Ninety four acres, & $\frac{45}{100}$ of an acre, hereinbefore described. Plaintiff therefore States that on the 24th day of November 1854 he was entitled to the possession of the land hereinbefore described and being so entitled to the possession thereof, the defendant, afterwards to wit on the 30th day of November 1854 entered into such premises, and cut & destroyed timber thereon of the value of fifty dollars, and unlawfully withholds from the plaintiff the possession thereof. Plaintiff asks Judgment for the possession of said land, and Judgment for his damages, sustained by him said unlawful detention & for the rents & profits of the same, and for the timber destroyed thereon amounting in all to two hundred & fifty dollars. Plaintiff annexes hereto as part of this petition a copy of said deed to Editha of Nov 24th 1849 the original not being in his possession, also his deeds from said Hardesty & wife and Susan Herrington.

Abner Green, attorney for Plaintiff

Lewis Herrington Plaintiff makes oath, and
says that the above petition and the matters as
therein stated he believes to be true.

Subscribed & sworn to before
me this 15th day of October 1857
Thomas W Floyd, Justice of
the peace within and for the County
of Jefferson Mo

Lewis Herrington
mark

Endorsed

"Filed Oct 21" 1857. Elias D. Honey Clk.

A true copy of the original petition
and affidavit on file in my office

In Testimony whereof I hereto set
my hand and affix the Seal of
Said Court at office October
21" 1857
Elias D. Honey Clk

COUNTY OF JEFFERSON, SS.

The State of Missouri.

To the Sheriff of the County of Jefferson--Greeting:

We command you, that you summon Joshua Davis

----- if - he - be
found in your County, that - he - be and appear before the Hon.
Judge of our Circuit Court, on the first day of the next term thereof,
to be begun and held at the town of Hillsboro, within and for the
County of Jefferson, on the fourth Monday of November
next, then and there to answer unto Louis Herrington

upon her original petition, a copy whereof is herunto annexed and
accompanies this writ—and have you then there this writ.

Elias J. Hovey

Witness, ~~THO. C. FLETCHER~~, Clerk of our said Circuit
Court, with the seal thereof hereto affixed, at
office, in Hillsboro, this twenty first
day of October A. D. 1857

Elias J. Hovey

CLERK CIRCUIT COURT.

I Executed the within writ at the County of Jefferson on the fifth day of November 1857 by Delivering to Joshua Davis a true copy of the within writ and the annexed petition as furnished by the clerk.)

Augustine Wiley Sheriff

Vol. 27.

to David Davis

November 1857

1633

David Davis

as { Summons

Joshua Davis

Sherriff's fee \$1.00

Chs

COUNTY OF JEFFERSON.

The State of Missouri,

To *Q. Peter, Esq.* *Just Samuel Taylor*

Greeting:

You are hereby commanded, that acting aside all manner of
excuse and delay, you appear before our Circuit Court for the
County aforesaid, on the 29th day of April 1858
at St. Louis, then and there to testify, and the truth to say in a
certain matter of controversy, now pending in our said Court, between
Levi Herrington is Plaintiff and
Isaac Davis is Defendant on the part
of Plaintiff and herein you are in no wise to fail.

Witness,

Geo. S. Hoarey


Clerk of our said Court

with the seal thereof hereto affixed, at office this

27th day of March A. D. 1858

Geo. S. Hoarey Clerk.

I Executed the within writ on Duquiel Pitzer on the 19th day of April 1858 by leaving a true copy at his residence with a free white person of the family over the age of fifteen years and also on same day on Christopher Jayatt and Samuel Depper by reading in their presence and hearing

Augustine Wiley Sheriff

To Virgil Beaul,

April Term 1858

Leuco Herington

for } David

for } David

Duquiel Pitzer

Christopher Jayatt

Samuel Depper

Sheriff fees \$1.50

COUNTY OF JEFFERSON.

The State of Missouri,

To Joe Herrington dec. Jonathan Downer. Aaron Hetherbeard
Jenathan Hise
Greeting:
You are hereby commanded, that setting aside all manner of

excuse and delay, you appear before our Court- Court for the
County aforesaid, on the 29th day of April next
at Wellbata, there and there to testify, and the truth to say in a
certain matter of controversy now pending in our said Court, between

Joel Herrington is

Plaintiff and

John Davis is

Defendant on the part

of Plaintiff

and herein you are in no wise to fail.

Witness, ~~THOMAS D. HERRICK~~
JAMES D. HONEY

Clerk of our said Court

with the Seal thereof hereto affixed, at office this

23 day of March A. D. 1858

John D. Honey

Clerk.

I Executed the within writ on John C. Herrington
on the 19th day of April 1858 by reading in his presence
and hearing and also on Jonathan Drennen Hiram
Ketterbrand and Jonathan Wise of the same day
by leaving a true copy at each of their respective
places of abode with free white persons of their
families over the age of fifteen years

Augustine Wiley Sheriff

20 Circuit Court.
April, Term, 1858

Leves Herrington

vs
Joshua Davis

for Writ
Jno Herrington Sr
Jonathan Drennen
Hiram Ketterbrand
Jonathan Wise

19th copy
Sheriff fees \$2.00

COUNTY OF JEFFERSON.

The State of Missouri,

To

Greeting!

You are hereby commanded, that taking notice all manner of
 suits and delays you appear before our Court for the
 County aforesaid, on the 23rd day of May 1858.
 at St. Louis, then and there to testify, and the truth to say in a

certain matter of controversy, now pending in our said Court, wherein

John Davis Plaintiff and

John Downing Defendant on the part

of John Downing

and Thomas C. Fletcher, Clerk of our said Court

do hereby certify that we are in no wise to part

with the duty thereof hereto assigned, at office this

29th day of April A. D. 1858

John Downing
 Clerk.

Proceed this writ on Isaac Wilson & S.B. Wilson
on the 29th day of April 1858 by reading in
their presence and hearing
Augustine Wiley Sheriff

D. Percival Lewis

Chas. Conn 138.

John Harris
Lewis Conn 138

Alfred B. B.

Leoman Wilson

Leoman Wilson & 29

Alfred Wilson 29

Sherriff fees \$100

Lewis Herrington
Against
Joshua Davis

In the Circuit Court
of Jefferson County,

Defendant for answer to the plaintiffs petition
~~admits~~ that the said Samuel Herrington died the
owner of the tracts of land in petition described
and that the same descended to the persons
in petition set forth and that the same were
divided among them as stated in petition,
by which division the said Editha, this defendants
grantor, became the owner in fee of the
land in petition described.

Defendant denies that the land in
controversy descended, at the death of
said Editha Kettubrand upon him, his
sister and mother,

Defendant denies that the said plaintiff
~~was~~, either by descent or purchase, entitled
to the possession of said tract of land, or
any part of it, on the said 24th day of
November 1854. Nor is he so entitled
now.

Defendant denies that, on the 30th
day of November 1854, he entered onto said
premises, and cut and destroyed timber
thereon of the value of fifty dollars, and
unlawfully withholds from the plaintiff the
possession thereof.

Defendant denies plaintiffs right to
a judgment for the possession of said premises

or for the damages alleged to have been sustained
by said alleged unlawful detention or for the
rents and profits of said premises, or for the
mutiler alleged to have been destroyed, for
two hundred and fifty dollars, or for any
amount whatever,

Defendant for further answer to plaintiffs
petition states, that after the division and partition
of said tract of land among the heirs and widow
of said Samuel Sterringer, the said Editha
and her husband Heltbrand took possession
of the tract in controversy, the one deeded to
her, in the partition, but owing to its then
condition (being near the river and swampy
and sickly) she could not live in health
upon it. This defendant owned another tract
of land higher up the river, and in a
more healthy situation, upon which the
said Editha supposed she could live in
health. She proposed to exchange places to
which ~~the~~ ^{defendants} agreed, and accordingly the transfer
was made. The land ~~owned~~ ^{defendant} was deeded to
Heltbrand and the land Editha owned
was deeded to ~~her~~ ^{defendant} by herself and husband.
Both instruments of writing were executed at the
same time before Solomon B. Wilson a justice
of the peace. This defendant took possession of
this tract of land and has since made valuable
and lasting improvements in building ^{and} a house

* other houses

Stable Crib & in clearing land, making fences
and in draining the said Swamp land (so as
to subject the same to cultivation and make
the place healthy), & another set of fence logs

Defendant therefore says that said
plaintiff is not entitled to judgment for possession
of said premises nor for damages claimed,
but he says that if the Court should find the said
deed from said Editha to be inoperative and void
so as to pass her title to said land then he asks
judgment for the value of his permanent and
lasting improvements made upon the premises
as aforesaid and that an account of the same
may be taken and that said judgment may
be a lien upon said premises and for
such other relief as may be consistent
with equity and good conscience

P. Pipkin atty
for defendant

Joshua Davis on oath states that the foregoing
account and the matters therein as stated he
believes to be true

Witness A. Hefner

Joshua ^{his} Davis
marks

Subscribed to and sworn before me
this 6th day of March AD 1858
Alfred Hefner, Dep. Clerk,
Circuit Court

Lewis Merriam

27

Charles Davis

Student of Oxford

Filed July 18th 1858
Geo. D. Hooley

COUNTY OF JEFFERSON.

The State of Missouri,

To Hellenbrand, Chas. Pratt, Saml. Taylor

Greeting:

You are hereby commanded, that seeking aside all manner of
excuse and delay, you appear before our Court David Court for the
County aforesaid, on the 28th day of October next
at Wellbabe's, there and there to testify, and the truth to say in a
certain matter of controversy, now pending in our said Court, between
Louis Herrington is Plaintiff and
Julius Davis is Defendant on the part
of Plaintiff and herein you are under oath.

Witness,

~~THOMAS E. FLETCHER~~
THOMAS E. FLETCHER

Clerk of our said Court

with the Seal thereof hereto affixed, at office this

day of

10. 185

Chas. Pratt

Clerk.

I Executed the within writ of the
County of Jefferson on 28 day of October
1858 by Reading the same in the Presence
and hearing of Chas Lyatt & Samuel
Pepper, H. Heltenbrand.
Not sworn for the want of time

E. J. Wilson
Sheriff fees \$100

To Circuit Court.

Oct. Term 1858.

Louis Herrington

vs
Joshua Davis

for Plff

H. Heltenbrand

Chas. Lyatt

Sam. Pepper

Sheriff fee \$100

COUNTY OF JEFFERSON.

The State of Missouri,
To Sen. Wilson, Chas Wilson, S. B. Wilson Joseph Hedley

Greeting:

You are hereby commanded, that selling waste all manner of
cattle and sheep, you appear before our Circuit Court for the
County aforesaid, on the 28th day of October
at St. Louis, then and there to testify, and the truth to say in a
certain matter of controversy, now pending in our said Court, wherein

James Harrington

Plaintiff and

Joshua Davis

Defendant on the part

of Plaintiff and hereby give me no wise to fail.

Witness, THOMAS C. FLETCHER,

Clerk of the County

Shelf of our said Court,

with the Seal thereof hereto affixed, at office this

day of

A. D. 1855

Chas. D. Hooley

Clerk.

De Circuit Court

Oct. Term 1858

Louis Herrington

vs
Isahua Davis

for Debt.

Genl. Wilson

Isaac Wilson

Sol. B. Wilson

Joseph Medley

Sheriff fees 1.50

I executed the within writ the County of
Jefferson on the 23 day of October 1858 by
Reading the same in the presence and hearing of
Isaac Wilson not found S. B. Wilson & Joseph
Medley
E. F. Wilson

COUNTY OF JEFFERSON.

The State of Missouri,

To the Honorable Sen. Jonathan Drennon Jonathan Will

Esq. Greeting:

You are hereby commanded, that taking notice all manner of

excuse and delay, you appear before our Council Court for the

County aforesaid, on the 28th day of October

at St. Louis, then and there to testify, and the truth to say in a

settlement of controversy, now pending in our said Court, between

David Herrington Plaintiff and

Joshua Davis Defendant on the part

of Plaintiff and herein you are in no wise to fail.

Witness, THOMAS E. FLETCHER, Clerk of our said Court,

day of _____ A. D. 185

David Herrington

Joshua Davis

David Herrington

Joshua Davis

David Herrington

Joshua Davis

David Herrington

Joshua Davis

David Herrington

De Circuit Court

Oct. Term 1858

Levis Herington

vs
John Davis

for. 24th.

the Herington Dr.

against the Herington

Dr. 24th.

Dr. 24th.

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To ⁺ *Set. B Wilson Isaac Hemmington*

GREETING:

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our *Sevcil* Court for the County aforesaid, on the *Ninth day of June next* at Hillsboro, then and there to testify, and the truth to say in a certain matter of controversy, now pending in our said Court, wherein *Levin Hemmington is* Defendant on the Plaintiff and *Isaac Davis is* Defendant on the part of *dftr* and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court
with the Seal thereof hereto affixed, at office this

28th day of *April* A. D. 185 *9*
Elias F. Honey
Clerk.

I executed the within Spec in the County of
Jefferson State of Missouri on Isaac Herrington
by reading it within his presence and hearing on the
20 day of May 1859 and on Solomon B Wilson by
reading on the 8th day of June 1859
Oscar Dover Sheriff

To Percival Court
June Term 1859

Louis Herrington

John Davis

for debt.

Sol B Wilson

Isaac Herrington
Sheriff fee \$1.00

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To

Samuel W. Livingston

GREETING:

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our *County* Court for the County aforesaid, on the

ninth day of June 1857, at Hillsboro, then and there

to testify, and the truth to say in a certain matter of controversy, now pending in our said Court, wherein *Samuel Livingston* is Plaintiff and *Joshua Davis* is Defendant on the part of *The Plaintiff* and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court
with the Seal thereof hereto affixed, at office this

9th day of *June* A. D. 1857,

Elas F Honey
Clerk.

I recd the within from in the County of Jefferson
on Samuel Harrington by reading the same within
his presence and hearing on the 9th day of June 1859
Wm D. Davis Sheriff

Louis Harrington
vs,
Joshua Davis

Spa, for plff's
witness

Louis Harrington
Sheriff fee 50cts

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To *Mellie H. Baskick James Rutledge*

GREETING:

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our *Lancus* Court for the County aforesaid, on the

Twelfth

at Hillsboro, then and there

to testify, and the truth to say in a certain matter of controversy, now pending in our said Court, wherein *Louis de Caington* Plaintiff and *Richard de Caington* Defendant on the

part of *deft* and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court with the Seal thereof hereto affixed, at office this

10th day of *June* A. D. 185 *9*

Elias F. Honey

Clerk.

I executed the within Spor in the County
of Jefferson on Willis H Bittick & James
Bittick by reading the same within their
presence and hearing on the 10th day
of June 1859 as said David Sheriff

Louis Hemmington

vs

Joshua Davis

Sheriff fee \$1.00

Louis Armstrong
vs
Joshua Davis

The defendant in this cause
withdraws all that part of the defence
which sets up Compensation for improve-
ments made on the property in controversy
by the defendant in good faith since
his purchase of the said land of
Jas. McEltrando

Trifull Thomas & Pipkin
for defendant.

Herrington

my

Davis

in the area of all
that part of upper
which sets up. con
struction for ~~expenses~~
with No.

Dated June 10th 1859

Chas J Henry
Clerk

Louis Herington } In Jefferson Circuit Court
18 } June term 1857
Joshua Davis }

The plaintiff in the above
Cause Comes and withdraws all claim for
damages in the present action that accrued to
plaintiff prior to the date of the Commencement
of this action

Gran V. Boell for plff.

~~Power of married woman to execute power to page 99.~~

Lewis Thompson

Witness Lewis

With Dances of
Clair for Dances
Music to Commence
Dance of Dances

Attest June 16th 1857

Wm. J. Moorey

Wm. J. Moorey

Lewis Hemmings } In Jefferson Circuit Court
 " } Term 1857
 Joshua Davis }

Be it remembered that the above cause
 being called for trial then came a jury and the plaintiff to
 sustain the issue on his part introduced Samuel Hemmings
 who testified that Editha Hellerbrand wife of James Hellerbrand
 died in 1851. having had no child born alive, that plaintiff
 was the brother of said Editha, that Cinderella Hardesty wife
 of Joseph Hardesty was her sister, that she had no other
 brother or sister or their descendants living at the time of
 her death, that her father was dead at the time of her
 death and that Susan Hemmings was the mother of said Editha
 was living. That plaintiff and said Cinderella Hardesty
 and Susan Hemmings were the only heirs of said Editha

The plaintiff then read a deed from Joseph Hardesty &
 wife Cinderella to himself as follows (here copy same)
 The plaintiff then read a deed from Susan Hemmings
 to himself as follows (here copy same) The plaintiff
 then introduced Jonathan Drennan who testified
 that the rents of the land in controversy were worth
 about twenty five Dollars per annum and that the
 Defendant was in possession of the same at the time
 this suit was commenced and was still in possession
 Another was all the evidence
 given in the case on part of plaintiff

The Defendant
 then read a deed from James Hellerbrand and wife
 Editha to himself acknowledged before a Justice
 of the peace, with the certificate of acknowledgment
 as follows (here copy the deed and acknowledgment)

The Defendant

then introduced Solomon B. Nelson who testified that he drew the deed from from Heltbrand and wife to the Defendant, which is herein before copied. That at the same time he drew and took the acknowledgment of another deed from Joshua Davis wife to James Heltbrand which formed the only consideration of the deed from Heltbrand and wife to Davis, that there was no money paid but a tract of land was given in exchange for the other that both deeds were made at the same time and place and acknowledged at the same time and that Heltbrand took possession of the tract he got from Davis shortly afterwards. That Editha wife of Heltbrand died soon afterwards and that Heltbrand soon afterwards went off to Texas and there died insolvent. The Defendant then read the deed from Joshua Davis and wife to James Heltbrand as follows (here Copy Same)

Isaac Hampton testified that he knew that Editha bargained with the Defendant for his tract of land and to give him in exchange and that she did so because her place was sickly. heard her say say she would not live in this frog pond that in the Exchange each party took possession of the land exchanged and Davis had been in possession ever since.

And this was all the evidence in the case. The undersigned plaintiff asked the following instructions to the jury (here Copy Same) which instructions the Court gave and defendant objected and excepted at the time. The Defendant asked the Court to give the following instructions to the jury (here Copy Same) which the Court refused and Defendant excepted at the time. to which opinions and decisions of the Court the Defendant objects.

and excerpts and tenders hereto the Court this his bill of
exceptions which he prays may be signed sealed and
made part of the record hereon which is done

Robert Stone *Real*

Dear Mr. Thompson

by

John A. Davis

State of Kentucky

Attest June 14th. 1859
Geo. J. Honey
Clerk

The Plaintiff having shown a regular Chain
of title from ^{the premises} said to the premises by descent
and purchase from ~~John~~ ^{John} Lewis is entitled
to recover the purchase money of the premises with
damages from the date of the Commencement
of the suit according to the usual value of
the premises as shown by the evidence

If the jury find for the defendant they will assess the defendant's damages and also fix the monetary value of the services.

the legal title to the tract of land in controversy being
admitted to have been in Editha Holterstrom's ^{vs} ~~vs~~
of James Holterstrom. At the date of the deed from said
Holterstrom to wife of the 26th of April 1851, the said
deed was not legally sufficient to convey such
title and therefore no bar to the plaintiffs right
of recovery in this action, and the fact that the
consideration of such deed was another tract of
land conveyed by defendant Davis to said Holterstrom
and wife or either of them can make no
difference as to the effect of such deed.

J J P

If the jury find from the evidence that Joshua Davis received the land in controversy as the consideration for the South East-quarter of the North West-quarter of section 33 T42 N R3 East which he conveyed to James Hedgesbrand and ~~as this constitutes an exchange~~ and this was done at the instance of Editha the wife of said Hedgesbrand this constitutes an exchange of the one tract for the other although the deeds are not in the usual form of a deed of exchange and the title to the tract in controversy passed to Davis, and the plaintiff cannot recover

We the undersigned the Defendants, guilty of the Indignities and
Excesses perpetrated by the Plaintiff, and aware that
according to the laws of 1793 we further from the monthly
value of the premises to the \$100

I charge person an