

## MORRILL v. ARMSTRONG.

[4 Am Law Rev. 194.]

District Court, D. West Virginia.

1869.<sup>1</sup>

## GRANTS—LANDS

INCLUDED—EJECTMENT—FORFEITURE FOR  
 FAILURE TO REGISTER FOR  
 TAXATION—RELEASE OF FORFEITURE—BAR.

[This was an action by Lott M. Morrill against James Armstrong and others to recover a trust of fifteen hundred acres of land.]

The instructions given to the jury in this case, by Judge Jackson, embraced the following important points: A grant from the commonwealth of Virginia for land, made in 1796, upon a survey in 1795, including within its limits prior claims of others, not specified otherwise than by the mention of the estimated quantity, excludes, by the purport of the grant, lands previously granted, as well as those entered but not granted, within the exterior boundaries of the later grant. Where a person had adverse possession of the lands of another, which was forfeited for the failure of the owner to have the same entered on the books of the commissioner of the revenue, and pay the taxes thereon, and became vested in the commonwealth in 1836, the adverse character of the possession ceased; and when the commonwealth afterwards, by a special act of the legislature, passed in 1844, upon a redemption which was made in 1845, released the title to individuals, neither the possession before the forfeiture, nor that continuing while the title was in the commonwealth, can be added to that after the release took effect, so as to bar an action for the lands.

[From the judgment in this case in favor of the plaintiff a writ of error was sued out by the defendants, from the supreme court, where the judgment of this

court was affirmed. Mr. Justice Strong dissenting. 14 Wall. (81 U. S.) 120.]

<sup>1</sup> [Affirmed in 14 Wall. (81 U. S.) 120.]

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