

PATTON ET AL. V. CAROTHERS.

{Brunner, Col. Cas. 207;¹ Cooke, 148.}

Circuit Court, D. Tennessee.

1812.

OLDEST GRANT—CONCLUSIVENESS.

The oldest grant is evidence of title at law, and can only be defeated by producing an older entry coupled with a grant.

After the lessors of the plaintiff had gone through with their evidence, the defendant produced an entry made in the name of Jean Donaldson, covering the land in dispute. It appeared from the entry books, that this entry had been transferred to John Donaldson. The defendant then produced a grant, in the name of John Donaldson, covering the land in controversy. The grant did not upon its face show what entry it was founded on, and no plat and certificate of survey was attached to it or produced. The plat and certificate of survey always show the date and number of the entry, and the name of the enterer. The plaintiff's counsel objected to this grant being read as evidence to the jury, because it did not appear that it issued upon the entry made in the name of Jean Donaldson.

Mr. Whiteside, for plaintiff.

Grundy, Haywood & Cooke, for defendant.

BY THE COURT (absent, TODD, Circuit Justice). The grant cannot be read as evidence. The grant to the lessors of the plaintiffs is older in date than this grant; their claim can only be defeated by producing an entry, older than their grant, coupled with a grant. An older entry is produced; but it does not appear that this entry ever has been carried into a grant. The entry will not do without the grant, nor the grant without the entry; and nothing appears to show that they ought to be attached to each other. The plat and certificate of survey ought to have been produced, from which

it would have appeared, upon what entry the grant issued. As it stands, it cannot be read.

{For other actions by the same plaintiffs against different defendants, see Cases Nos. 10,831. 10,832, 10,834, 10,835, and 10,838.}

¹ {Reported by Albert Brunner, Esq., and here reprinted by permission.}

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