

Case No. 17,099.

WALLACE v. DEWEY.

{3 McLean, 548.}¹

Circuit Court, D. Indiana.

May Term, 1845.

DEED BY TOWN TRUSTEES—EVIDENCE OF AUTHORITY—ACKNOWLEDGMENT.

1. Where a deed purports to have been executed by the trustees of a town, there must be evidence that the persons who signed it were trustees, and that they had power to make the conveyance.
2. An acknowledgment of a deed before a clerk of the court, in Kentucky, is not good without evidence that the person taking the acknowledgment was clerk.

{This was an action of ejectment by D. C. Wallace against Charles Dewey.}

O. H. Smith, for plaintiff.

Morrison & Bright, for defendant.

MCLEAN, Circuit Justice. This is an action of ejectment. The plaintiff offered a deed in evidence from the trustees of the town of Clarksville, to John Harrison, dated 3d September, 1794, recorded the 27th September, 1818. And also a deed from Harrison to the plaintiff, for the premises, dated 4th January, 1817, and recorded 4th March, 1818. The deeds were both objected to.

The first deed is inadmissible, as it does not appear that the persons who signed it were trustees of Clarksville, at the time, and had power to make the conveyance. And the second deed must be rejected, as it purports to have been acknowledged before the clerk of the court of Jefferson county, and there is no evidence of his being clerk. Nor is there any evidence of the genuineness of the deed. Judgment of non-suit.

¹ [Reported by Hon. John McLean, Circuit Justice.]