July 7th 1792 –

Article of agreement – made and agreed by & between James Elliott of the one part – and James McCarrell of the other part – to wit – Sd. Elliott hath bargained & sold unto the said McCarrell a judgment which he has obtained against the estate of John Elliott for which said McCarrell is to give to said Jas Elliott the one half of the land the judgment will obtain & said McCarrell is to discharge all demands against said judgment – from this fourth

Signed sealed and delivered in the presence of Wm Johnston
David Johnston –
John Johnston –

James his ⊥ Elliott mark
Jas McCarrell

Elliott & others
Arct. Agreement
— B. B. —

State of Tennessee } Circuit Court July term 1823
Montgomery County }

Pleas before the Honorable Robt Mack Esquire Judge of the 6th Judicial Circuit for the State of Tennessee & now presiding in the 5th Circuit of the State of Tennessee by partial interchange of riding.

Be it Remembered that heretofore (to wit) on the 5th day of February 1816 a Writ issued from the Clerk of the Circuit Court for Montgomery County & made Return of the same thereafter to the February of said Court 1816 Which is in the Words & figures following to wit

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State of Tennessee

To the Sheriff of Montgomery County Greeting

You are hereby commanded to take James McCorkle William Reasons Reuben Pollard and Jonathan Thomas if they be found in your County & them safely keep so that you have their bodies before the Judge of fifth Circuit at our next Court of law & equity to be holden for Montgomery County at the Court house in the town of Clarksville on the third Monday in July next to answer John Dorsey Lessee of Patrick Dorsey of a plea of Trespass & Ejectment for that they broke & entered the close & premises of the said John & ejected him therefrom to his damage five hundred dollars & have you then & there this writ witness J. W. Huling Clerk of our said Court at office the 3 Monday in August 1813 & of the Independence of the United States

Spin 5th July 1816 upon which the sheff J. W. Huling CR endorse came to hand 7th July 1816 executed on Reuben Pollard & William Reason 7th July 1816 James McCorkle & Thomas not found. — John Cocke Sheff by his D. John Noblett

Know all men by these presents that we Patrick H Dorsey John Edmondson & Robert Edmondson are held & firmly bound unto James McCorkle Reuben Pollard William Reasons & Jonathan Thomas in the penal sum of five hundred dollars to be void on condition Patrick H Dorsey do with effect prosecute, & his this day commence in Montgomery Circuit Court against said Sam, James, Reuben William & Jonathan otherwise pay & satisfy all costs & damages which may be awarded for failure therein witness our hand & seals this 6 day of July 1816

Spin July 5 1816

P. Dorsey (Seal)

Jno Edmondson (Seal)

Robert Edmondson (Seal)

3

State of Tennessee

To the Sheriff of Montgomery County Greeting

You are hereby commanded as heretofore to take James McCorkle if he be found in your County & him safely keep so that you have his body before the Judge of our Circuit Court of law & equity at our next Circuit Court to be held for the County of Montgomery at the Court house in the Town of Clarksville on the 3d Monday in August next then & there to answer John Dix Lessee of Patrick Darby of a plea of Trespass Whereof with force & arms he entered the close & said John & yoked him therefrom to his damage five hundred dollars, Herein fail not have you then & there this Writ Witness Frederick W Hall Clerk of our said Court at office this 3d Monday in July 1816 & 40 year of the American Independence

F W Hall clk

Issued 29 April 1816

Upon which the Sheriff indorsed came to hand 30th of April 1816 executed on the 3d of July 1816 & Copy of the bill delivered

John Cocke Shff

by John Nettles D Shff

4

The declaration is as follows Towit

State of Tennessee }
Montgomery County } John Denlipe of Patrick Darby
Complains of Richard Fin in Custody of the Shff of Montgomery
of a plea of Trespass With force & armes for that he
broke & entered the close & premises of the said John Den
& ejected him therefrom for that Whereas on the first
day of February in the year one thousand eight hundred
& Sixteen at the County aforesaid the said Patrick
Darby was & possessed of a Certain tract or parcel
of land containing by estimation two hundred & forty Acres
situate lying & being ~~in the County aforesaid~~ on the Main
West fork of Red River in the County aforesaid & within
the Jurisdiction of this Court & bounded as follows to wit,
beginning on a popular on William Mayfield line running
North twenty eight poles to a hickory & ash thence east two
hundred & sixty poles to a white oak thence North 366 poles
to a dead oak thence West 246 poles to a beach in
Yanguist line thence South 394 poles to a popular & Hickory
thence West forty poles to a popular thence South 160
poles to a white oak thence east 126 poles to the beginning
The aforesaid land & premises the said Darby did Lease
& form tet to the said John & the said land so leased by
the said Darby to have & to hold to the said John Den &
his assigns for & during the term of ten years then next
ensuing from the said first day of Feby aforesaid And
fully to be complete & ended By Vertue of which said
lease the said John Den on the said first day of
February aforesaid entered on the said lands & premises
& was thereof possessed on the day & year aforesaid.
And for that George S Elliott heretofore towit
on the said first day of February 1816 at the County
aforesaid claimed to form tet to the said John

Den the same Messuage or tract or parcel of land
With the appertenances to have & to hold to the said John
Den his heirs & assigns for the term of ten years thence
next ensuing & fully to be complete & ended By Vertue
of which lease or demise the said John Den on the
day & year last aforesaid at the County aforesaid entered
into the said Messuage tenement Lands & premises, &
was thereof possessed, And being so thereof possessed
the said Richard Fen on the day & year last aforesaid
at the County aforesaid With force & arms entered into
the said lands & premises so leased as aforesaid & ejected
the said John Den of his possession aforesaid & other Wrongs
then & there did to the said John Den against the peace
& dignity of the State of Tennessee & to the damage
of the said John Den five hundred dollars Wherefore
he brings his suit & thereon pledges to prosecute &c

Hayes Atty

Gentlemen

You may see in the above declaration
that I am sued in ejectment for the premises therein
mentioned to which I have no title & therefore you
have no claim any title thereto You must appear
at the next Circuit Court to be holden for the
County of Montgomery at the Court house in the
town of Clarksville on the third monday in Feby
present 1816 by some attorney of that Court & cause
yourselves to be entered as defendants in my stead
otherwise I will suffer Judgement to be entered against
me by default & you will be turned out of possession

Yours

Richard Fen

Mess
James McCorsolle
Reuben Pollard
William Reasons
Jonathan Thomas = Tenants in possession

Executed by leaving a copy with each of the Defendants J. Nicholls Shff

Know all men by these presents that we James McCorroll Jacob H Foot & Samuel Vance are held & firmly bound unto John Cocke Shff of Montgomery County in the just sum of one thousand dollars — Cts to be paid to said John Cocke or his assigns to which payment well & truly to be made we bind ourselves our heirs executors & administrators jointly severally & firmly by these presents sealed with our seals & dated this 3rd day of July 1816

The Condition of the above Obligation is such that if the above bound James McCorroll doth make his personal appearance before the Judge of the fifth Circuit at a Court to be holden for the County of Montgomery at the Court house in the town of Clarksville on the 3rd Monday in August next then & there to answer John Doe lessee of Patrick H Dorly of a plea of Trespass wherefore with force & arms he entered the close of the said John ejected him therefrom to his damage five hundred dollars then this obligation to be Void otherwise to remain in full force & virtue Given under our hands & seals this day & date above written

James McCorroll (Seal)
Jacob H Foot (Seal)
Saml Vance (Seal)

I John Cocke Shff of Montgomery County do hereby assign the above Obligation & Condition to John Doe lessee of Patrick H Dorly the plff therein named his executors & administrators to be sued for according to the Statutes in such case made & provided; In Witness Whereof I have hereto set my hand & seal this 2d day of July 1816

John Cocke Shff
by his Dep John Neblett

Dem Lessee of Patrick Darby
vs
James McCarell William Reams &
Reuben Pollard

February Term 1817
This cause is continued on affidavit of Defendant at this Term.

Dem Lessee of Patrick Darby
vs
James McCarell William Reams &
Reuben Pollard.

August Term 1817.
This day came the parties by their attorney and thereupon came a jury of good & lawful men to wit, James Hamblettan, William C Williams, Randolph Ramey, James Wilson, Saml C Hawkins, Barney Ruff, Josiah G Duke, James Dice, Jeremiah Brown, Patton Pugh, James Paxton & John McCarstal, Who being duly elected tryed & sworn, the truth to speak upon the issue joined, and thereupon by consent of the parties with the assent of the Court this cause is continued until to morrow nine O clock August 20th 1817 This day came the parties into Court by their attorneys aforesaid. & thereupon came the Jury aforesaid who were empannelled and on their appearance took their seats in the box. and by consent of the parties with the assent of the Court this cause and Jury are addjourned until to morrow Eight O clock A. M August 21st 1817 This day came into court the parties aforesaid by their attorneys & thereupon came the Jury aforesaid and on their appearance took their seats in the box by consent of the parties by their attorneys and with the assent of the Court. this cause & jury are addjourned until to morrow morning eight O clock

Darby's Lessee
vs
James McCarrol & others

August 22d 1817
Ejectment
This day came into

again into Court here the parties aforesaid by their attorneys aforesaid, & thereupon came the Jury aforesaid and on their appearance took their seats in the box to the Summons of the Court given on the tread of this cause the Plaintiff by his counsel excepts and prays his bill of exceptions which is allowed to be signed sealed & filed as a part of the record. this cause & jury are adjourned until to morrow morning nine o clock A.M.

August 23rd 1817

Darby's lessee
vs
James McCarrell & others } Ejectment

This day came into Court here the parties aforesaid by their attorneys and thereupon came the Jury aforesaid and on their appearance took their seats in the box and the said Jury upon their oaths do say that the Defendants are not guilty of the trespass & ejectment in the declaration mentioned by the defendants by replying hath alledged, Therefore it is considered by the Court here that the plaintiff take nothing by his bill but for his false claim our be amerced and that the defendants go hence without day and recover against the Plaintiff their cost by them about their defence in this behalf expended & the plaintiff in mercy &c. The Plaintiff in this cause prays an appeal in the nature of a Writ of error and he then it is granted, on his entering into bond with security which is accordingly done.

Bill of exceptions

Patrick Darby's lessee
vs
James McCarrell & other

On the tread of this cause the lessor of the Plaintiff gave in evidence a copy of the grant to John Elliott dec. for 640 acres by Land being the land in controversy which is annexed marked A & made a part of this bill

He also proving that George S Elliott was the heir at law of John Elliott dec'd, that said John died about May 1789 at which time said George was an infant about one year old. he then gave in evidence a copy of the deed of conveyance for said tract of land from said George to the father of the Plaintiff, which is annexed marked B and then proved the defendants in possession at the time of the commencement of this suit, the defendants then offered to read in evidence the deed of conveyance herein annexed marked C from George Newell to James McCarrell and of the defendants, for 640 acres of the said 640 acres granted as aforesaid, also a copy of a record herein annexed marked D, and also offered to prove that the said George Newell is dead, and that the defendants had been in possession of said land since about 1792 or 3. the defendants also offer to prove that there was a sale at auction of said land at the time mentioned in deed marked C that one Robert Porter acted as auctioneer under the instruction & direction of said George Newell and that said McCarrell became the purchaser and that eighty nine pounds was the value of the said tract of land at said time, the defendants also offer to introduce in evidence the deposition of Robert Porter herein annexed marked E / the notice of taking which was acknowledged by plaintiff, to the admission of which testimony the plaintiff by his counsel objected but the objection was overruled, and the testimony permitted to go to the jury, the defendants also introduced the deposition of William C Jamison clerk of Montgomery formerly Lancaster County Court herein annexed marked F and made a part of this bill to the introduction of which plaintiff objected but the objection was overruled, and it was read

to the jury. The defendants then after making the affidavit hereto marked G / and reading the bond to the Court and after having proved the existence of the bond therein described offered to give parole evidence of the contents of said bond which was objected to by plaintiff but overruled, the defendants then proved that on the 7th day of June 1811 an arbitration bond in a large sum was made and entered into between James McCarrell on the one part and George S Elliott and one Jeremiah Walker who had married the sister of said George on the other part conditioned to abide by the final award and determination of Hugh B Z Bell Robert Prince & James Stewart concerning all matters in dispute between these said parties. The defendants also offered to prove that in the presence of said parties on the same day said arbitrators after hearing the allegations of said parties and examined the papers of both sides laid before them did make an award by parol in substance as follows that said McCarrell should pay to George S Elliott & Walker four hundred dollars & should execute to them a deed of conveyance for 320 acres of land lying in Randolph County on the waters of Whitewater and also that George Oldham & Davidson first administrators of the estate of John Elliot dec'd should pay the said George S & Jeremiah 150 dollars each. It was also proved that in pursuance of said award said McCarrell executed the bond hereto annexed marked H & also the note of hand hereto annexed marked I, both which he had performed & paid, the said Walker & Elliot at the same time executed the receipt hereto annexed marked K. It was also proved by defendants that the matters in dispute between the parties to said arbitration bond were also the matters

relating both to the lands and personal estate of said John Elliot deceased, more particularly the lands, as the personal estate was not worth at the death of said John more than about $200 Dollars, and that the parties were well satisfied with the said award. The arbitrators in evidence further stated that it was their opinion at the time of making the award that said McCarrell held a good legal title to the land purchased by him at sheriff's sale and otherwise the property of the said John Elliot's estate and the said arbitrators at the time of making the award were ignorant of any fraud relating to the purchase of said lands. The defendants Reasons then introduced in evidence a deed to from him from James McCarrell for 124 acres of said 640 acre tract which deed is annexed marked I. The defendant Pollard then introduced a deed to him from James McCarrell for 124 acres of said land marked M and annexed as a part of this bill. The defendants then proved that they had been in continued possession of the land described in plaintiff declaration since about the year 1793 claiming the same adversely to all the world besides, to all which evidence the plaintiff objected but was admitted by the Court. To which the plaintiff excepts. Prays this his bill of exceptions may be stated and made a part of the record

Chath. W. Williams

2nd bill of Exceptions

Patrick Darby's lessee

vs

James McCarrell & others

The Plaintiff in addition to the testimony mentioned in the first bill of exceptions filed in this case, as rebutting testimony introduced the record herein annexed marked

A.A. as also a copy of an agreement, hereto annexed & marked B.B. and then proved that James McCarnes deft intermarried with Gilpah Elliot Meddow of John Elliot dec'd, about 3 years after the death of said Elliot or some time in the year 1796, & that she died some time about the year 1812. and further proved that the lands contained in the deeds of Pollard & Reasons was conveyed by said McCarnes in pursuance of the agreement referred to marked B.B. which land had been given ~~given~~ to them by James Elliot after their intermarriage with his daughters, which was the whole consideration, then proved by the oath of Joseph Lane that he was present at the sale of the land 800 acres on the waters of White, first mentioned in the record A, that he heard McCarnes at that time publicly say that he purchased said land for the benefit of John Elliots heirs, that upon this declaration others ceased to bid for the land; further said Lane ——— on oath said that the ~~same~~ bid for said land by said McCarnes was more than its worth in his opinion at that time, he then proved by the oath of George Oldham that shortly after said McCarnes had became the purchaser of two tracts of land in Davidson County the property of Elliots estate the witness was told by said McCarnes that the land would have sold for much more, but that he McCarnes stated to those present at the sale that he was buying in the land for the benefit of John Elliots heirs, that none of the personal property of John Elliot had been taken out of the hands of the Meddow, It was proved by plaintiff that John Elliots family residence was on the tract

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of land in dispute between the parties, and the Widdow lived on it before and at the time of her intermarriage with the defendant McCarrily and the testimony contained in this and the former bills of exceptions, was all the evidence in the cause. On this testimony the Judge instructed the Jury, that by the laws of this state, the County Court had jurisdiction over the estates of Orphans, and the appointment of Guardians, and that if the County Court did appoint a special guardian, in the existence of a general guardian, and order that the special guardian, should sell the Orphans lands that a sale made under that authority, would be binding and convey the estate of the minor, notwithstanding the purchase was made by the general guardian and that although no such order of the County Court was shewn in this cause that the Jury might presume from the circumstances of the case that such an order had once existed, and that the deed made by Neville the special guardian was founded on such an order, and that if the Jury did believe that such an order did exist at the time of the sale to McCarrily by the special guardian that the title of the Defendants would be a good legal title in law and bar the Plaintiffs rights to recovery, and that if the deed to McCarrily was ever voided and conveyed no estate, that the arbitration & award if conducted with honesty & good faith, would stop the Plaintiff in his action from any right of recovery, or to dispute the title of the defendants in an action of ejectment, and that as to the statue of seven

appears possession of the title of the defendants was good either by the sale by the special guardian or by the arbitration & award they did not stand in need of its protection and if their titles were not good in either of those ways the defendants was not in a situation to claim its protection

Nath. W. Williams Judge &c

Exhibit C

This indenture made twenty second day of October in the year of our Lord One thousand seven hundred and ninety three Between George Sherrill of Jennessee County and Territory south of the Ohio River Ohio Special Guardian for Zebed & George Lyons Elliott Orphants of John Elliott dec.d of the One part and James McCarne of the County aforesaid of the other part Witnesseth that Whereas George Sherrill of County and Territory aforesaid was at the July County Court in the year One thousand seven hundred and ninety two George Sherrill was appointed special Guardian for Zebed and George Lyons Elliott Orphants of John Elliott deceased as would satisfy the Judgment which appears on the docket of the Court in the County of Jennessee at the July Term One thousand seven hundred and ninety two Sherrill was appointed special guardian for Zebed and George Lyons Elliott Orphants of John Elliott deceased by the real estate or so much of the real estate of the said John Elliott deceased as would satisfy the Judgment obtained against the estate of John Elliott dec.d & fieri facias having been sued and served on the said George Sherrill guardian as aforesaid to the orphants of the said John Elliott deceased and the legal mode having been pursued on the Judgment to charge the real Estate of the said Elliott so that the Judgments might be paid off

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and satisfied. and an order was also made at the July Court of Sumpter One thousand seven hundred and ninety three as follows to wit That the the said George Stewell Guardian to the ~~[illegible]~~ Orphants of John Elliott Deceased as aforesaid is directed to expose to sale at twelve months credit. the real Estate of the said John Elliott deceased or so much of the real Estate of John Elliott deceased as will satisfy the Judgments hanging over the said Estate or to pay so much of the Judgments as the land will sell for. The aforesaid George Stewell Guardian aforesaid by virtue of the order last above mentioned. he has caused a tract of land lying & being in the County of Sumpter on the north side of Cumberland River and on the west fork of Red river a branch of said River. and bounded as hereafter described, which will fully appear by patent. bearing date the tenth day of July in the thirteenth year of our Independence. and in the year one thousand seven hundred and eighty eight which was granted to the said John Elliott. By patent from the State of North Carolina, the said tract having been advertised to be sold at public auction on the 28th day of ~~October~~ August One thousand seven hundred & ninety three. and now on the 28th day of August as aforesaid the said tract of land aforesaid being set up to be sold to the highest bidder and James McCarrol being the highest bidder. Bid the sum of eighty six pounds for the aforesaid tract of land. & he the aforesaid James McCarrol as aforesaid being the highest bidder became the purchaser and now this indenture made as aforesaid I the said George Stewell Guardian to the Orphants of said John Elliott dec^d. for the consideration of the sum of Eighty six pounds to be paid in twelve months after the day aforesaid. and by virtue of the power given

from the County Court aforesaid as guardian
hereby Cause the said tract of land aforesaid
to be sold alienated Conveyed and Confirmed &
by these presents, Bargain sell alien convey
and Confirm unto the said James McCarrell
his heirs and assigns for ever. Which tract
of land and Bounded as follows Begin-
ning at a poplar on William Morgan's line
running north with said line ninety eight
poles to a hickory, thence East one hundred
and sixty poles to a white oak, thence
north three hundred & fifty six poles to a
dead oak, thence west two hundred & forty
six poles to a beach on Robert Young's line
thence south two hundred & ninety four
poles to a poplar & hickory, thence west
forty poles to a poplar & hickory, Thence
south one hundred & sixty poles to a white
oak. thence East one hundred and twenty
six poles to the beginning. The whole five
hundred & ninety acres To have & to hold
the aforesaid granted premises with the
appurtenances to the said James McCarrell
his heirs & assigns for ever. With all & singu-
-lar the rights and privileges and Emoluments
thereto belonging or appertaining
and I the said George Merrill Guardian
to the orphants of the said John Elliott
deceased have granted bargained & sold
all the right title interest claim and dema-
-nd that the aforesaid orphants had or could
have had had in longest of representation
of their father John Elliott dec'd, to the said
James McCarrell his heirs & assigns for Ever
With all the privileges & emoluments thereunto
belonging or in any wise appertaining to
the aforesaid tract of land In Witness
Whereof I the said George Merrill Guardian

for the said Orphans have hereunto set my hand and affixed my seal the day and year before written

Witness Present Geo Neville (Seal)

Acknowledged in Open Court

A. Crutcher

Hennepin County Court October Term 1793 this deed was acknowledged in open Court & ordered to be Registered A Crutcher Clk

Here Deed of Hennepin County Registry this deed is duly Registered in Book B page 86 May 6th 1795 Hugh Lewis Regr

Chebet E

Mississippi Territory

Jefferson County

Know all men that we William W. Lloyd & Isaac Dunbar two of the acting Justices of the peace, in and for said County & Territory, By virtue of a commission to us directed, from the Honourable the Circuit Court of Montgomery County in the State of Tennessee, hereunto annexed, have this ~~day~~ 22nd day of Nov in the year 1816, caused Robert Prince to come before us at the house of said Robert Prince in the said County & Territory aforesaid. Who being first solemnly sworn on the Holy Evangelist, the truth to speak, in a certain matter of controversy, in said Circuit Court depending wherein the Lessee of Patrick Darby is Plaintiff & James McCarrell, William Rawson & Reuben Pollard are defendants, Deposeth & saith. Viz

Q. Was you ever sheriff of Montgomery County

Ans. I was acting as Sheriff of Tennessee County and territory south of the River Ohio, now Montgomery County & State of Tennessee

Q. What time did you act as Sheriff

Ans. From July seventeen hundred & ninety two to July seventeen hundred & ninety three

Q. While you acted as Sheriff of Montgomery County did you or did you not offer to Public sale a tract of land, on which James McCarnes, Reuben Pollard and William Reasons lives

Ans. I did

Q. By what authority did you make sale of that tract of land

Ans. Under the direction of a special guardian, whether the Execution was directed to the Sheriff or an Order of Sale to the Guardian, at this time I do not recollect, having no papers to shew which was the case, that to the best of my recollection I made the deed as Sheriff

Q. To whom did you sell the said tract of land to

Ans. I sold it to James McCarnes

Q. Was you at an arbitration held between George Elliot — Walker & James McCarnes,

Ans. I was

Q. Was this arbitration in consequence of the real or Personal Estate

Ans. It was in consequence of both Personal and real

Q. How many tracts of land did Elliot & Walker claim, to the best of your recollection, that were sold by Execution

Ans. Three or four to the best of my recollection

Q. Where did they lay & in what County

Ans. To the best of my recollection, there is one in Montgomery, one in Williamson, one in Sumner and I believe another in Davidson

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Q. Did the said Elliot & Walker appear to be satisfied with the Arbitration awards of 320 acres of land on Whites Creek & 400 Dollars in cash

Ans. They were perfectly satisfied

Q. Did or did not Elliot & Walker give James McCarroll a receipt at the time of the arbitration, to that effect

Ans. They did

Q. What was the intention of that receipt.

Ans. It was to be a full and final discharge to James McCarroll of Elliot & Walker's claim to the Estate both real & personal

Q. Was it your impression & understanding at the time that Elliot & Walker relinquished all claim to the lands before mentioned by you & also lands sold by execution belonging to the Estate and heirs

Ans. It was, And further this deponent saith not

R Prince

We do certify that the foregoing deposition was taken by us, reduced the writing by and of us, and sworn to & signed before us in the presence of the agent for the defendants

Nov 12 1816

Isaac Dunbar

William W. Clay

Christ G

P Darbes Esq

James McCarroll & others

James McCarroll one of the defendants makes oath that in or about the 7th day of June 1811 a bond to abide by the award of James Stewart, Robert Prince & Hugh H Pelp was entered into by this Affiant & George & Elliot & Jeremiah Walker, that this Affiant has used fair means in his power to discover said bond & have it before the Court on this trial but has been unable to discover it, & has reason to believe that it is lost or

be misladd that this appeant cannot pend or
sworn to in open Court Jas. McCarrell
August 21st 1817 P. N. Moore Clk

Exhibit I

On or before the seventh day of June
One thousand & Eight Hundred & twelve I promise
to pay or cause to be paid unto Jeremiah
Walker and George G Elliott, four hundred
Dollars, if not paid at the above time
stipulated I am indulged until the ensuing
Christmas by paying lawful interest —
Witness my hand & seal this seventh day
of June 1811 Jas McCarrell Seal
Test
James Stewart
Hugh H Bell Endorsed
September the 26th 1812 then Recd of Jas
McCarrell two hundred and thirty dollars
of the within note I say Received by me
Jeremiah Walker

Exhibit L

This Indenture made this twenty
third day of January in the year of our Lord
one thousand seven Hundred and ninety seven
Between James McCarrell of the State of Sumpter
and County of Montgomery of the one part,
And William Reasons of the State and County
aforesaid of the other part, Witnesseth that
the said James McCarrell for and in con-
sideration of the sum of thirty pounds
current money to him in hand paid by the
said William Reasons the receipt whereof
the said McCarrell hereby fully acknow-
ledges the said McCarrell hath granted
Bargained and sold, and do by these presents
grant bargain sell convey enfeoff and
confirm unto the said William Reasons
one certain tract or parcel of land —

situate lying and being in the State and County aforesaid, on the North side of Cumberland river, and on the East side of the West fork of Red river, Beginning at an ash and two Hickorys. Thence North seventy six poles to a black oak and poplar, Thence West to the Patten line above where it crosses the Junction of the west fork, Thence down with said line to the Junction of said creek, Thence with the meanders of the creek to a white oak & sugar tree, thence East to the beginning. Containing one hundred & twenty five acres more or less. To Have and to hold the said land & premises and every part & parcel thereof, privilege emolument & advantage to the said land belonging or in any wise appertaining to the said William Pearsons his heirs and assigns forever, as also all the right title interest and claim which he the said McCarnes has in and to the said land & premises at the time of the sealing and delivery of these presents by virtue of a deed grant to the said McCarnes By George Sewell Esq. late Guardian to the Orphans of John Elliott dec.d. Reference being had to the records may more fully and at large appear and by virtue of said deed the said James McCarnes doth hereby warrant secure and defend the said land & premises from him his Heirs Executors administrators or assigns to the said William Pearsons his heirs executors administrators or assigns. In Witness whereof I have hereunto set my hand and affixed seal the day and date ~~above~~ written mentioned signed sealed and delivered in the presence

of
M Phillips
P M Carthy

James McCarrell Deed

State of Tennessee
Montgomery County } January Term 1797

The within deed of conveyance
James McCarrell to William Parsons was in
open Court and ordered to be Registered

Test P B Wm Pollock C M County

State of Tennessee
Montgomery County } The within deed is Registered
in Book C page 264 October the 28 1797

Francis Prince R.R

Exhibit M

This Indenture made this Twenty
third day of January in the year of our Lord
One thousand seven hundred and ninety seven
Between James McCallub of the State of Tennessee
and County of Montgomery of the One part
And Reuben Pollard of the State & County of
aforesaid of the other part, Witnesseth that the
said James McCarrell for and in consideration
of the sum of thirty pounds current money to
him in hand paid by the said Reuben Pollard
the receipt whereof is hereby fully acknow-
ledged, the said McCarrell hath granted
bargained and sold, and do by these presents
grant Bargain sell convey unto & confirm
unto the said Reuben Pollard one certain tract
or parcel of land, situate lying & being in the
State and County aforesaid, on the North side
of Cumberland River and on the East side of
the West fork of Red River. Beginning where

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the old patten line crosses the West fork thence north one hundred and twenty five poles to an ash and two Hickorys, thence west to the creek to a white oak & sugar tree, thence down the creek the meandur to the Beginning containing one hundred and twenty four acres more or less, To have and to Hold the said land and premises and every part and parcel thereof with all and singular the rights profits privilege emolument and advantage to the said land Belonging or in any wise appertaining to the said Reuben Pollard his heirs and assigns forever, as also all the rights title interest and claim which he the said McCarrole has in and to the said land and premises at the time of the sealing and delivery of these presents by virtue of a deed granted to the said McCarrole by George Stable Esquire Guardian to the orphans of John Elliott dec, Reference being had to the record may more fully and at large appear, and by virtue of said deed the said James McCarrell doth hereby warrant secure and defend the said land and premises from him his heirs Executors administrators or assigns, to the said Reuben Pollard his heirs Executors administrators or assigns In Testimony whereof I have hereunto set my hand and seal the day and date first within written

sealed & delivered in presence of
M. Phillips
Christopher Owens

James McCarrell (seal)

State of Tennessee
Montgomery County } January Court 1797.

The within deed James

McCarrell to Reuben Pollard acknowledged in Open Court, and ordered to be Registered Test Bartley William Pollock C.M.C.

State of Tennessee
Montgomery County } February 10th 1797
The within Deed is recorded in book C page 78. by Francis Prince R.M.

Exhibit A. of right No 1st
April 26th 1790

Know Ye. That we for and in consideration of the sum of ten pounds for every hundred acres hereby granted, paid into the treasury by John Elliott have given & granted, & by these presents do give & grant, unto the said John Elliott a tract of land containing Six-hundred & forty acres, lying & being in the county of Davidson on the West fork of Red River, below the junction of said Fork with its west fork. Begining at a poplar on William Murgets line running North with said line ninety eight poles to a hickory & Ash. Thence east one hundred & Sixty poles to a White oak. Thence North three hundred & fifty six poles to a dead oak. West two hundred & forty six poles to a Beach on Robert Youngs line Thence South two hundred & ninety four poles to a Poplar & hickory. Thence West forty poles to a Poplar. Thence South One hundred & Sixty poles to a white oak. East One hundred & twenty poles to the begining, as by the Plat annexed doth appear. together with all woods waters mines minerals hereditaments and appurtenances to the said land belonging, or appertaining, to hold to the said John Elliott his heirs and assigns forever &c Which land was surveyed for the said John Elliott

Elliott February 24th 1785 by Robert Nelson D. Surveyor by consequence of a preemption right warrant numbered 518. The entry dated July 10th 1784. The Grant signed Samuel Johnson, with seal of the State appended, dated the tenth day of July, In the thirteenth year of our Independence in the year of our Lord one thousand seven hundred and Eighty eight, and countersigned James Glasgow Secretary.

Test.

Benjn Harden Pub. Regr N.C.

State of Tennessee
Montgomery County } Registers office July 20th 1823.

I Peter H. Cole Register of Montgomery County do certify that the foregoing Grant is Registered in my office book A. page 30, and that this is a copy of the same. given under my hand at office in the town of Clarksville the day & date above written.

Peter H. Cole Register
Montgomery County.

Dorly Lewis } Morbid Q
vs } This day July 28 1823 this Cause
Pollard } came on to be tried before the Court & a Jury — Whereupon
it was agreed in the Case that the two of the bills
of exception heretofore filed Contains a Statement of
the evidence in this Cause & they are filed in the
Case — a part of this bill of exception — together with
the exhibits including the title papers of the Deft &
Plff — And Plff Lewis also produced a Copy of the record
of the appointment Lelpha Elliott to gether with his
bond for the Guardian Ship which is hereto annexed
Morbid A And thereupon the Court instructed
the Jury that Defendants title was not such as
as to protect said Defendant under the Statute
of Limitations — No Sufficient to maintain the
issue on the part of Deff. on any other grounds
To which instruction & evidence excepts & prays
this bill of exception may be sealed & made a part
of this record which is accordingly done
Deff after Verdict also moved the Court to grant
him a new trial — which was refused to which
opinion Deft also excepts & prays this bill may be
sealed which is accordingly done

Robt Mark

Dorly Lewis } The same title the same instructions
vs } were given in this Cause as in the former to which
Ricosons — } the Plff excepts on both & allowed

Robt Mark

27

Be it Remembered that heretofore to wit on the 18th of July 1820 the following transcript of a record was filed in my office to wit

At a Supreme Court of Errors & appeals begun & held for the 5th Judicial Circuit at the Court house in Charlotte on the second monday in March 1820

Present
Robt White } Esquires
John Haywood } Judges
Thomas Emmerson

Be it remembered that heretofore on the 17th of July 1818 The Transcript of a record Patrick Dorsey Lessee against James McCorrell & others was filed in the office of said Court, on which the following proceedings were had to wit

At March Term Court
At Sept Term 1818 Continued
At March Term 1819 Continued
At Sept Term 1819 Continued
And note hereof wit, at March term 1820 The following proceedings were had

Patrick Dorsey Lessee } In Errors
vs
James McCorrell Rubin Pollard & others } This day came

the parties by their attorneys & thereupon all & singular as well the record & proceeds aforesaid as the matters & things by the plff in Error in error assigned being seen inspected & by the Court here fully understood and argument thereon being had, Because it seems to the Court here that in the record & proceeds aforesaid & in rendering the Judgement in the Court below there is error It is considered by the Court here that the Judgment aforesaid rendered aforesaid be reversed annulled and entirely for nothing esteemed & that the plff in error recover against the Deff in error his costs here

in this Court expended in prosecuting his Writ of error.
That this Cause be remanded to the Circuit Court of
Montgomery County & that a New trial be had therein

State of Tennessee }
Supreme Court of Errors }
& appeals 5 Circuit } I Frederick W Heiling Clerk of
said Court do Certify that the foregoing is a true Copy
of the proceedings had in said Cause in the Suit Patrick
Darby lessee against James McCorroll & others Defts

Seal

In testimony whereof I have hereto set
my hand & private seal having no
official seal this 4th day of July 1820
F W Heiling Clk

State of Tennessee } Circuit Court August term 1820
Montgomery County }
Patrick Darby lessee } Ejectment
vs
James McCorroll & others } This day came the parties
by their attorneys & thereupon on motion by the parties
& with the assent of the Court, the Defendants by Order
of the Court here are severed & that this Cause
be made a case separate & distinct against each
of the three Defts, It is also on motion Ordered
that the Surveyor John Colwell do go upon
the land in Controversy & make out four
fair plats of each of the parties Claims as either
party may direct & make return thereof on or before
the next term of this Court —

State of Tennessee } July Term 1821
Montgomery County }
Patrick Darby lessee } Ejectment
vs
James McCorroll } This day came the parties
by their attorneys & thereupon this Cause is Continued
on affidavit of the Deft. On motion by his paying
all the costs of this term —

30

Therefore it is considered by the Court the pltff do recover of the said Deft James McCorroll his Costs by him about his suit in this behalf expended at this term

State of Tennessee } August Term 1821
Montgomery County }

The death of James McCorroll being suggested as of record & the same not being denied, Therefore this day came the pltff by his attorney & moved the Court to appoint William Mallory Guardian for William Mallory & John Mallory infants under the age of twenty one Pendente Lite, heirs of James McCorroll deceased which is Ordered accordingly

And on further Motion by said pltff it is Ordered by the Court that Sci fa issue according to act of Assembly against William McCorroll Lewis Force & Lorinda his Wife, John A Scott & Margarett his Wife William Mallory & John Mallory infants under the age of twenty one years, & that said Sci fa be served on William Mallory Guardian

State of Tennessee } July Term 1823
Montgomery County }

Patrick Dooly Issue } Ejectment
vs
Reuben Pollard } This day came the parties by their attorneys & thereupon came a Jury of good & lawful men (to wit) Matthew Rybern Thomas Baker Lee Force William Chance John Rochevoal William Brandy David Dawes Ambrose Morton John Henderson Robt Collins James Hallis Solomon Hunt who being duly elected tried & sworn the truth to speak upon their oaths do say they find the issue in favor of the pltff, & say the Deft is guilty of the Trespass & ejectment in the pltff said mentioned & assess his damages to six & one fourth cents besides his costs Therefore its is considered by the Court here that the said pltff have his Writ of possession & that he recover of the said Deft

the sum of six & one fourth cents damages aforesaid by the jury in form aforesaid & also his costs by him about his suit in this behalf expended & the Deft in Mercy

And thereupon the Deft prays an appeal in the nature of a Writ of Error to the Supreme Court & having entered into bond & security agreeable to law the same is allowed

Know all men by these presents that we Reuben Pollard & Hugh F Bell of the County of Montgomery & State of Tennessee are held & firmly bound unto John Van Hope of Pabuck & Dorly in the penal sum of one hundred & fifty Dollars for the true payment of which we bind ourselves our heirs executors & Assigns firmly by these presents sealed with our seals & dated this 28 day of July 1833 The Condition of the above Obligation is such that Whereas Pabuck & Dorly Lessee obtained a judgement against Reubin Pollard & Whereas the above bound Reuben Pollard hath this day prayed an appeal to the Supreme Court of errors & appeals for this Circuit Now if the above bound Reuben Pollard do with effect prosecute his said Writ of error or in case of failure therein pay satisfy & discharge such costs & damages as the said Supreme Court may direct in the premises then this obligation to be void otherwise to remain in full force & virtue Given under our hands & seals this day & date above Written

Reuben Pollard (Seal)

Hugh F Bell (Seal)

State of Tennessee
Montgomery Circuit Court Set,

I Peter N. Marr Clerk of said Court do hereby certify that the foregoing pages do contain a true transcript of the record & proceedings in the case Patrick Hopkins Lessee against Reuben Pollard, as they remain of Record in my office in Testimony whereof I have hereunto set my hand and affixed my private seal having no seal of office this 17th day of June 1834 & 58 year of our Independence

(Seal)

P. N. Marr Clk

The Costs are as follow, viz.-

Original writ & bond --- $1.40
Alias Capias ——— 1.00
11 Continuances @ 40 cts ——— 4.40
3 affidavits @ 25 cts ——— .75
Original [illegible] affidavit [illegible]
[illegible] @ [illegible]
[illegible]
[illegible]
Original Judgment [illegible]
[illegible] Judgment ——— 1.00
Order of Insurance ——— .25
Order to take Depositions ——— .25
Order for Appeal & Aff bond .40 ——— .65
8 probates of attendance 6 cts ea. .54 ——— $22.44

Aff Jno Nettletts ——— $3.25
do B King ——— 1.25
do Fredrick Gay ——— .25 ——— $4.75

Witness Hugh F Bell $13.125
James Elliott $14.75
James Walker $[illegible]
Dello Davis McFadden $3.125 ——— $[illegible]
$75.39

Total amt $75.39 one third of which is $29.65 the Joint Costs
which is the true amt of the costs in this case $29.65

Test
D M Man Clk

33

20 Patrick to Dale

vs. Trespass

Ruben Pollard

filed 1st June 1823

Bill of Cost made

4th of June

Transfered from the

5th Circt & filed 10th

Jany 1825

Recorde Book

B page 184

No. 0

3.60
5.45
1.10
2.
11.95

Darby's Lessee vs Pollard } This is an action of Ejectment by P. H. Darby Claiming Claiming under J. S. Wiott in the Circuit Court of Montgomery County — The facts of this Case are stated in 5 Haywoods Reports — Brief refers for the Same

1st Point. The Court Erred in Charging the Jury that the defendant was not protected by the Statute of limitations 1797

1st. Reason The State of 1797 & 1715 should be taken & Construed in Pari Materia & the genuine Construction of them will cause a case of this Kind: — The rules of Construction are the following

They should be Construed to suppress the mischief & advance the object of the Legislature 2 Coke 45-9

Should be taken near the rules of the Common Law as Possible 19 Vin Abr 520 1 Mont 201. 1 Dall 463.

Contemporary Construction should be regarded — 1 Hay 5-60. 2 Hay 9. 56. 87. 358

Statutes of Policy & public nature should be largely & beneficially Construed, & in that purpose words may be transposed, supplied &c — 19 Vin Abr — 518. Vin Abr title Remedies 105.

Also the sections of the acts of 1797 may be considered to see how the Legislature understood the words formed on a grant as in the case of improvements & the act of 1813 & the exceptions thereto. —

The subject of Controversy on the act of 1715 at the time of the passage of the act of 1797 should be considered to Land what was the doubt intended to be explained by 1797 as stated in the preamble — 1 Term Rep 353. 2 Ter Rep 37.

The Possession of defendants were adverse & whether adverse or not is a question to be tried by a jury 1st Burr 11. 9 Johns 102. 174. Cooper 217. 1 Johns. 164. 3rd Schoales & Lefroy 624 —

McCarroll was not guardian 4th Conn digest 281. Let Guardian E 2 Phillips Conn. 293. But whether he held as Guardian or adversely is a fact to be tried by a jury 1 Johns. 164.

If McCarroll was guardian his possession was adverse if he was not, defendant was —

Darby Lepee
Wm Irvin
Pollard

Darby Appellee
vs } Error
Pollard

This is an action of Ejectment by P. H. Darby claiming under G. S. Elliott in the Circuit court of Montgomery County. The facts of this case are stated in Fifth Haywoods Reports to which this brief refers for the same.

1st Point The court erred in charging the jury that the defendant was not protected by the Statute of limitation 1797.

1st reason. The Statute of 1797. & 1715 should be taken and construed in pari materia. & the genuine construction of them will cover a case of this kind.

The rules of construction are the following.

They should be construed to suppress the mischief & advance the object of the legislature. 2 Call 45-9.

Should be as near the rules of the common law as possible 19 Vin Abr. 520. 2 Day & Bin 1 Munf 201. 2 Call 463. 1 Call 463.

Contemporary construction should be regarded. 1 Haywood 60 1. Hay 5 2 Hay 9. 56. 87. Taylor Rep 321. 166 2 Hay 356 & not otherwise Act 1804 Stanley case.

Statutes of a political & public nature should be largely & beneficially construed, & for that purpose words may be transposed supplied &c — 19 Vin abr. 518. Ven Abr. Limitation 105 in point.

As the sections of the acts of 1797 may be considered as to our law the legislature understood the words founded on a grant, as in the case of improvements & the act of 1813. & the discussions thereon

The subject of controversy on the act of 1715 at the time of the passage of the act of 1799 should be considered to learn what was the doubt intended to be explained by 1799. as stated in the preamble — 1 Zen Rep 353. 2 Zen Rep 371.

The possession of defendants was adverse and whether adverse or not is a question to be tried by a jury 1st Burr 113. 9 Johns 102 174 Cowen 217. 1 Johns 164 2nd School & Lefr 624

McDowell was not guardian 4th Cowen Dig 281 tit Guardian 2 Florida Com 293 But whether he acted as guardian or adversely is a fact to be tried by a jury 1 Johns 164.

If McDowell was Guardian, his possession was adverse & if he was not defendant was — 2 Schoo & Lef 624 &c —

Darby Lessee
vs
Error
Pollard

In the Supreme Court of Errors & Appeals, for the 5th Circuit the following proceedings were had in said

Barbey Lipsie } In Error
Reuben Pollard } At June Term 1823

Continued At June Term 1824 cont.

The above is a true copy of the proceedings had in the cause

Attest

Wm W Harding Clk

Bill costs Appeal 180 Court Error 180
& cont 80. Recd 180 Bill costs 40 } 6.00

Lewis Lipe
to Richardson
& Pollard

In the Supreme Court of Errors & Appeals 5th Circuit — The following proceedings were had in said

Stanley Lessee } In Error
vs } At June Term 1823 cont'd
William Ransom } At June Term 1824 continued

The above is a true copy of the proceedings had in said Cause in Supreme Court of Errors & Appeals 5th Circuit

Attest W. Harding Clk

Bill costs Appeal 1.00 Writ error 1.00
2 Cont 80 Record 1.00 Bill cost 1.40 } 6,00
Attending } 2,00

Dairy Paper

& Record

Prasson

Know all Men by these Presents, that We Gelpah Elliott, Thomas Dunbar & James Jenning, of the County of Hampshire and Territory South of the Ohio — Are held and firmly bound unto the Justices of the County Court of Pleas and Quarter Sessions of Davidson County, In the Sum of Five hundred Pounds, Current Money of the said State, to be paid to the said Justices, or their Successors in Office, or assigns In trust for the Child hereafter Named, Committed to the Care and tuition of Gelpah Elliott — to the which Payment well and truly to be made, We bind ourselves our heirs, Executors and Administrators, jointly and severally firmly by these Presents, Witness our hands and Seals this 18th day of April 1791 — The Condition of the above Obligation is such, that Whereas the above bound Gelpah Elliott is Nominated and appointed Guardian to Gideah Elliott & George Elliott, Orphans of John Elliott — Now if the said Gelpah Elliott, shall faithfully execute her Guardianship by securing and improving all the Estate of the said Orphans to which she is now appointed Guardian, that shall come into her hands or possession for the said Gelpah Elliott until they arrive at full age, or that they the said Orphans be sooner thereto required, and then render a true and perfect account, of her Guardianship on Oath before our said Court, and deliver up and pay to, or possess the said Orphans, of all and any such Estate or Estates, as they ought to be possessed of, or to such other person or persons, as shall be lawfully authorized to receive the same, and the profits arising therefrom Then this Obligation to be void, Else to remain in full force in law. —

Gelpah Elliott
Thomas Dunbar
James Jenning

Signed Sealed and delivered in Court

Test
B. Searcy

State of Tennessee
Montgomery County } I Andrew Vance, Clerk of the County Court by Sitting and Quarter Sessions for said County do hereby certify, that the foregoing Copy of the Bond of Zelpah Elliott Guardian &c is truly taken from the Original Record, as is filed in said Clerks Office — In Testimony Whereof I have hereunto affixed my hand this 20th day of June 1883

Andrew Vance Clk
By Wm. A. Stokes

Darby Plfs in Error
vs
Pollard

This is an action of Ejectment by P. G. Darby claiming under J. Elliott in the Circuit Court of Montgomery County. The facts of this case are stated in 5th Haywoods Rept.

Brief refers for the same —

1st Point. The Court Erred in charging the jury that the defendant was not protected by the statute of limitations 1797.

1st Reason: The Statute of 1797 & 1715 should be taken & construed in pari materia. & the genuine construction of them will cover a case of this kind: —

The rules of construction are the following
They should be construed to suppress the mischief & advance the object of the legislature: 1 Bally 459 Should be as near the rules of the common Law as possible 19 Vin Abr 520 Pay 2 Day 1. Mem 201. 1 Dall 463.

Contemporary construction should be regarded - 1. Ray 5. 60 2 Ray 9. 56. 67 356. Taylor Rep. 324. 166.

Statutes of a political & public nature should be largely & beneficially construed, and for that purpose mean may be transposed, supplied &c - 19 Vin. abr. 518. Dein Abr Remedies 104.

Also the sections of the acts of 1797 may be considered to see how the legislature understood the words founded on a grant as in the case of improvements & the act of 1813 & the exceptions therein

The subject of controversy are the act of 1715 at the time of the passage of the act of 1797. & should be considered to learn what was the doubt intended to be explained by 1797 as stated in the preamble — 1. Ken Rep 353. 2 Ken Rep 371.

The possession of defendants was adverse & whether adverse or not it is a question to be tried by a jury 1st Burr 113. 9 John. 102 174 Cooper 317. 1 John 164. 3rd Sc Leals & Lefrey 674.

McCarrell was not guardian 4th Com. dig. 281. let Guardian E 3 Plow Com. 293. but whether he held as guardian or adversely is a fact to be tried by a jury — 1 Johnson 164. — If McCarrell was Guardian the possession was adverse & if he was not defendant was —

Darley Lefee
vs
Error

Pollard

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