

Minnett & Est adm^{rs}

J. A. Honnans trustee

Montgomery Ex Dkt.

Be it remembered that
this Cause came on to be heard
on this the 12th day of January
1879 before the Supreme Court of
Tennessee sitting at Nashville
upon a transcript of the record
from the Chancery Court of
Montgomery. ~~the~~ Upon Consider-
ation whereof the Court is of the
Opinion, and doth so order
adjudge and decree that in
the proceedings and decree of the
Chancellor there is no error, &
the same is in all things affirmed,

of Stewart's note for said rent
then her will be entitled to
a credit for the difference
of its value, and said Stewart's
note such credit if any should
appear by the report ordered
to be dated on the day of
date of said Stewart's note.

And it further appearing
that an order of reference was
made to the Com to take
& state an account, as to
rents &c, and in order
that said report may be
made this Cause is re-
manded to Chancery Court
of said County ~~for~~ and
that Complainants ^{will} recover
of O. M. Stuart the costs of
the appeal for which Execution
will issue.

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~~12~~

Merritt & Fort Adams v F. A. Hannum's hrs & co's

Montgomery Chancery court

appeal by C. M. Stuart, April Term 1875.

Filed Nov. 20. 1875

10th Equity

W. M. Fleming ckr.

Transcript of the record in the cause of
Merritt & Fort Adms of F. A. Hannum, vs
The heirs & creditors of said Hannum, in the
chancery court of Montgomery county Tenn^e.

Report of Renting

Filed Apr 1. 1867

At the October Term 1866 of the chancery court at
Clarksville, an order was made in this cause directing
the clerk & Master to rent out the real estate belonging
to the estate of F. A. Hannum, taking notes with good
security. I, W. F. Shackelford clerk & Master would
respectfully report that I advertised that I would
rent out the real estate of F. A. Hannum upon the
terms above mentioned, on the 19th of Apr. 1866, at the
court house in Clarksville, I did attend on that day &
offered the same to the highest bidder, it was bid off
as follows:

C. M. Stuart, Home farm \$415.00

He executed his note with A. J. Harrison & J. D. Randle as
securities. x x x x x x x x x x x x x x x x

Respectfully submitted

W. F. Shackelford c. m.

State of Tennessee

Be it remembered that at a chancery court for Montgomery county, begun & held at the court house in Clarksville on the third Monday in April 1867 Hon Thomas Barry Chancellor presiding, the following proceedings were had. to wit

Decree confirming rents

April 20. 1867.

This day this cause again came on to be heard upon the report of the clerk & master of the renting of the real estate in this cause, which report is in words and figures following, to wit (see preceding page), which being unexcepted to is in all things confirmed.

Stuart's Petition

Filed Oct 31. 1868.

To Hon J. Q. Shackelford Chancellor, presiding in equity at Clarksville Tennessee, by interchange with the regular Chancellor.

The petition of Charles M. Stuart of Montgomery county Tenn. filed in the above entitled cause now pending in chancery at Clarksville Tenn.

Petitioner begs leave respectfully to state to your Honor that about the month of Nov 1866 he rented from the clerk & master of this court as receiver in the above cause, the late residence of Fisher A. Hannum dec'd, with about 100 acres of land & executed to said Receiver, his note for \$4150 payable 25 Dec 1867; the renting was at public auction & it was proclaimed publicly on the day of the renting, that those whose renting would be put in possession of all the houses & buildings on the place; there were at the time about twenty five cabins on the place, besides three appurtenant to the dwelling, & the terms of said renting were expressly that those renting would be put into the possession of all these cabins, which could have been rented out to the tenants & have brought money to the renter. It was upon this express understanding that petitioner rented the property; he would not have rented the property at all without the cabins; they formed the main inducement to petitioner's bidding. He will state that twenty of these cabins were removed, a short time thereafter, from the place, by the tenants who inhabited them at the time of the renting, against the protest of petitioner. He states that he has been greatly damaged by this removal of the cabins, damaged to an amount much greater than the note

given for the rent. He did not get what he rented, as before stated, he would not have touched the contract without the cabins.

The premises considered he prays the court that his petition be received & filed in this cause, that a reference be made to the clerk & master to take proof the amount of his damage, that his note be given up to be cancelled, & that petitioner be fully indemnified for his losses in the premises, & to grant him all other & further relief ^{which} ~~in~~ the premises will justify & as in duty bound, he will ever pray.

Hornberger & House, Solrs.

State of Tennessee - Montgomery county -

Before me N. D. Shackelford esq. appears C. M. Stuart the above petitioner & made oath that the statements in his foregoing petition are true to the best of his knowledge, information & belief - C. M. Stuart.
N. D. Shackelford esq.

State of Tennessee.

Be it remembered that at a chancery court for Montgomery county, begun & held at the court house in Clarksville on the 3^d Monday in Octo 1868, the Hon J. O. Shackelford chancellor & presiding, the following proceedings were had -
- to wit -

Decree referring petition

Octo 31, 1868.

Be it remembered that this cause came on to be heard before the chancellor at Octo term 1868, upon the petition of C. M. Stuart, when it is ordered by the court that said petition be received & filed in the cause upon the petitioner's giving bond & security for costs, & the court not being advised as to the matters in said petition set forth, doth order, adjudge & decree that said matters be referred to the clerk & master to take proof & report to the next term of this court upon all said matters in said petition set forth. It is further ordered by the court that Merritt & Fort Adams have leave to answer said petition & that they answer so as not to delay the report herein ordered, the incompetency of the court being expressly waived by all the parties.

Answer of Adams.

Filed Sept 14, 1869.

To the chancellor of the Seventh division of Tennessee holding court at Clarksville Tennessee.

The answer of Merritt & Fort Adams of J. A. Hannum decd to the petition of C. M. Stuart, filed in

The above entitled cause, on the 31. October 1868

For answer said Adams admit that petitioner Stuart rented the residence of F. A. Hannum deed & about 100 acres of land attached to the said residence, about the time stated in the petition & executed his note payable as stated & for the amount stated. They do not admit that said renting was on condition that these renting should be put in possession of all the houses & buildings on the place, but deny that such was the case. The cabins referred to by the petitioner were built by the U. S. Government for a contraband camp & used by it for that purpose during the war, at the close of the war the land was surrendered to respondents by order of the Bureau of Freedmen & abandoned lands, on condition that the cabins thereon should belong to the colored occupants. Under this release by the Government respondents acted, until the land was turned over to W. J. Shackelford Receiver by order of this court. The land without these cabins was worth all or more than the amount, \$415, agreed to be paid by Stuart, & respondents have learned that Stuart re-rented the land for more than he bid the same off at. They only want the estate they represent, protectors & justice done to all parties interested therein, & for that reason pray that the petition be dismissed

L. G. Smith, Solicitor

Deposition - Thos Glover

For Stuart

Filed Apr 15. 1870.

Ques 1. State whether you were present in Novr 1866 when W. D. Shakerford Receiver in this cause rented out the residence of F. A. Hannum, if so state who was the auctioneer & what was rented. Ans. I was present at the time, that is I was there a portion of the time; the auctioneer, E. Michers was crying the property when I got there, I understood the auctioneer to proclaim once or twice while he was crying the property, that the party who rented it, could either rent out the cabins to tenants or remove them just as he thought fit. the property was struck off to C. M. Stuart.

Ques 2. do you know how many cabins were on the place at the time it was rented. Ans. I do not.

Ques 3. do you know what these cabins were renting for or what they would have rented for Ans. I do not know what they were renting for but I think each cabin would have rented for three or four dollars a month, this is a low estimate.

Cross-examined

Ques 1. How did you happen to be at the renting of the property referred to? Ans. My uncle Dr. Hodgson had gone to the renting with a view of renting the property

ed went up there because he was there. Stuart bid more than Hodgson was willing to give.

Ques 2. Did not do Hodgson decline to rent because the cabins were included in the renting? Ans. He did not make that remark to me, he only said it was too high.

Ques 3. Are you certain that Mr Withers the auctioneer stated that the renter could have the use of the houses on the place. Ans. Yes sir, or he could remove them.

Ques 4. Were not the houses erected on the land ^{rented} by C. M. Stuart, by the U. S. Government as a contraband camp. Ans. I do not know, further he says not.

Thomas Glover

Deposition E. Withers.

For Stuart.

Filed Sept 9. 1870.

Ques 1. State whether you were present in Novr 1866 when W. D. Shackelford Rents in this case rented out the residence of J. A. Hannum. If so state who was the auctioneer & what property was rented out. Ans. I was present & was the auctioneer who cried the property. The property rented out was what is known as the Hannum farm, as I now recollect. My recollection also is that Mr Shackelford stated to the crowd that whoever rented the property

would get the cabins. I think I also made proclamation to the same effect. My recollection is also that it was proclaimed that the cabins were put on the place without authority, & that whoever rented the property would get the cabins & could either remove them or rent them out as he saw fit.

Ques 2 Do you know how many cabins were on the place.

Ans. I do not.

Ques 3. Do you know what the cabins were renting for or what they would have rented for. Ans. I do not know for certain, but suppose each cabin would have rented for from five to seven dollars per month. & further respondent says not

E. Withers

The counsel for Merritt & Fort Adams declines to cross-examine E. Withers.

C. G. Smith re

Deposition of W. Taylor

For Deput.

Filed Sept 9, 1870.

Ques 1. Do you know how many cabins were on the Hannum place in Nov. 1866 when it was rented out by Shackelford Receiver & which said cabins were removed a short time after said renting. Ans. I can't state the number, but a good many. It was a thickly

settled village. A great many of them were removed a few days after the renting. The cabins were occupied by colored people who put the cabins up & they were removed by the occupants. The colored people who built the cabins, aid so I think under the impression that the ground would be given to them by the Government. I saw Mr Stuart out there the next morning after the renting & heard him tell the colored people that they could remain, but must pay him rent.

Ques 2. What did such houses rent for per month. Ans The houses in the village would have averaged three & a half dollars per month for rent.

Cross-examined

Ques 1. What was the land rented by Stuart north without the cabins referred to. Ans. I rented 15 acres from Stuart at \$5.00 per acre, but it was the best land of the tract. Most of the Hannum land was very poor. I don't know many acres were in the tract, & further he says not

J. M. Gayles.

Deposition - A. B. Harrison

For Stuart.

Filed Sept 9, 1890.

Ques 1. Were you present at the renting by the clerk & master.

in Nov. 1866 of the Hannum place, if so state what was said, if anything, about the cabins. Ans. I was present at the renting. My recollection is that Mr Withers the auctioneer, proclaimed that the renter would get the cabins, that the cabins would rent for enough of themselves to pay for the place. I was a bidder against Stuart for the place. An important inducement to me in the bidding was the statement made by the auctioneer, that the renter would get the cabins, & that the rent of the cabins would pay for the place, & further he says not

A. B. Harrison

Deposition - H. Westenberger.

For Stuart.

Filed Sept 9, 1870.

Ques. State whether you were present at the renting of the Hannum place by Shackelford Recinn in Nov. 1866 if so state what was rented & what was said about the cabins. Ans. I was present at the time. Mr Shackelford & Mr Withers both proclaimed that the renter would get the cabins, & said if the tenants who then occupied the property did not pay rent, the party renting the property could have them moved out right away, & further he says not.

H. Westenberger

Deposition - C. M. Stuart

For Stuart

Filed Sept 9. 1870.

Ques. Did you rent the Hammum place in Novr 1866 if so state what was proclaimed as to the renting, how many cabins were on the place? Ans. I did rent the place in Novr 1866 at public auction, it was proclaimed that the renter would get the cabins, & could get possession of the cabins the next day, but could not get possession of the farm until January. I went out the next day and looked over the cabins, there were twenty five cabins, twenty three of them were removed in a few days. I do not know who moved them away, I saw Dr Taylor's wagon moving one & I went to Mr W. E. Shackelford & told him they were removing the cabins & I would hold him responsible for them. I rented the place expressly for the cabins. I was offered \$400. for my bargain that evening, but I refused to take it.

Cross-examined.

Ques 1. Did you not in less than a week after renting, after seeing Mr Shackelford the clerk, have a conversation with C. S. Smith & J. E. Bailey in reference to the renting, said they not as attorneys for the parties interested propose to relieve you of your bid, & let the land be re-rented. Ans. I had such a conversation with

Bailey & Smith in the presence of Shackelford and I refused to give up my bid.

Ques 2. How much was the land rented by you north without the cabins? Ans. I would not have given anything for the land without the cabins, but I rented 15 acres of the best land to Dr Taylor for \$50⁰⁰ per acre & the balance to two negroes for which I got 25 bbls corn north 25⁰⁰ per bbl and received \$100. for some tobacco as rent. I would not have received anything if I had not given the place my personal attention during the year. and further he says not

E. M. Smart.

State of Tennessee.

Be it remembered that at a chancery court for Montgomery county begun & held at the court house in Clarksville on the 4th Monday in April 1875. Hon H. H. Lurton Chancellor presiding, the following proceedings were had to wit

Final Decree.

Rendered May 8. 1875

This day this cause came on to be heard before the Hon Horace H. Lurton Chancellor & upon the petition of

C. M. Stuart, the answer of Merritt & Fort assigns of F. A. Hannum dec'd, & the proof in said cause, when the court is pleased to order, adjudge & decree that the petitioner Stuart is not entitled to recover anything under his said petition, but in-as-much as it appears from the proof that said Stuart, when he rented the property mentioned in his petition, was told by the Receiver & auctioneer that he would be put in possession of the cabins thereon, & that he was deprived of their use by removal of said cabins which did not belong to the estate of F. A. Hannum dec'd.

It is ordered & decreed that the master take proof & report to the next term what was a fair & reasonable value for the rent of the land for the year 1867 (that being the year for which Stuart rented the same), for the land rented by Stuart & held by him for that year & if it should appear upon the coming in of said report that the rent of said land was worth less than the amount of Stuart's note for said rent, then he will be entitled to a credit for the difference of its value & of Stuart's note. such credit, if any should appear by the report ordered, to be dated on the day of date of said Stuart's note.

From which decree C. M. Stuart prays an appeal to the next term of the Supreme court at Nashville.

which is granted upon his entering into bond with approved security for costs of the appeal or upon his taking the oath prescribed for poor persons, on or before the duly rules.

Paupers oath for appeal

Filed June 24. 1875

State of Tennessee - Montgomery county.
C. M. Stuart makes oath that owing to his poverty, he is unable to bear the expenses of the appeal prayed by him from the decree of the chancellor in the cause of Merritt & Fort Adams vs Hannum's heirs et al, at the April term 1875 of the Montgomery county chancery court & that he is justly entitled to the relief sought to the best of his belief
C. M. Stuart

Sworn to & subscribed before me June 24. 1875

O. C. Smith S. C. C. C.

Bill Costs.

Shackelford com. Pet 25 aff 25 dec 25 o & o 25 depo 100 2.00
Johnson com. depo 50 dec 25 aff 25 transcript 300 8.85
certificate 25 seal 50. Bill cost 50 1.25 11.10
(^{Imple} ~~thirteen~~ 10/100 dollars) \$12.10
15
Geo. Leonard pd postage 11¢

State of Tennessee - Montgomery county.

I, Peck G. Johnson clerk & master of the chancery court at Clarksville, in & for said county, do certify that the above & foregoing is a true, perfect & complete transcript of the record and bill of costs remaining in my office in the cause of Merritt & Fork Adams vs F. A. Hammon's heirs & creditors, so far as the same in any manner relate or appertain to the matters arising under the petition of C. M. Stuart filed in said cause.

Given under my hand and seal of office, at office in Clarksville, this the 3rd day of July, 1845.

Peck G. Johnson Clerk

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Run

W. J. 110
Aug. 15, 1877

(Box 7353)

MT 337

1877