

Charles McClure, respondent, vs. J. W. McClurg, appellant. Appeal from Greene Circuit Court.

SHERWOOD J., DELIVERED THE OPINION OF THE COURT.

Action of ejectment brought in the Greene circuit court by Charles McClure against J. W. McClurg. Petition and answer in usual form.

Both parties claim under John Thurman, as the common source of title. The plaintiff read in evidence a deed from Thurman to Samuel Prophet, dated July 17th, 1867, for the land in controversy, and also a deed for the same land, from Prophet to the plaintiff.

The defendant offered to read in evidence a deed to himself for the land sued for, from the sheriff of Greene county, dated September 1st, 1863, reciting a judgment recovered against Thurman, the common source of title, the issuance of execution, the levy of the same on said land and the sale of the land to defendant, after due advertisement, etc., etc.

The plaintiff objected to the introduction of this deed in evidence on the ground that it had not been acknowledged in open court.

The certificate of acknowledgment was in this form:

State of Missouri, }
County of Greene, } ss.

Be it remembered that on this 3d day of October, 1863, personally appeared before the judge of the Greene circuit court of Greene county, Missouri, Thomas A. Read, sheriff of said county, and acknowledged that he executed the foregoing deed as sheriff aforesaid, for the uses and purposes therein contained, which said acknowledgment is entered on the records of said court of said date, in record book "F," page 222.

In witness whereof, I, M. J. Hubble, clerk of said court have hereunto set my hand and seal, this 3d day of October, A. D. 1863.

M. J. HUBBLE, Clerk.

By E. M. HENDRICK, D. C.

The defendant then offered in aid of

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