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And now here at this day to wit, the said third Monday of July being the seventeenth day of the same month, in the year of our Lord one thousand eight hundred and forty eight, come again into the County Court here as well the said plaintiff lessee as aforesaid by his attorney aforesaid, as the said defendant by his attornies aforesaid. And the said sheriff and surveyor of the County aforesaid, to whom the said plots and certificates were delivered for the purpose of amending or adding thereto if necessary, return the same to the Court here as amended.

Whereupon, for the trying the issue aforesaid between the parties aforesaid within joined, it is ordered by the Court here, that twenty persons from the pannel of petit Jurors returned to the Court here by the sheriff of the County aforesaid be drawn by ballot, according to the act of Assembly in such case made and provided. And thereupon the twenty jurors being so drawn by ballot, and written upon two lists, one of which said lists is delivered to the counsel for the respective parties and the counsel for each of the said parties having stricken out four persons from the said lists. Thereupon the remaining twelve persons being called, come; that is to say, John R. Robertson, Francis Robey, John W. Ley, Gerard Hungerford, Daniel Jenifer Jr. Charles H. Sherborn, Absalom Tennison, James M. Burch, Thomas L. Speake, Sylvester F. Gardner, John W. Jenkins and John Matthews, who being empannelled, and sworn to say the truth in the premises, upon their oath do say, that the said defendant is not guilty of the trespass and ejectment aforesaid, in manner and form as the said plaintiff Lessee as aforesaid above complains against him as the said defendant above by pleding alleges. Therefore it is considered by the Court here, that the said plaintiff Lessee as aforesaid take nothing by his declaration aforesaid, but that he for his false clamor be in mercy, and so forth; and that the said defendant go thereof without day, and so forth. And it is also considered by the Court here that the said defendant recover against the aforesaid plaintiff lessee as aforesaid, the sum of ——— by the Court here unto him the said defendant on his assent adjudged for his costs and charges by him about his defence in this behalf laid out and expended, and that the said defendant have thereof execution, and so forth.

Memorandum. Before the jurors aforesaid withdrew from the bar of the Court here, the said plaintiff Lessee as aforesaid and the said defendant by their attornies aforesaid filed in Court here the following bills of exceptions, to wit:

Sarah E. Mitchell's Lessee —
vs.
Henry S. Mitchell. —

Plaintiffs exceptions. 1st Exception. At the trial of this cause the plaintiff to support the issue on his part offered in evidence the plots and explanations in this cause, which it is agreed may be read in the Court of Appeals without being copied into the record, the same as if they had been inserted and made part of this exception, and proved by James Brawner, the surveyor, that the patents for Mitchells, Lott, Wheelers Addition and Wheelers Rest, are truly located on the plats, according to the courses and distances of said patents, as laid down from the respective beginnings claimed for the said patents in the various ex-

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-planations of the plaintiff and that the certificate of Mitchell's Lott Resurveyed is truly located on the plats according to its patent courses and distances (all of which patents and said certificates of Resurvey it is agreed may be made a part of this exception in the Court of Appeals without being copied in this record) from the original beginning thereof as claimed by the plaintiff in his explanations, but that he only ran by actual survey the first ten lines of the certificate of Mitchell's Lott Resurveyed and the remaining lines thereof he has located on the plats by laying down the lines according to course and distance and that the same result would be obtained on the plats, and the said remaining lines would be located in the same way on the plats, if he had run the same by actual survey on the ground according to the courses and distances of said lines, and transferred said survey to the plats.

And the plaintiff further proved by said Brawner that the nine first lines of Mitchell's Lott, Resurveyed as actually run from the beginning thereof as claimed by the plaintiff at B. and C. according to the courses and distances in the said certificate of resurvey terminated at the points B. and C. as located on the plats and the said Brawner proved, on cross examination that he never ran by actual survey the lines of Mitchell's Lott but the same are located on the plats by courses and distances beginning the same at the two points marked B. and C. respectively.

The plaintiff then read in evidence the original depositions of Samuel Ward (now deceased) taken on the 17th of June 1846, in a cause between the plaintiff and defendant for another tract of land as follows.

"Samuel Ward, aged about sixty nine years being duly sworn on the Holy Evangely of Almighty God deposeth and saith, at point A. where stands a stone and post he has always heard that this place now shewn by him was the beginning boundary of Wards Delight and also a boundary of Standley Enlarged, and he has been frequently shewn this place as said beginning boundary of Wards Delight, and also a boundary of Standley Enlarged, by sundry old persons now dead. By his father and John Deloziers, dec.d he has been said Deloziers sworn at said boundary at Masons survey, and that he has lived all his life in this neighbourhood except a few years.

Deposition of Samuel Ward at point B. Deponent shows, this place where a stone formerly stood and stated that he has always heard that this was a boundary of Masons land, and of land now held by deponent, and he has been shewn said boundary by his father and others now dead as a boundary of Mason's land," and proved by James Brawner, the surveyor, before whom the plats in this cause were made out, and the survey made, that he was present, when said deposition was given by said Ward, and that the point A. mentioned in said deposition, and at which the said Ward was sworn in that cause is the same point, which is marked A. on the plats in this cause, and which is located by the plaintiff as the second boundary of Standley Enlarged.

And the plaintiff further read in evidence the patent of Standley Enlarged (which it is agreed may be read in the Court of Appeals as