

It is remembered that heretofore to wit that is to say on the 20th day of February in the year 1816 came Archelaus Dunham by James Pinckall Esquire his Counsel and sent out of the Clerks Office of the Superior Court of Chancery holden at Blacksburg for the fourth District his certain writs of Subpoena against Jacob Romine and others which said writs are in the words & figures following to wit

"The Commonwealth of Virginia to the Sheriff of Harrison County Greeting: You are hereby commanded to summon Jacob Romine and Martha his wife, Sarah Stout, Daniel Stout, Pamela Stout, Rachel Stout and Hezekiah Stout Heirs at Law and Devisees of Daniel Stout Deceased. To appear before the Judge of the Superior Court of Chancery holden at Blacksburg, in the said County of Harrison on the first Monday in April next - To answer a bill in Chancery Exhibited against them and Thomas Eldridge and Sarah his wife in the said Court by Archelaus Dunham - and this they shall in no wise omit, under the penalty of 333¹/₃ Dollars Each; And have then there this writ, Witness John L Schen Clerk of our said Court, at Blacksburg aforesaid the 20th day of February 1816 in the 40th year of the Commonwealth

John L Schen

And the return of the said writ is in these words to wit "Executed U.P. Goff Dd for W. Martin A.F.C.L."

The Commonwealth of Virginia to the Sheriff of Monongalia county, Greeting: You are hereby commanded to summon Thomas Eldridge and Sarah his wife To appear before the Judge of the Superior Court of Chancery holden at Blacksburg in the County of Harrison on the first Monday in April next To answer a bill in Chancery Exhibited against Jacob Romine and Martha his wife Sarah Stout, Daniel Stout, Pamela Stout, Rachel Stout and Hezekiah Stout Heirs at Law and Devisees of Daniel Stout Deceased and the said Thomas Eldridge and Sarah his wife in the said Court by Archelaus Dunham And this they shall in no wise omit, under the penalty of 333¹/₃ Dollars Each And have then there this writ. Witness John L Schen Clerk of our said Court at Blacksburg aforesaid the 20th day of February 1816. and in the 40th year of the Commonwealth

John L Schen

And the return of the writ last aforesaid is in these words to wit "I am informed that Thomas Eldridge and Sarah his have removed out of the State of Virginia -

A. P. Wilson Coroner of Monongalia

And at Rules held in the Clerks office aforesaid in the Months of April May, and June 1816 The said cause was continued -

And at Rules held in the Clerks office aforesaid in July then next following came the Plaintiff by his Counsel and filed his bill against the said Defendants which bill is in the words and figures following to wit " To The Honorable Dabney Carr Judge of the Superior Court of Chancery at Blacksburg - Humbly Complaining sheweth unto your Honor Your Orator Archelaus Dunham of Harrison County, That in the year 1808 Your Orator bought of one Daniel Stout of said County a tract of land containing about 89 acres situate on the Waters of Boothers Creek for the price of 500 Dollars or thereabout which your Orator paid to said Daniel Stout - and the said Daniel Stout with his wife on the 18th Day of August in the same year Executed a deed of Bargain and sale for the Conveyance of said land to your Orator, which Deed of Bargain and sale is herewith filed And your Orator prays that the same may be taken as a part of this his bill of Complaint - That your Orator from the time of his said Purchase hitherto hath been and yet is in possession of said land

525) Under his said purchase - That the said Daniel Stout sometime thereafter Deceased this life leaving Jacob Romine and Martha his wife Sarah Stout, Daniel Stout, Pamela Stout, Rachel Stout and Hezekiah Stout his Heirs at Law and Devisees - Your Orator further shews that at the time of said Bargain and the Execution of said deed the Legal title of said land or a great part thereof was in one Sarah Stout who had theretofore sold the same to the said Daniel Stout but that the Equitable title was in the said Daniel Stout who had full and peaceable possession thereof and held the Obligation of the said Sarah Stout compelling her to Convey the same to him - He had paid her therefor and was entitled to have a Conveyance from her, yet the said Legal title remained in said Sarah until the death of the said Daniel Stout after which the said last mentioned Sarah who held said Legal title as aforesaid (and who was the Cousin German and not the aforesaid Coheir or devisee of said Deceased) Intermarried with Thomas Eldridge; Your Orator shews that when he received said Deed from said Daniel Stout and wife he was ignorant of the legal title being in said Sarah and did believe that the Legal title was in said Daniel Stout and that said Deed of Bargain and sale and the Statute of uses had vested in him a full and complete title for said land Your Orator shews that the said Thomas Eldridge and Sarah his wife, after the death of the said Daniel Stout conveyed the Legal title of said land to his said Heirs and Devisees supposing or pretending to believe that they were performing the said Sarah's said Obligation to the Deceased. But now so it is may it please your Honor the said Heirs and Devisees and Thomas Eldridge and Sarah his wife combining and conspiring together, and contriving how to injure and defraud your Orator - they refuse to convey or suffer your Orator to have or take the legal title for said land - they make divers false Pretences and Excuses touching the same and threaten to sue your Orator at Law to recover the possession of said land, all which are contrary to Equity and good conscience and tend to injure and oppress your Orator - In Tender Consideration Whereof, and for as much as your Orator is remedied at Law and Relievable Only in Equity, where such matters are properly Cognizable - To the end therefore, that the aforesaid Heirs and Devisees and Thomas Eldridge and Sarah his wife may be made Defendants to this bill and be compelled to answer all and singular the Allegations thereof under their Corporal Oaths, that such of the said Defendants in whom the Legal title of said land is, may be compelled to convey the same to your Orator - and that your Orator may have such other further and General Relief touching the premises as may Appertain to Equity - May it please your Honor to award the Commonwealth's writ of subpoena to the said Defendants directed, Commanding &c.

Jas. Pindall Pltffs. Attorney

And thereupon the said Cause was continued till the then next Rules

And at Rules held in the Clerks office aforesaid on the 5th day of August 1816 the Defendants Thomas Eldridges and Sarah his wife not having entered their Appearance and given security, according to the act of Assembly and the Rules of this Court - And it appearing by satisfactory Evidence that they are not Inhabitants of this Commonwealth - It was Ordered that the said Defendants should appear on the first day of the then next Term, and answer the bill of the plaintiff and that a Copy of said Order should be forthwith inserted in some public News paper printed in the Town of Clarksville for two months successively, and posted at the front Door of the Court House in the said Town

And at Rules held in the Clerks office in September 1816 the said Cause was Continued - And at Rules held in the Clerks office aforesaid on the 7th day of October 1816 - The subpoena awarded in the said Cause having been returned Executed on the Defendants Jacob Romine and Martha his wife, Sarah Stout, Daniel Stout, Pamela Stout, Rachel Stout and Hezekiah Stout heirs at Law and Devisees of Daniel Stout Deceased, and three months since filing the bill and the service of the Subpoena having elapsed and they still failing to file their Answers the bill of the Plaintiff was taken for confessed as to these Defendants and that the Court would proceed at a future day to decree the Matter thereof unless the said Defendants on or before the Term then next after they should have been served with a Copy of this Order shew Cause to the contrary

And at a superior Court of Chancery held at Clarksburg for the District aforesaid On Monday the 14th of October 1816—

Came the plaintiff by his Counsel and the Defendants Thomas Eldridge and Sarah his wife being solemnly called came not and it appearing to the satisfaction of the Court that a copy of the Order of publications taken in the said Cause at Rules as aforesaid had been published in the By Stander a public newspaper published in Clarksburg in this State for two months successively and that one other copy of the said Order of Publication was posted at the front door of the Court House of Harrison County two months since, and the said Defendants Thomas Eldridge and Sarah his wife having failed to appear It was thereupon considered that the Court would proceed to take such proof in support of the bill filed in the said Cause as the plaintiff should offer against the said absent Defendants. And on the Motion of the Plaintiff a Commission was awarded him to take the Depositions of his Witnesses in the said Cause against the said Defendants Thomas Eldridge & Wife

And at Rules held in the Clerks office aforesaid in the Months of November and December 1816 the said Cause was continued

And at Rules held in the Clerks office aforesaid in the months of January February, March, April, May, June, July, August, September, October, November and December 1817— the said Cause was continued

And at Rules held in the Clerks office aforesaid in the Months of January February, March, and April 1818 the said Cause was continued

And at Rules held in the Clerks office aforesaid in May then next following the said Cause was set for hearing by the plaintiff

And now at this Day To wit At a superior Court of Chancery continued and held at Clarksburg for the District aforesaid On the 19th day of May 1818.

Came the plaintiff by his Counsel and the Defendants being called came not and the Defendants Thomas Eldridge and Sarah his wife still failing to appear and the other Defendants having failed to appear or show Cause against the Constitutional Decree heretofore made in this Cause and duly served on them— The Court doth now proceed to a hearing of this Cause, and the Bill and Exhibits being inspected. It is ordered adjudged and decreed that the Complainants bill of Complaint be taken as confessed and the Court proceeding to decree the Matter thereof doth Order, adjudge and Decree that the Defendants do convey and release to the Complainants in fee simple the tract of fifty seven Acres of land in the bill mentioned: That the Complainant take this seized and possession thereof, and that the Defendants pay to the Complainant his costs of suit &c.

The Exhibits filed in the said Cause are in the words & figures following to wit
This Indenture made this Eighth day of August One thousand Eight hundred and Eight Between Daniel Stout and his wife Catharine of the County of Harrison and State of Virginia of the one part and Archelus Dunham of the same place of the other part. Witnesseth that they the said Daniel Stout and Catharine his wife for and in Consideration of the sum of five hundred dollars to them in hand paid the receipt whereof they hereby acknowledged have granted bargained sold, Alien, Enfeoff and confirmed and by these presents do grant Bargain Sell, Alien, Enfeoff and confirm unto the said Archelus Dunham a certain tract or parcel of land lying and being in the County of Harrison, Situate on the waters of Boothers Creek and bounded as followeth To wit Beginning at a water Beech and running up the Creek with the Meanders thereof 183 poles to John Hughteads Corner a Stake. East 14 poles to a stump— N 41. E 138 poles to a black Oak, North 60. West 94 poles to a stump, North 74 poles to the Beginning containing 89 acres together with all profits and Commodities thereunto belonging Or in any wise Appertaining with all its appurtenances To have and to hold the aforesaid tract or parcel of Land unto the said Archelus Dunham his heirs and assigns forever and they the said Daniel Stout and Catharine his wife for themselves and their heirs and assigns &c. Do Covenant that they will never warrant and Defend the aforesaid tract of Land unto the said Archelus Dunham his heirs and assigns forever

52² From all and Every person Or persons Lawfully and Equitably claiming title thereto - In
 Witness whereof they the said Daniel Stout and Catharine his wife have hereunto set
 their hands and seals the day and date aforesaid
 Signed sealed & in the presents of
 Wm Newlon
 Nathan Wilkinson
 James Husted

Daniel Stout
 Katy Stout

Harrison County October Court 1810

This Indenture of Bargain and Sale was presented in Court and the acknow-
 = edgement of Daniel Stout was proven by the Oaths of William Newlon and
 James Husted

And at January Court 1810 this Deed was further proven by the Oath of Nathan
 Wilkinson a third witness hereto and Ordered to be recorded in perpetuum rei
 Memoriam -

Ben. Wilson C. H. C.

This Indenture made this Twenty second day of October One thousand
 Eight hundred and Eleven between Thomas Eldridge and Sarah his wife of the County
 of Monongalia County and state of Virginia of the one part and the heirs of Daniel
 Stout Decd of the County of Harrison and State aforesaid of the Other part -
 Witnesseth that they the said Thomas Eldridge and Sarah his wife for and in con-
 = sideration of the sum of four hundred Dollars to them in hand paid; the receipt
 thereof is hereby acknowledged have granted bargained sold aliened Enfeoffed and
 by these presents do grant bargain sell alien and enfeoff unto the said Heirs of Daniel
 Stout Deceased their heirs and assigns forever a certain Tract or parcel of land lying on
 the waters of Booths Creek in the County of Harrison which is the land the said
 Sarah Eldridge heretofore being one of the Legatees of Benjamin Stout Decd known by
 Lot No Eight and Bounded as followeth to wit agreeable to the plat laid down
 = in the Miscellaneous Records book No one Clerk's office by the Commissioners Ap-
 pointed by the County Court of Harrison being all that tract and part of land
 assigned by the Commissioners to the said Sarah Eldridge formerly Sarah Stout
 one of the heirs of Benjamin Stout Decd containing fifty seven acres of land. Begin-
 = ning at a black Oak and running N 42 East to a black Oak thence sixty
 Degrees West 100 poles to a black Oak thence Stout 14 degrees West thence North 89
 Degrees East to the Beginning containing fifty seven acres of land as before stated
 To have and to hold the said Tract or parcel of land with its Appurtenances
 unto the said heirs of Daniel Stout Deceased and they the said Thomas Eldridge
 and Sarah his wife will forever warrant and defend unto the said heirs of Daniel
 Stout heirs heirs and assigns from any person or persons laying claim thereto
 In Witness whereof the said Thomas Eldridge and Sarah his wife have hereunto
 set their hands and affixed their seals the day and year first above written

Thomas Eldridge
 Sarah Eldridge

Harrison County October Court 1811

This deeds was presented in Court and acknowledged by Thomas Eldridge
 And Sarah his wife she being first privily Examined and Concocting - and
 Ordered to be recorded

Teste
 Wilson C. H. C.

Virginia At Rules held in the Clerk's office of the Superior Court of Chancery
 Held at Clarksburg for the fourth District the 7th day of October 1816

Archelaus Dunham Plaintiff
 against
 Jacob Romine & Martha his wife Sarah Stout Daniel Stout, Pamela Stout, Michael Stout and Hezekiah Stout heirs at law & Devises of Daniel Stout Deceased and Thomas Eldridge and Sarah his wife Defendants

In Chancery

The Subpoena Awarded in this case being returned Executed on the Defendants Jacob Romine and Martha his wife Sarah Stout, Daniel Stout, Pamela Stout, Michael Stout and Hezekiah Stout heirs at law and Devises of Daniel Stout Deceased and three months since filing the bill and the service of the subpoena having elapsed and they still failing to file their answer the Bill of the plaintiff is taken for confessed as to those Defendants and the Court will proceed at a future day to decree the matter thereof unless the said Defendants on or before the Term next after they shall have been served with a copy of this Order show cause to the contrary

A Copy Teste John L. Schon. C.C.

Harrison County Court

This day personally appeared John Williams Deputy Marshal of the 4th Chancery District of Virginia before me a Justice of the peace for said County and made oath that he delivered a copy of the within decree to the wife of Jacob Romine on the present day. the said Jacob Romine being absent from home - Given under my hand this 14th day of October 1816

Daniel Davison JP

Harrison County Court

Daniel Dunham Personally appeared before me the subscriber a Justice of the peace for said County and made oath that he ^{heathly} heard and verily believes that Thomas Eldridge and Sarah his wife who are sued in the Superior Court of Chancery at Blacksburg by Archealus Dunham are not inhabitants of this Commonwealth - Sworn to this 8th July 1816

John Davison JP

Virginia

At Rules held in the Clerks office of the Superior Court of Chancery held at Blacksburg, for the fourth District, on the 5th day of August 1816

Archealus Dunham Plaintiff
 against
 Jacob Romine, and Martha his wife, Sarah Stout, Daniel Stout Pamela Stout, Rachel Stout and Hezekiah Stout heirs at law and Devises of Daniel Stout Deceased, and Thomas Eldridge and Sarah his wife Defendants

In Chancery

The Defendants Thomas Eldridge and Sarah his wife, not having entered their appearance and given security according to the act of Assembly and the Rules of this Court, and it appearing by satisfactory evidence that they are not Inhabitants of this Commonwealth. It is ordered that the said Defendants appear here on the first day of the next Term, and answer the bill of the plaintiff and that a copy of this Order be forthwith inserted in some public Newspaper printed in the Town of Blacksburg for two months successively and posted at the front Door of the Court house in the said Town

A Copy Teste John L. Schon. C.C.

Harrison County Court

Forbes Britton of the said County, ^{personally} appeared before me the subscriber a Justice of the peace for said County and made oath that the copy of an order of publication herunto annexed was published in the Big Stander a public Newspaper published in Blacksburg in this State, & that another copy thereof was posted at the front door of the Court house of said County, two months since - 14th October 1816 -

D Morris JP

Teste John L. Schon. C.C.

am.