

TERM, 1871.]

White v. Prigmore.

## WHITE v. PRIGMORE.

## APPEAL FROM JEFFERSON CIRCUIT COURT.

HON. HENRY B. MORSE, *Circuit Judge*.*Watkins & Rose*, for Appellant.*A. H. Garland*, for Appellee.

SEARLE, J.—The appellee filed his petition, in the Jefferson Circuit Court, alleging that he had been appointed circuit clerk of Jefferson county, and *ex-officio* recorder of said county, and that the appellant, the former clerk, etc., refused to turn over to him the books, papers, etc., of said office of recorder as required by law, and praying for a writ of *mandamus*, etc. At the May term, 1871, the court issued a peremptory *mandamus*, and appellant appealed to this court.

The questions presented, in this case, are virtually the same as those raised in the case of *Fitch vs. McDiarmid*, 26 Ark., 482. That decision is therefore conclusive of this case.

The *mandamus* having been peremptorily awarded by the court below, the judgment in relation thereto is reversed and the cause remanded to that court, with instructions to dismiss the petition.