

THE STATE vs. PRYOR ET AL.

Mr. Justice WALKER delivered the opinion of the Court.

There is no material difference between the facts in this case, and those in the case of *The State v. Paup*, ante, except that Trigg, one of the purchasers, bought a floating claim to eleven hundred and twenty acres of land, instead of a less quantity than 640. And the question is, was Trigg bound to divide his purchase so as to locate 640 acres and thereby lose 480 (the balance,) or had he the right to stand by his contract, for it is evident that he could not locate the whole amount purchased. The act of Congress, under no state of case, contemplates the division of a quarter section, which would have been necessary in order to make the location, even if all other objections were waived. The power conferred was one which could not have been executed: at all events, without abandoning a portion of his purchase. This, we think, he was not bound to do. Pryor and Carrington bought each 320 acres. This case then stands, in principle, upon the same grounds of that of *The State v. Paup*; and the opinion in that case is applicable to and decisive of this.

Let the decree be affirmed.