

CASES

ARGUED AND DETERMINED

IN THE,

SUPREME COURT OF ARKANSAS,

AT THE JANUARY TERM, A. D. 1861.

HALLIBURTON AD. vs. FLETCHER AD. ET AL.

HELD: That the fact of the guardianship of a minor cannot be proved by the admissions of guardianship by the supposed guardian, unless a foundation for the introduction of such evidence be first laid by proof of the loss or destruction of the record of the court by which the letters of guardianship were alleged to have been granted:

That, it is no objection to the admission as evidence of a copy of the record appointing a guardian, that the certificate to such record embraces a copy of the records of the accounts of such guardian and other proceedings of the court, as well as the record of the appointment itself:

That, when the transcript of the record of the court of another State granting letters of guardianship, is duly certified and authenticated under the act of Congress, and there is no showing to the contrary, the legal presumption is that the court was one of general jurisdiction, and had the authority which it exercised:

That a guardian obtaining the possession of the slaves of his ward as such, holds them as trustee, and not adversely; but if the guardian die, and the slaves pass into the hands of his legal representative, who takes possession of the slaves as his own, and continues in the peaceable possession of them, under a claim of title for five years, the possession of

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such legal representative is adverse; and there is no such direct or implied trust devolved upon him, as will defeat the title given by the Act of the 19th December, 1846.

Appeal from Arkansas Circuit Court in Chancery.

Determined by the Hon. Freeman W. Compton and Hon. Hulbert F. Fairchild, Judges, and Hon. Thomas Johnson, Special Judge. Hon. Elbert H. English, C. J. not sitting.

[*Note:* The opinion in this case, which contains a lengthy recapitulation of the various matters charged in the bill and alleged in the answer, and the printing of which is not deemed necessary to a clear understanding of the principles intended to be decided, is, by the sanction of the court, omitted.

The Reporter.]
