

1810.

JUNE.

Orndorff  
vs  
Mumma

The plots in an action of ejectment are a part of the record, and one of the original plots, or a copy, ought to be annexed to a transcript of the proceedings to make it evidence. A copy of the proceedings in such an action, wherein the verdict and judgment were for land as located on the plots returned in the cause, having no plot or a copy annexed thereto, was held to be a part only of the record, and not to be sufficient evidence, though otherwise properly authenticated.

ORNDORFF VS. MUMMA.

APPEAL from *Washington County Court*. This was a special action on the case, the declaration stating that a suit had been brought in the late general court against the appellee, to recover land of which the appellant was in possession, and that the appellant agreed to indemnify him if he would defend the suit, &c. The general issue was pleaded; and at the trial the plaintiff, (the now appellee,) offered in evidence a record duly certified, &c. of the proceedings in the suit above referred to, being an action of ejectment brought in the late general court, in the name of *George Painther's* lessee against the present appellee, to recover the possession of a tract of land called *The Resurvey on Stoney Glade*, and a tract of land called *The Resurvey on Hills and Dales and The Vineyard*. In which action defence was taken on warrant, and plots were returned. At the trial a verdict was given, and judgment was rendered in favour of the plaintiff in the action for an undivided moiety of the tract called *The Resurvey on Hills and Dales and The Vineyard*, as located by the plaintiff on the plots returned in the cause, and which was included within a deed from *Chapline to Painther*, dated, &c. as located by the plaintiff on the said plots, and which land, so included in that deed, was delineated on the said plots as beginning at, &c. and as to the residue of the trespass and ejectment in the residue of the land and tenements in the declaration complained of, verdict that the defendant in that action was not guilty, &c. There was not annexed to the record of the proceedings above offered in evidence, either of the original plots, or a copy of either. The defendant objected to the record being received in evidence. But the county court, (*Clagett and Shriver, A. J.*) overruled the objection. The defendant excepted; and the verdict and judgment being against him, he appealed to this court.

The cause was argued before CHASE, Ch. J. GANTT, and EARLE, J. by

*Brooke*, for the Appellant; and by  
*Hughes and Lawrence*, for the Appellee.

CHASE, Ch. J. delivered the opinion of the court. The court are of opinion, that the plot is a part of the records, and that a copy of it ought to have been annexed to the