more, in the one case than in the other, bar a legal title. The words of the act being perfectly clear; they must be understood in their natural sense. When confined to different deeds, founded on the same patent, or to deeds founded on different patents, for the same land, although some cases of fair possession may be excluded from their operation, yet they will apply to the great mass of cases arising in the country.

This question, too, has, at length, been decided in the supreme court of the state. Subsequent to the division of opinion on this question, in the circuit court, two cases have been decided in the supreme *court for the state of Tennessee, which have settled the construction of the act of 1797. It has been decided, that a possession of seven years is a bar only when held "under a grant, or a deed founded on a grant." The deed must be connected with the grant. This court concurs in that opinion. A deed cannot be "founded on a grant" which gives a title not derived in law or equity from that grant; and the words founded on a grant, are too important to be discarded. The act of assembly vesting lands in the trustees of the town of Nashville, is a grant of those lands, and as the defendant shows no title under the trustees, nor under any other grant, his possession of seven years cannot protect his title, nor bar that of the plaintiff. And this is to be certified to the circuit court for the district of West Tennessee. [*482

Certificate for the plaintiff.

Ross and Morrison *v.* Reed.

Land-law of Tennessee.

Where the plaintiff in ejectment claimed title to lands in the state of Tennessee, under a grant from said state, dated the 26th of April 1809, founded on an entry taken in the entry-taker's office, of Washington county, dated the 2d of January 1779, in the name of J. McDowell, on which a warrant issued on the 17th of May 1779, to the plaintiff, as the assignee of J. McDowell, and the defendants claimed under a grant from the state of North Carolina, dated the *9th of August 1787, it was determined, that the prior entry might be attached to a junior grant, so as to overreach an elder grant, and that a survey having been made, and a grant issued upon McDowell's entry, in the name of the plaintiff, calling him assignee of McDowell, was *primâ facie* evidence that the entry was the plaintiff's property; and that a warrant is sufficiently certain to be sustained, if the objects called for are identified by the testimony, or unless the calls would equally well suit more than one place. [*483

Error to the Circuit Court for the district of East Tennessee. The defendant in error, who was plaintiff in the court below, claimed title under a grant from the state of Tennessee, bearing date the 26th day of April 1809, founded on an entry made in the entry-taker's office of Washington county, No. 975, dated on the 2d day of January 1779, in the name of John McDowell, for 500 acres of land, on which a warrant issued on the 17th day of May 1779. The defendants in the court below, now plaintiffs in error, claim under a grant from the state of North Carolina to John Henderson, dated the 9th of August 1787, and a deed of conveyance from John Henderson to the defendant, Ross, duly executed and registered. Morrison held as tenant under Ross.

At the trial of the cause, a bill of exceptions was taken by the defendants, in which was stated a transcript taken from the book procured from the office of the secretary of state of the United States, which contains

reports of the lands entered in Sullivan and Washington counties; also a copy of the warrant issued to John McDowell for 500 acres of land, both of which are certified by the clerk to the commissioner of East Tennessee. *484] Also the grants under *which each party claims, the deed of conveyance from Henderson to Ross, together with the *vivâ voce* testimony of the witnesses produced. It then proceeded to state, "that the defendants contended."

"1st, That having the eldest grant, the plaintiff could not recover, unless he had shown a prior entry, which the law would consider special for the place now claimed, and produced satisfactory evidence that the right was vested in him. That as no proof had been given, that Reed had ever purchased or paid any consideration for McDowell's entry, he could not, in virtue of that entry, entitle himself to a verdict. That the mere statement in the survey and grant, that Reed was assignee of McDowell, was no evidence whatever of that fact.

"2d. That if such proof had been given, still, he could not recover, because the proof shows that the objects called for in the entry existed at two places, some distance from each other; and therefore, the entry was ambiguous and doubtful.

"But the court charged and instructed the jury, that the circumstance of a survey having been made, and a grant issued upon McDowell's entry, in the name of Reed, calling him assignee of McDowell, was *primâ facie* evidence that the entry was the property of Reed. And that it was true, if the calls in an entry would equally well suit more than one place, it would not be considered special for either place; but it was for the jury to determine, from the evidence, whether the place spoken of, on the south side of Holston, would as well suit the calls of the entry as the one on the north side; and that, except for James King's testimony, he had hardly *485] *ever heard an entry better established than the one now under consideration."

There was a verdict and judgment in favor of the plaintiff, and the cause was brought up to this court by writ of error.

March 21st, 1816. Todd, J., delivered the opinion of the court.—It is now objected by the plaintiffs in error, that the transcript first mentioned contains nothing but a naked designation of number, date, person's name, and number of acres, but no description of the land whatever; not even specifying the county where situate.

To this objection, it may be answered, that it is a fact, which will appear from the reports of cases decided in the courts of Tennessee, that the books containing entries for land in the counties of Sullivan and Washington have been lost or destroyed. It is also a fact, that the original of the transcript under consideration was directed, by a statute of Tennessee, to be procured and deposited in the commissioner's office; and copies therefrom, certified by the clerk, are declared to be evidence in the courts of that state; but a conclusive answer is furnished by an examination of the bill of exceptions: it was not objected to in the court below.

The same answers may also be given to the objection taken to the copy of the warrant. Under the laws of North Carolina, for appropriating the vacant lands, an entry is made with the entry-taker, before a warrant

issues: the warrant describes *the land specified in the entry: the special or locative calls for appropriation of the land can be seen and examined as well from a view of the warrant as from the entry. In consequence of various frauds respecting warrants, they were by law to be submitted to a board of commissioners, and if decided to be valid, the original was deposited with the commissioner, and copies, certified by the clerk, were to be received in evidence. The copy of the warrant, in this case, corresponds with these regulations, and was properly received, nor was it objected to in the court below.

The practice in the courts of Tennessee, of attaching a prior entry to a junior grant, to everreach an elder grant in an action of ejectment, was brought into the view of, and recognised by, this court, in the case of *Polk* v. *Hill et al.* (9 Cr. 87); it is, therefore, not now to be departed from.

The location in this case, upon the face of the warrant, appears to be sufficiently certain to be sustained, if the objects called for are identified by the testimony, or unless the calls would equally well suit more than one place. These were questions properly submitted to the jury; there was, therefore, no error in the charge and instruction given on this point. Nor was there error in the residue of the instruction. It is a general principle, to presume that public officers act correctly, until the contrary be shown. It must, therefore, be presumed, that the officer, when he surveyed McDowell's entry, in Reed's name, had sufficient evidence produced to *satisfy him that Reed was the owner of it, and this presumption is increased by the act of another officer in issuing the grant; these [*487 circumstances furnished *primâ facie* evidence, at least, that he was the owner.

Judgment affirmed.