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 Statement of the case.
 

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operating upon a previous fact, yet the restricted sense stated is the one in which it has always been held. It was the sense in which it was understood at the time the Constitution was adopted, both in this country and in England.\*

JUDGMENT AFFIRMED.

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 STURDY *v.* JACKAWAY.

**A** final judgment pronounced in an action of ejectment, where the claim of title in fee simple absolute by the parties respectively was the sole subject of controversy, instituted and prosecuted under and according to the forms and in the manner prescribed by the statute laws of the State of Arkansas, that is to say, by a suit between the real litigants by name and where the land is accurately described, is a valid legal bar to a like action subsequently instituted between the same parties for the same lands or premises, involving the same identical title and rights to the possession of such lands or premises and none other.

*Semble.* The doctrine is applicable generally in ejectments, in the form above described, in those States where no provision is made by statute for a subsequent trial.

STURDY brought ejectment against Jackaway in one of the State courts of Arkansas to recover a tract of land in that State, the action being brought not in the English fictitious form used still in some States of the Union, but in the way now more common with us—and which prevails in Arkansas—where the parties sue, as in other cases, in their true names, and where the land claimed is described so as to be capable of complete identification. Judgment was given for the defendant; and the case having gone to the Supreme Court of Arkansas the judgment was there affirmed. He then brought another ejectment for the same premises in the Circuit Court of the United States for the Eastern District of Arkansas, and the defendant having pleaded the former judgment the plaintiff demurred. The judges of the

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\* 1 Blackstone, 46; *Calder v. Bull*, 3 Dallas, 390.

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Circuit Court being opposed in opinion as to the sufficiency of the demurrer, the following questions were certified to the court:

1st. Is said plea good in law as a bar to this action?

2d. Is a final judgment pronounced in an action of ejectment, where the claim of title in fee simple absolute by the parties respectively was the sole subject of controversy, instituted and prosecuted under and according to the forms and in the manner prescribed by the statute laws of the State of Arkansas, a valid, legal bar to a like action, subsequently instituted between the same parties, for the same lands or premises, involving the same identical title and rights to the possession of such lands or premises, and none other?

There was nothing shown by the record or otherwise to indicate that the statute law of Arkansas made a distinction between ejectment and other actions as to the conclusiveness of a verdict and judgment.

*Mr. Carlisle, with a brief of Mr. Watkins, for the defendant.  
No counsel contra.*

Mr. Justice GRIER delivered the opinion of the court.

The two questions certified by the court below constitute but one.

It is a well-settled principle of the common law "that in personal actions concerning debts, goods, and effects (by way of distinction from other actions), a recovery in one action is a bar to another. This principle is not true of personal actions alone, but is equally and universally true of all actions, whatsoever *quoad* their subject-matter; and that an allegation on record, on which issue has been once taken and found, is, between the parties taking it and their privies, conclusive, according to the finding thereof, so as to estop the parties respectively from again litigating that fact once tried and found."\*

The action of ejectment was devised for a lessee of a term

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\* *Outram v. Morewood*, 3 East, 356.

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of years, who was ousted of his term, and who, having but a chattel interest, could not support a real action to recover possession. It was but an action of trespass in effect, and the remedy was in damages only for the dispossession. But afterward the court determined the lessee should not only recover damages, but also his *term*, which soon brought the action into general use; and, by the formal scaffolding of a lease, entry, and ouster, the action was converted into a method of trying, collaterally and incidentally, the title of the lessor.

Hence, as the title of the freehold was never *formally* and *directly* in issue by the pleadings, but only a trespass committed by John Doe on Richard Roe, in forcibly expelling him from a term of years, no verdict between these parties for the supposed trespass could be pleaded in bar to another action of trespass by Thomas Troublesome on Timothy Peaceable.

It was in this way that the doctrine crept in that a verdict and judgment were conclusive only as regards personalty.

Afterwards, when this fictitious scaffolding was demolished in many States, and the parties made their issue in their own names—where there could be no difficulty as to the estoppel—the idea of a difference between rights to real property and personalty still continued in many States to linger, and a single verdict and judgment in ejectment was not considered conclusive. In such States provision was usually made by statute for a second trial.

But where no such provision has been made, the party's privilege to plead his estoppel, according to his right at common law, has always been recognized by the court.\*

We find nothing in the statutes of Arkansas, or in their judicial decisions, making any exceptions or difference as to the conclusiveness of a verdict and judgment in real or personal action.

This question must, therefore, be answered

IN THE AFFIRMATIVE.

\* See *Miles v. Caldwell*, 2 Wallace, 35; *Blanchard v. Brown*, 3 Id. 245.