

State of Tennessee  
Second Circuit

Blount County

Be it remembered that at a circuit court  
begun and held for the county aforesaid at the court house  
in Maryville on the first Monday of February 1845 David  
Rusford Sheriff of the county aforesaid by his deputy Charles Bonchoo  
returned to court a Capias ad Respondendum to him directed  
whereby it appears that William Cumpston and Rebecca Tipton  
were arrested to answer John Dew deputy of James Davis  
of a plea whereof with force and arms they broke and  
entered the close of the said John and ejected him to his  
damage five hundred dollars. And at the Term aforesaid  
came the plaintiff by his attorney and filed his declaration in  
these words "State of Tennessee Second Circuit Blount County  
February Term 1845 John Dew by his attorney complains  
of Richard Fox in custody of the Sheriff &c. of a plea whereof  
with force and arms he broke and entered the close of the said  
John and ejected him for that whereas a certain James  
Davis on the first day of July in the year of our Lord one  
thousand eight hundred and thirtien did to wit in the county  
aforesaid had devised, granted and to have let to the said  
John Dew a certain tract or parcel of land situate lying  
and being in the county aforesaid containing one hundred  
acres and two rods bounded as follows - Beginning at corner  
number five of Benjamin Tipton's survey cornering on a stake  
running thence north nineteen and three fourths feet three  
chains and twenty four links to a white oak thence north  
twenty three and a half East eleven chains and thirty  
eight links to an old stump or stake thence south  
forty and three fourths East thirty and chain twenty  
eight links to a stake thence south thirty six and  
three fourths East fifty three chains twenty five links

to a stake thence South sixty two West Seventeen chains to  
a stake thence South forty Nine West eighty two chains  
to a red elm, thence up the meanders of the creek to Black's  
line thence with said line thirty five chains to the beginning  
to have and to hold the said tract of land with the  
appurtenances to him the said John Dew and his  
Assigns for and during and until the full end of  
one term of ten years then next ensuing and fully to  
be complete and ended by virtue of which said demise  
the said John Dew afterwards to wit on the second day of  
July in the year last aforesaid entered into said tract of  
land with the appurtenances and was thereof possessed  
until the said Richard Fen afterwards to wit on the day  
and year last aforesaid with force and arms entered into  
the said land and premises so demised to the said John  
Dew as aforesaid his time therein not being then as  
yet expired and ejected the said John Dew therefrom  
and other wrongs and injuries then and there did  
to the said John Dew to his damage five hundred  
dollars and therefore he sues vs Miller & Commissioners  
et al's for plaintiff

Mr William Cumpston and Mrs Rebecca Tipton,

I am informed that you are in possession of or claim  
title to the premises in the foregoing declaration in Grievance  
mentioned or of or to some part thereof and I being  
laid in this action as a casual ejector and having no  
right or title to the same do advise you to appear  
at the next Circuit Court to be held for the County of Blount  
at the Court house in Maryville on the first Monday in  
February next and then and there by a rule of said  
Court to cause yourselves to be made defendants in  
my stead otherwise I shall suffer Judgment to be  
entered against me by default and you will be turned  
out of possession Your friend Rich<sup>d</sup> Fen Aug<sup>t</sup>. 1844

And at the term aforesaid came the defendant Rebecca Tipton  
into court by her attorney and on her motion is admitted  
defendant in the room and stead of Rich<sup>d</sup>. Fen and entered  
into the common rule to confess lease entry and ejection and  
agrees upon the trial of this cause to insist upon the title  
only and for plea said defendant says she is not guilty  
of the trespass and Ejectment alleged in the plaintiff's  
declaration and of this she puts herself upon the country  
Parsons att. for defts

And the plaintiff also Emerson

Which cause aforesaid was continued from day to day and from  
term to term until February Term 1846 at which time  
came the parties by their attorneys and thereupon came  
a jury to wit Conway Stone Gust Nelson Samuel  
M. Crockett John Boyd John Caring Jacob Moore  
Samuel Henry Cornelius Stapely Benjamin Rogers  
Jonathan Anderson James M. Gentry and James M. Hunt  
who being tried and sworn the truth to speak upon  
the issue joined upon their oath do say they cannot  
agree, and by the consent of the parties and with the  
assent of the Court the jurors aforesaid from rendering  
their verdict are discharged and the trial of this cause  
continued until the next term of this Court: And the  
cause aforesaid was continued from day to day and from  
term to term until February term 1847 at which time  
came the parties by their attorneys and thereupon came a jury  
to wit Banner Shultz Alexander Murphy John Snider  
Alexander Ford John White, Thomas Hunter Richard Wigan,  
William Harris, John Norwood, John Snider & M. Armstrong  
and Samuel Thompson who being stated tried and sworn  
well and truly to try the issue joined upon their oath do  
say that the defendant is guilty of the trespass and Ejectment  
in manner and form as the plaintiff against ~~her~~ her

have complained and they assess the plaintiffs damage to  
one cent business costs. Therefore it is considered by the court  
that the plaintiff recover against the defendant his term  
yet to come of and in the lands with the appurtenances  
in the declaration mentioned together with his damages  
aforesaid in form aforesaid assessed and also his costs  
by him about his suit in this behalf expended. From  
which judgment the defendant prayed an appeal in the  
nature of a writ of Error to the Supreme Court of Error  
and appeals to be holden for the second circuit at the  
courthouse in Annapolis and the fourth Monday of May  
next tendered a bill of exceptions to the opinion of the court  
in these words " Be it remembered on the trial of this cause  
in <sup>presence of the</sup> plaintiff and a grant from the State of Tennessee dated May  
1808 for the land in dispute to Benjamin Tipton that  
covered the land and a deed regularly authenticated from  
said Tipton to him for said land. The defendant Rebecca  
Tipton offered to prove that she was wife of Benjamin  
Tipton <sup>her</sup> father of the grantee; that Tipton the elder  
died in 1807 and had been in possession of the land in  
dispute twenty five years - That the County court of  
Blount by a jury of twelve men their sheriff and surveyor  
under the petition of Rebecca Tipton and before the land  
was surveyed laid off her dower and that she was  
within the dower so laid off and sequestrated them as  
her tenant and that Davis bought with a knowledge  
of the above circumstances but the court rejected the proof  
to which opinion the Court the defendants excepted and  
tenders this their bill of exceptions which is signed and  
sealed by the judges

Edw Scott Clerk

entered into bond in the following words to wit: Know all men  
by these presents that we Rebecca Tipton and John Blusick all  
of the County of Blount and State of Tennessee are held and  
firmly bound unto James Davis in the sum of two hundred

and fifty dollars for the payment of which sum well and truly to be made and done we bind ourselves our heirs, executors & administrators jointly severally firmly by these presents sealed with our seals and dated the 8<sup>th</sup> day of February 1847. The condition of this above obligation is such that whereas the above bounden Rebecca Tipton hath this day prayed and obtained an appeal in the nature of a writ of Error to the Supreme Court of Errors & Appeals to be held for the second circuit at the court house in Knoxville on the fourth Monday of May next from a judgment obtained against her by James Davis in the circuit court of the county aforesaid Now if the said Rebecca Tipton shall with effect prosecute her said appeal or in case she fail therein pay and satisfy whatever judgment sentenced or decreed the said Supreme Court may award therein for failure then the above obligation to be void otherwise to be and remain in full force and virtue

Witness our hands & seals this day and year first above written

Miss Susie Beene
Rebecca Tipton

John C. Busick
John C. Busick

And to her the said appeal was granted

## A Bill of Costs

Tax	1.25	
Clerk Newton	2.25	
" Beene	6.55	
attor M. C. & Em	6.25	
Shff Russell	2.50	
" Bogle	.25	
" Donkey	.12	
George V Black	1.50	
John M. Anally	2.50	
Zachariah Johnston	3.50	
Meshack Tipton	3.50	
John Pitner	1.50	
James Johnston	.50	
	Amt -	
	\$32.20	

State of Tennessee

Blount County

I Jesse Beene clerk of the Court Circuit Court for the county aforesaid do certify that the foregoing transcript is a copy of the record and proceedings in the cause aforesaid now remaining in my office.



In testimony whereof I have hereunto set my name and affixed my private (having no public) seal at office in Marietta the 6<sup>th</sup> day of May 1894

Jesse Beene Clk.



81 85 85

James Davis

of S. Francessco

Wheeler

Filed May 8. 1817

Yax

1000

to Luke

Francessco

1000

2 cent

80

Scotch

1000

~~Order~~

100

To Mr

40

and of profusion.

1000

40

Atte. Miller

Rebecca Cipton  
vs  
James Davis's lessee  
vs  
~~Rebecca Cipton~~ } Assignment of Errors

And now at this day comes the Plaintiff  
in error and says that <sup>in</sup> the record  
and proceedings of the Circuit Court  
of Blount there is error in this that  
the Court erred in rejecting the  
evidence offered by the defendant  
in the suit in said Circuit Court

And also there is error in the judgment  
of the Circuit in that they rendered judg-  
ment for the said James Davis's lessee  
when by law the judgment should  
have been for said Rebecca Cipton  
and there are other reasons appearing  
in the record & proceedings the Plaintiff  
prays the judgment may be reversed &  
B. Parsons attorney



Plea in nullis est eratum  
fuerit

P. Miller

E. Parsonage

James's Lane

Wm  
R. Johnson