

The State of Tennessee

Be remembered that on the sixteenth day of January in the year of Our Lord One thousand eight hundred and twenty eight a transcript was filed in the Office of the Clerk of the Circuit Court of Blount County in the words and figures following to wit "The State of Tennessee"

Be remembered that on the twentieth day of December in the Year of Our Lord Eighteen Hundred and twenty seven a warrant was filed in the Office of the Clerk of the Court of pleas and quarter Sessions of Blount County in the words following to wit - "State of Tennessee, to any lawful Officer of Blount County 3 pieces of said County -

Summon James Kirby to appear before some justice of the peace for said County to answer the Complaint of Lewis B. Parham in a plea of Debt under warrant due by a school article and make returns how you have executed this warrant - Given under my hands and seal this 22^d of October 1827

Summon John Smith James Eric's Senr and Nancy W. Eric's witnesses for the plaintiff
James Upton Esq Justice, of the peace
On which warrant are

the following indorsements to wit "Executed and returned to be tried 27th of Oct. before W. M. Fear - Witnesses for the plaintiff John Eric's Senr. and Nancy W. Eric - 1827 - Benjamin Cunningham Const. - Also the following judgment

State of Tennessee, Peter by Benjamin Cunningham - Blount County. At my house the twenty seventh of October in the year of Our Lord 1827 - Parham vs. Kirby - The said parties appearing

2
before me William M. Fear one of the justices of
the peace for the said County, and the plaintiff not
proving his demand - Therefore it is considered by me
the Justice that the said Lewis & Parham take nothing
by his Warrant and that James Kirby recover One
Dollar and seventy five Cents for costs incurred
from which judgment William M. Fear
the said Lewis & Parham Justice of the Peace
have prayed an appeal to the next County Court
of pleas and quarter Sessions for the said County
which is granted, he having entered into
bond to prosecute said appeal with Martin
Bouck security - I now all men by these pres-
ents that we Lewis & Parham and Martin Bouck
are held and firmly bound unto James Kirby
in the special sum of two hundred Dollars to
be void on condition that the said Lewis &
Parham doth prosecute an appeal by him prayed
to the next County Court of the said County and
to him granted from a judgment lately obtained
by the said James Kirby against the said Lewis
& Parham before William M. Fear one of the jus-
tices of the peace in and for the said County for
the sum of One Dollar Seventy five Cents for
costs incurred in a suit Parham against Kirby
Witness Our hands and seals this third of November
1827 - Attest. Lewis & Parham (Sd)
William M. Fear Martin Bouck (Sd)

And on Friday the fifth day of the term last
aforesaid - Came the parties by their Attornies
and thereupon came a jury to wit Andrew Cow-
an Barnes Holloway James Shea Thomas

Warren William M. Geo. Robert Cunningham
Robert Thorupson Benjamin Tipton John Taylor
Samuel Humphries James Learner and John
Davis who being elected tried and sworn well and
truly to try the matter in dispute between the parties
upon their oaths do say they find for the plaintiff the
sum of ~~four~~ four Dollars

It is therefore considered by the Court that
the plaintiff recover of the defendant the said sum
of four Dollars the amount by the jury aforesaid
in manner and form aforesaid found, together with
all costs in this behalf expended from which ver-
dict of judgment the defendant prays an appeal
to the Next Circuit Court to be held for the County
of Blount at the Court House in Maryville on
the first Monday after the 1st Monday of January
next entered into bond with security in the words
of figures following to wit. I know all men by
these presents that we James Stirby and Orsall
D. Wright of Blount County are held and firmly
bound unto Lewis S. Parkman in the sum of two
Hundred Fifty Dollars to the payment of which
we bind ourselves our heirs executors
or administrators jointly and severally firmly
by these presents sealed with our seals & signed
with our names this 28th day of December 1824.

The condition of the above obligation is
such that whereas the above bounden James
Stirby has prayed for and obtained an ap-
-peal from the judgment of the Court of pleas
and quarter sessions for the County of Blount this
day rendered against him wherein Lewis S.
Parkman is plaintiff and the said James Stirby

4 Defendant to the next term of the Circuit Court to be held for the County of Blount at the Court House in Maryville on the first Monday after the 4th Monday of January 1828. Now if the said appellant shall with effect prosecute said appeal, Or pay and satisfy all costs and Damages which may be awarded against him for failure and abide by and perform the judgment which the Circuit Court may render in said cause, then the above Obligations to be void.

And to him said } James Kirby Seal
appeal is granted } J. D. Wright Seal

During the progress of the trial the following Bill of Exceptions were taken Court State of Tennessee Blount County Dec^r Term of the County Court 1827. Lewis a Parham & Be it remembered

James Kirby } that on the trial

of this cause the defendant offered to prove by parole the contents of a judgment which was rendered in a cause which was tried before Isaac Wright One of the justices of this County to which testimony the plaintiffs objected, and said the papers ought to be produced themselves - But the Court admitted parole testimony of said judgment to be given on the trial of the present cause, to which opinion of the Court the plaintiffs excepted and tenders this his Bill of exceptions which he prays may be signed and sealed and made a part of the record in this cause - Robt Houston Seal
Sam. Henry Seal I should Seal

State of Tennessee
Jacob J. Hunt Clerk of the Court of Pleas and
Quarters of Blount County do hereby Certify that
the foregoing is a true Copy of the records and pro-
ceedings had in the case Lewis & Parkman against
James Pirby in the County Court taken from the
Originals now in my Office - Given under my
hand and seal of Office at office in
Maryville the 16. day of January 1828
Jas. J. Hunt Clerk
By his Dep. D. Houte -

And at a circuit Court opened and held for
the County of Blount at the Court House in
Maryville on the first Monday after the 4.
Monday of January in the year of our Lord
One thousand Eight hundred and twenty eight
On Thursday the fourth day of the said term

Came the parties by their attorneys and thereupon
came a jury consisting James M. Hunt Thomas Michie
John Gault Thomas Bell Robert De arnouds Charles
W. Norwood Andrew Vaught John Telford John
New James Telford and William B. Campbell
who being elected tried and sworn well and
truly to try the matter in dispute upon their oaths
do say they find for the defendant - It is therefore
considered by the Court that the defendant go hence
without day and recover against the plaintiff all
costs in this behalf expended - and on Satur-
day the sixth day of said term the plaintiff by
his attorney presented his Bill of exceptions which
are as follows to wit "State of Tennessee vs. James
Lewis & Parkman vs. James Pirby - Be it re-
"Blount County 3/1828."

remembered that on the trial of the above cause
the plaintiff produced and read the following
School Article as evidence of his claim to wit

"The undersigned proposes opening on the first
Monday of December Next at the School House
Near Deavon's meeting House, a regular day
school for twelve months - He will steadily and
assiduously attend to the Moral as well as the
intellectual improvement of his pupils, and will
give due attendance five days in the week. His
terms of tuition are to be as follows - For Orthography
Reading, Writing and the minor branches of
Arithmetic two Dollars per quarter - For English
Grammar, Geography and the higher branches of Arith-
metic three Dollars per quarter. For the Latin, and
French Languages four Dollars per quarter, and
board - It will be required that the patrons of
the school should meet before the commence-
ment and repair the school house -

Lewis A. Parham

P. S. I will take one third in money and the bal-
ance in produce delivered at Stirby's mill at
the Neighborhood price, payable quarterly -

Lewis A. Parham -

Subscribers names

James Stirby 2.

James Fries 1.

The plaintiff then
proved by James Fries that James Stirby the
defendant subscribed two scholars to said
article and that he stopped his children from
coming to school before the first quarter was
cut, and that he told said Fries that his
children should not go to school any more
but he Stirby would pay Parham for one quarter

The defendant then produced several witnesses to prove that Parkham did not keep good order in his school, and that he treated Morley's child with great severity - A witness by the name of W. S. Singley proved that Parkham struck the son of the defendant about twelve years old with his fist - He was then asked by the defendant, "Could it Parkham strike him down?" to which the witness answered No, and said he did not strike the boy hard. Said witness proved that Parkham did not keep the best order in his school. The defendant then called several witnesses to the same point who proved that they thought they had seen better order kept than Parkham kept, and that they had seen worse. That the great objection to Parkham as a teacher was that he was too easy in his school. Mrs. Fitch and some other of the witnesses proved that on Friday Parkham did not teach later than one or two o'clock; but that on those days he gave no play time - The plaintiff then called James Rice a subscriber to the article to prove the plaintiff's general character and deportment while he taught school who proved that it was good - Rice also proved that he as one of the subscribers understood that Parkham was to have the privilege of going home every Friday evening and that he was to have time for that purpose, and that he thought that was the general understanding - The defendant then produced the following papers in bar of the present action

8) Court "State of Tennessee To Nathaniel Ewing
Blount County 3 to execute and return
Summon James Kirby to appear before me or
some other justice of the peace for said County to
answer the complaint of Lewis C. Parkham in a
plea of Debt under a warrant. Given under
my hands and seal the 14th day of March 1826
Elevon Hitch Esq. a justice of the peace.

Summon James Fries James Fries and John
Wheeler for the plaintiffs - On which warrant
were the following indorsements to wit - Warrant
L. C. Parkham v. J. Kirby executed and returned
for trial the 15th day of March 1826. To the read-
ing of which warrant the plaintiff by his counsel
objected because it did not appear by whom
said warrant was executed or whether it was ex-
ecuted at all or not - But the Court decided
that if the parties appeared it was not material
whether there was a warrant or not, and suffered
it to be read to which Opinion of the Court the
plaintiff excepted - The defendant then offered
to read the following judgment - "State of Ten-
nessee Blount County March the 21st 1826
L. C. Parkham ag. James Kirby. The said parties
appearing before me and their respective
allegations and evidences being by me heard
and fully understood. Therefore it is considered
by me that the said L. C. Parkham take
nothing by his warrant - and that the said
James Kirby recover ag. with the said
Parkham the sum of three dollars and
twenty five Cents Costs incurred Elevon Hitch
a justice of the Peace" The defendant.

The defendant proved by Hetch that Parkham applied for the warrant in this Cause. To the reading of which judgment the plaintiff objected because of the defects in the warrant above alleged and because said judgment is not under the seal of said justice as the law requires. But the Court overruled said objection, and let it go to the jury as evidence of a former trial in this Cause - To which Opinion of the Court the plaintiff accepted - The plaintiff then proved the following recitation of said judgment to show the reason why Parkham did not appeal from it, said Paper is as follows - "A new trial is granted Lewis et Parkham in the Case of Parkham agt. J. Stirby. Provided he set off the Costs with Mat. Ewing by me Eleven Hetch J.P. and on the same paper the said justice gave the following judgment -

State of Tennessee, Whereas there was a Plaintiff County, Matter of Controversy between Lewis et Parkham and James Stirby and judgment went against said Parkham for the Costs and Mat. Ewing being debited as constable and refusing to take the oath. Therefore Considered proceedings to be null and void. Given under my hand the 11th June 1827. Eleven Hetch a Justice of the peace." But the Court refused to let this last mentioned paper be read to the jury - To which Opinion and to all the above foregoing Opinions the plaintiff by his Attorney accepts and tenders this his Bill of exception which he prays may be signed and sealed and made a part of the record in this Cause - - James Singleton Attorney for de

for said proved that he sent a scholar to said
School that before the termination of the first
quarter said Parham suspended teaching and
Came to him to collect the tuition for the first
quarter, ~~his P. & S. & S. & S.~~ alleging that
an Execution had issued against him in Mon-
ville, and that when he got thro' his difficulties
he would return and finish his first quarter;
Witness paid him, and would have sent if he had
Returned, but he never heard of his returning
to teach any more - Singleton was not a subscriber
to this school article - It shew the parties proved
that the warrant and judgment produced by
defendant, were officially signed by him and
are papers of his officialy & that when the
warrant was issued by him the same school
article as he believ herein before set out
were produced by said Parham and that on the
day fixed for trial both parties appeared, and
witnesses were summoned on both sides, and
the cause decided on its merits, and that the
subject matter of controversy in that suit
was the same as in this - The Court charged
the jury that if there was a judgment before
the square against Parham at the time he brought
his second warrant that it would bar this action
that Parham should have appealed from the
judgment of the first Justice, and not leave that
judgment in force and bring a new warrant
to which opinions of the Court given as herein
before stated and not to the charge of the Court
The Counsel for Parham excepted & prayed the
Court to sign the al this his exception & that the
same may be made a part of the record

which is done accordingly

Edw. Scott *Recd*

which said Bill of Exceptions was signed & sealed by the Court and Ordered to be made a part of the records in this Cause whereupon the plaintiff prayed an appeal to the next Supreme Court to be held at the Court House in Knoxville on the Monday of July next -

A. Bill. of Cost.

State tax		\$2.00
Clerk J. H. Houta filing app. & docketing	\$1.00	
issuing 6 subpoenas 12 cts.	.75	
1 July 17 cts. 4 probats 4 cts.	.37 1/2	
Just. prob. taxing Cert. 50 cts.	1.50	
<u>Att. Wright & Reese</u>		5.62 1/2
		2.50
Shp. Wallace 2 Subpo. N. & E. 17 cts. 25		
3 Executed 25	.75	
copy	1.25	
Recd	.43	
<u>1 Henry subpoena Executed</u>		1.16 1/2
		.25
Witnesses		
Phoebe Lipton 1 day 50 cts.		.50
D. Caldwell 1 day 50		.50
James Rice 1 day 50		.50
Eleven Hitch 1 day 50		.50
<u>Circuit Court Costs</u>		\$11.54

State tax .50

Clerk Jas. H. Houta filing & docketing app. & pt.	.50	
3 Subpoena 12 cts. 1 July 12 cts.		
4 Probats 6 cts. Just. prob. 50 cts.	1.25	
taxing Cert. 50 cts. Order for app. & pt.	1.50	
Copy of Bill of Exceptions	1.75	6.00
Transcript of records		<u>7.75</u>
		8.04

Out. Prot. fund.	18.04
Att. Arnold	1.25
Justices M. Fear	.50
Chf. Wallace 1 jury ball	.16 ^{1/2}
Court. Room 3 subpo. fees	.75
" Cunningham 1 warrant 50 ^{cs}	
" 25	3.00
Costs before justice	.75
Witnesses Au. Wheeler	1.00
James Fries 3.	1.50
Fancy Fries 4 days	2.00
Execut. & Ecken Hetch 2.	1.00
County Court Costs	<u>27.95^{1/2}</u>

State of Tennessee

Daniel D. Fouts Clerk of the Circuit

Court of Blount County do hereby Certify that the foregoing contains a correct copy of the records & proceedings had in the case Lewis Parkman against James Kirby taken from the Original now in my office -

Given under my hand and
 Seal (private having no public) Seal
 of Office at Office in Mary-
 ville the 19th day of May 1828
 Daniel D. Fouts Clerk

To the Hon. Jacob Dick one of the
judges of the Supreme Court of the State
of Tennessee.

The petition of Lewis A. Parham
humbly represents and shews to your honor
the following errors in the foregoing
record to wit

1st There is error in permitting said
warrant to be read, it not being executed.

2dly There is error in permitting said
judgment to be read because it was not
under read and because it had been
reversed by the justice granting a new
trial.

3dly There was error in permitting
said judgment to be read in bar
after the cause had been tried upon
its merits and a verdict for the
plaintiff.

We therefore, for the foregoing
errors pray of your honor to grant him
a supersedeas and writs of error to
to the end that said cause may be
removed into the Supreme Court, the
errors examined and justice done
him

Lewis A. Parham
By his Atty. Arnold

Copy of Record
Lewis & Parham
By
James Kirby

State of Tennessee I Lewis & Parham do solemnly
swear that owing to my poverty I am not able to bear
the expenses of the law and which I am about to com-
mence and that I am justly entitled to a recovery
from the defendants to the best of my belief, and am
out within the jurisdiction of the court in which I
am about to commence my said suit. do Witness my
hand this 28 Jun. 1828 Lewis & Parham
New Brown 6th St.

State of Tennessee
To the Honorable Court
Let writ of error and superseas
issue in this case in the office
containing bond & security as
the law directs -
J. Pick Judge
June 28 1828

The State of Tennessee

Be it remembered that on the twentieth day of January in the Year of Our Lord One thousand eight Hundred and twenty eight a transcript of records was filed in the Office of the Clerk of the Circuit Court of Blount County in the words figures following to wit

"The State of Tennessee" - "Be it remembered that on the twenty fifth day of December in the Year of Our Lord Eighteen hundred and twenty seven, a warrant was filed in the Office of the Clerk of the Court of pleas and quarter Sessions of Blount County in the words figures following to wit

State of Tennessee }
Blount County } County - Summon James Kirby
to appear before some Justice of the peace for said County, to answer the Complaint of Lewis A. Parkman in a plea of Not under warrant due by a school article and make return how you have executed this warrant - Given under my hand and seal the 22nd of October 1827

James Upton Seal
Justice of the peace
Summon John Smith James Price Sr. Tandy St. Price Winters }
for the plaintiff } On which warrant are the following Indorsements
to wit - "Executed and returned to be tried 27th of Oct. before Wm. Lee. - Witnesses for the plain J. Price Sr. and Tandy A. Price - 1827. Benjamin Cunningham Const. - Also the following judgment

State of Tennessee } Ret. by Ben Cunningham -
Blount County } At my House the twenty seventh of October in the year of Our Lord 1827
Parkman vs. Kirby - The said Parties of

appearing before me William M. Fear one of the
Justices of the peace for the said County, and the
plaintiff not proving his demands. Therefore it is
considered by me the said Justice that the said Lewis
S. Parkman take nothing by his warrant and that
James Kirby recover One Dollar and seventy five
Cents for costs incurred. William M. Fear Justice of the
Peace

From which judgment the said Lewis S. Parkman prays an appeal to the
Next County Court of pleas and quarter Sessions
for the said County, which is granted he having
entered into bonds to prosecute said appeal with
Martin Work Security -

State of Tennessee Know all men by these presents
Blount County ^{one} that we Lewis S. Parkman and Martin
Work are held and firmly bound unto James Kirby
in the penal sum of two Hundred Dollars to be void on
condition that the said Lewis S. Parkman doth prosecute
an appeal by him prayed to the next County Court of
the said County and to him granted from a judgment
lately obtained by the said James Kirby against the said
Lewis S. Parkman before William M. Fear one of the
Justices of the Peace in and for the said County for the
sum of One Dollar and seventy five Cents for costs
incurred in a suit Parkman against Kirby.

Witness Our hands and seals this third of November
1827
attest
William M. Fear
Lewis S. Parkman
Martin Work

And On Friday the 5th day of the term last aforesaid
"Came the parties by their attorneys and thereupon
came a jury to wit Andrew Cowan Barnes Dal
Cowan James Phea Thomas Warren William M. Lee
Robert Cunningham Robert Thompson Benjamin
Tipton John Davis John Taylor Samuel Humphreys

and James Leavelle who being elected trial and
sworn well and truly to try the matter in dispute
between the parties, upon their Oaths do say they
find for the Plaintiff the sum of four Dollars.

It is therefore considered by the Court that the
plaintiff recover of the defendant the said sum
of four Dollars, the amount by the jury assessed
in manner and form aforesaid found together with
all costs in this behalf expended, from which
verdict and judgment the defendant prays an
appeal to the next Circuit Court to be held for
the County of Blount at the Court House in
Maryville on the first Monday after the 4th Monday
of January next entered into Bonds with security
in the words & figures following to wit. "I, James
Stirby and
Fredell D. Wright of Blount County are held and
lawfully bound unto Lewis A. Parham in the sum
of two Hundred and fifty Dollars to the payment of
which we bind ourselves, Our heirs, executors, or
administrators jointly and severally firmly by these
presently sealed with Our seals signed with Our
names this 28th day of December 1827. The condition
of the above obligation is such that who ever the
above bounden James Stirby has prayed for and
obtained an appeal from the judgment of the
Court of pleas and quarter Sessions ^{for the County of} Blount
County this day rendered against him in a suit
wherein Lewis A. Parham is plaintiff and the
said James Stirby defendant to the next term
of the Circuit Court to be held for the County of
Blount at the Court House in Maryville on
the first Monday after the 4th Monday of January
1828, Now if the said appellant shall with

effect prosecute said appeal or pay and satisfy all costs and damages which may be awarded against him for failure and abide by and perform the judgment which the Circuit Court may render in said Cause then the above obligation to be void.

And to him said appeal is granted
 James Morley Seal
 J. D. Wright Seal

During the progress of the trial the following Bill of Exceptions were taken
 Court "State of Tennessee Blount County Dec:
 Term of the County Court 1827.

Lewis Parrham vs. Do it remembered that James Morley the defendant offered to prove by parole the contents of a judgment which was rendered in a cause which was tried before Isaac Wright one of the justices of this County, to which testimony the plaintiff objected and said the papers ought to be produced themselves. But the court admitted parole testimony of said judgment to be given on the trial of the present Cause, to which opinion of the Court the plaintiff excepts and tenses this his bill of exceptions, which he prays may be signed and sealed and made a part of the record in this Cause.

Robt. Houston Seal
 Sam. Henry Seal
 J. Gould Seal

Bill
 State tax 4.50
 Call for money 1.00
 Printing papers .37 1/2
 Stationery .42 1/2
 1 pair .10
 1/2 photos .10
 In argument 1.00
 Tearing out .50
 Order money \$1.00
 2 Books 3
 Copy of laws
 Copy of the Bill 1.75
 Clearing up 3
 All counsel 1.25
 Justice Miller .50
 Wm. Walker 1.60
 Wm. Cherry 1.60
 Com. Henry 1.75
 Cunningham 1.00
 C. S. Jefferson 1.75
 Wm. 1
 Wm. Wheeler 1.00
 J. A. Brown 1.50
 Standy Smith 2.00
 Edwin Mitchell 1.00
 Total \$16.52 1/2
 Paid Wm. 4.00
 \$20.52 1/2

And at a circuit Court opened and held for the County of Blount at the Court House in Maryville on the first Monday after the fourth Monday of January in the year of Our Lords One thousand eight hundred and twenty eight, and on Thursday the fourth day of said town came the parties by their attorneys and thereupon came a jury to wit James M. Hill Thomas Meekle John Saddle Thomas Bell Robert Deannond Charles W. Sturwood Andrew Vaught John Telford John Isaac James Telford and William B. M. Campbell who being sworn tried and sworn well and truly to try the matter in dispute upon their oaths do say they find for the defendant. It is therefore considered by the Court that the defendant go hence without day and recover against the plaintiff all costs in this behalf expended. In this cause the plaintiff by his attorney presented his Bill of exceptions which was signed and sealed by the Court and ordered to be made a part of the record in this cause whereupon the plaintiff prayed an appeal to the next ^{Supreme} Court to be held at the Court House in Knoxville on the Monday of July next.

Bill of Exceptions -

State of Tennessee, Feb. Term 1828,
Blount County

Lewis & S. Parham, Be it remembered
James^{vs} Kirby that on the trial of
the above cause the
plaintiff produced and read the following
school articles as evidence of his claim
to wit - The undersigned proposes opening on

the first Monday of December Next at the school house near Deavours Meeting House a regular day school for twelve Months. He pledges himself to his patrons that he will steadily and assiduously attend to the moral as well as the intellectual improvement of his pupils, and will give due attendance five days in the week. His terms of tuition are to be as follows - For Orthography, Reading, writing and the minor branches of Arithmetic two Dollars per quarter For English grammar Geography and the higher branches of Arithmetic three Dollars per quarter For the Latin and French Languages four Dollars per quarter and board - It will be required that the patrons of the school should meet before the commencement and repair the school house Lewis C. Parkham - P. S. I will take one third money and the balance in produce delivered at Steibys Mill at the neighborhood price, payable quarterly

Subscribers names Lewis C. Parkham

James Steiby 2.

James Trice - 1.

The plaintiff then proved by James Trice that James Steiby the defendant subscribed two scholars to said Article and that he stopped his children from coming to school before the first quarter was out and that he told said Trice that his children should not go to school any more but he Steiby would pay Parkham for the quarter - The defendant then introduced several witnesses to prove that Parkham did not keep good order in his school and that he treated Steibys children with great severity, a witness by the name

of W. S. Singleton proved that Parkham struck
the son of the defendant, about twelve years
old with his fist - He was then asked by the
defendants Council if Parkham, knocked him
down? to which the defendant answered No.
and said he did not strike the boy hard; said
witness proved that Parkham did not keep the
best Order in his school - The defendant then
called several witnesses to the same point who
proved that they thought, they had seen better
Order kept than Parkham kept, and that they
had seen worse - that the great objection to
Parkham as a teacher was, that he was too
easy in his school - W. S. Lipton and some other
of the witnesses proved that on Fridays Parkham
did not teach later than one or two o'clock
but that on those days he gave no play time
The plaintiff then called James Free a sub-
scriber to the article to prove the plaintiffs
general character and deportment while he
taught school, who proved that it was good -
Free also proved that he as one of the sub-
scribers understood that Parkham was to have
the privilege of going home every Friday
evening and that he was to have time for that
purpose and that he thought, that was the
general understanding - The defendant then
produced the following papers, in bar of the
present action to wit, To Nathaniel Ewing to
Blount County 3 Executo and Return -
Summon James Kirby to appear

before me or some other justice of the peace
for said County to answer the Complaint of
Lewis S. Parkam on a plea of debt under a
Warrant - Given under my hands and seal
the 14th day of March 1826. Eleven Hitch Seal
a justice of the peace - Summon Sandy
Trice James Trice and John Wheeler for the
plaintiff - On which warrant, were the
following indorsements to wit: "Warrant - L. S.
Parkam vs John H. H. - Executed and returned
for trial the 15th day of March 1826" To the
reading of which warrant the plaintiff by his
Council Objected, because it did not appear
by whom said warrant was executed, or
whether it was executed at all or not - But
the Court decided that if the parties appeared
it was not material whether there was a war-
rant or not, and suffered it to be read
to which Opinion of the Court the plaintiff
excepted - The defendant then offered to read
the following judgment -

State of Tennessee, March the 21st 1826
Blount County vs Lewis S. Parkam vs John H. H.
The said parties appearing before me and their
respective allegations and evidences being by me
heard and fully understood. Therefore it is
considered by me that the said Lewis S. Parkam
take nothing by his warrant and that the said
James Trice recover against the said Parkam
the sum of three Dollars and twenty five
Cents costs incurred. Eleven H. H. a justice
of the peace. The defendant proved by H. H.
that Parkam applied for the warrant in
this cause - To the reading of which judg-
ment the plaintiff Objected, because of the

defects in the warrant above alleged, and because said judgment is not under the seal of said justice as the law requires -

But the court overruled said objections and let it go to the jury as evidence of a former trial in this cause. To which opinion of the court the plaintiff excepts.

The plaintiff then proved the following revocation of said judgment to show the reason why Parkham did not appeal from it. Said paper is as follows. "A New trial is granted Lewis S. Parkham in the case of Parkham agt. J. Kirby, provided he settle the costs with Nat. Ewing, by me Eleven Hitch J. P. 33 And on the same paper the said justice gave the following judgment. -

State of Tennessee, Whereas there was a writ of Habeas Corpus issued in the County of Blount County 3ter of controversy between Lewis S. Parkham and James Kirby and judgment went against said Parkham for the costs, and Nat. Ewing being debted as constable and refusing to take the oath. I therefore consider all proceeding to be null and void. Given under my hand the 11th June 1827. Eleven Hitch a justice of the peace." But the court refused to let this last mentioned paper be read to the jury. To which opinion and to all the above and foregoing opinion the plaintiff by his attorney excepts and tenders this his bill of exceptions which he prays may be signed and sealed and made a part of the record in this cause James Singleton a witness for defendant

proved that he sent a scholar to said school that before the termination of the first quarter said Parham suspended teaching, and came to him to collect the tuition for the first quarter alleging that an execution had issued against him in Knoxville, and that when he got thro' his difficulties he would return and finish his first quarter; witness paid him, and would have sent if he had returned, but he never heard of his returning to teach any more. Singleton was not a subscriber to this school article.

It is the justice proved that the warrant and judgment produced by defendant, were officially signed by him and are papers of his office & that when the warrant was issued by him, the same school article as he alleges, herein before set out, was produced by said Parham, and that on the day fixed for trial both parties appeared, and witnesses were heard on both sides, and the cause ~~was~~ decided on its merits, and that the subject matter of controversy in that suit was the same as in this - The court charged the jury that if there was a judgment before the Squire against Parham at the time he brought his second warrant that it would bar this action - That Parham should have appealed from the judgment of the first justice and not leave that judgment in force and bring a new warrant, to which opinions of court given as herein before stated and not to the charge of the court, the council for Parham excepted & prayed the court to sign & seal this his ~~bill~~ Exception & that the same may be made

Made a part of the Records which is done accordingly -

Wm. Scott Clerk

Bill of Costs of Circuit Court.

State tax		\$2.00
Clark Daniel Forte filing app. & p. & c.		75
Subpoenas at 12 ^{cts} each		75
1 jury 12 ^{cts} for 2 ^{1/2} hrs. p. & c.	1.62 ^{1/2}	
4 Probats Va cuts each	1.35	
This Transcript including	2.92 ^{1/2}	
Bill of Exceptions 1300.00		6.55
Att ^{rs} Wright & Rose		2.50
Shp Wallace 2 subpo. at 12 ^{cts} each	25 ^{cts}	
3 " " executed 25 ^{cts}	75	
1 jury 1 call.	16 ^{cts}	1.16 ^{1/2}
Henry & subpoena executed		25
Witnesses		
Phebe Tipton 1 day	50 ^{cts}	.50
J. Caldwell 1 day	50 ^{cts}	.50
James Price 1 day		.50
Eleven Sticks 1 day		.50
		<u>14.46^{1/2}</u>
County Court Costs		16.52 ^{1/2}
		<u>\$30.99</u>

The State of Tennessee -
 I Daniel L. Forte Clerk of the Circuit Court
 of Blount County do hereby Certify that the
 foregoing is a true Copy of the records and
 proceedings had in the case Lewis A. Parkman
 against James Kirby taken from the Original
 now in my office - Given under my
 hand and (private having the pub
 Seal) Seal of Office at office in
 Maryville the 11th day of July
 A.D. 1828. Daniel L. Forte Clerk

314
290

Transcripts

Lewis & Parkman

vs

James Worley

July 5. 1828

Transcript
Lewis & Parkman
vs
James Worley

Black Brown

Writ of error 1.00

Supremacy 1.00

Judgment 1.60

Fi Fa 40

1 certiorari 40

4.40

State Tax

1.00

Lewis A. Parham

James Kirby } In the proceedings & Judgment
in this cause in the court below
there is manifest error in this -

- 1st - There was error in permitting the warrant of the Justice to be read in evidence, as it does not appear to have been legally executed
 - 2nd In permitting the Judgment to be read ~~in bar~~ ~~after it had been tried~~ or because it was not under seal & it had been revoked by the Justice granting a new trial
 - 3rd The court erred in not permitting the paper on which was the appeal granted by the Justice, & the revocation of all that had been done, to be read in evidence to the Jury
 - 4th There was error in permitting said Judgment to be read in bar after the cause had been tried on its merits and a verdict for the Plaintiff
- For these and other errors apparent on the record, Plaintiff prays that the proceedings and Judgment below may be set aside and for nothing held &c

In Nulla est erratum Anderson & Arnold Attos
Purses pro Dep^{to} Plaintiff
In Error.

P. A. Parkman

¹⁰¹
James Kirby

Errors.

Assigned - 26th July 1828.

State of Tennessee

To the Honorable the judges of the Circuit court for
the second judicial Circuit in the State of Tennessee

Whereas in the record and proceedings and also in
rendering the judgment in a suit lately pending in our said
court held for the county of Blount before you wherein Lewis
A. Pasham was plaintiff and James Kirby was defendant
manifest error has intervened to the great damage of the plain-
tiff as we are informed and we being willing that said error
if any should be duly corrected and ample justice done to
the parties, do command you that if judgment be rendered in
said cause that then you cause to be certified to our Su-
preme court of Errors and Appeals to be held at Knoxville
on the second Monday of July next a full and perfect trans-
cript of the proceedings and record had before you in said
cause that the same being seen and inspected the judges
of our said court may further cause to be done therein for cor-
recting said error what of right and according to law
ought to be done.

Witness His Brown clerk of our Supreme court for
the at Knoxville at office in Knoxville this second
Monday of January 1828

His Brown clk

In Obedience to the above ~~Writ~~
I herewith transmit a copy of the
record in said Cause.

Given under my hand
at office in Maryville the
4. day of July 1828

David L. Hunt clk
Circuit Court Blount
County -

Writ of Error
Lewis A. Parkman

^{vs}
James Kirby

D^d. June 28. 1828

To July 1828

State of Tennessee, To James Kirby, his agents or attorneys
the clerk of Blount circuit court, the sheriff ^{of Blount county} and all other
persons concerned greeting.

You are hereby commanded that from all
other proceedings upon a judgment obtained by James Kirby
against Lewis A Parham before the circuit court of
Blount county for costs you desist and altogether supersede
as the same by our writ of error is removed to the Supreme
court of Errors and Appeals at Knoxville and ^{said James} you are
hereby also commanded to appear before the judges of our Su-
preme court at the court house in Knoxville on the second
Monday of July 1828 then and there to defend said
suit and have then there this writ

Witness the Hand of the Clerk of our said court at
office in Knoxville this second Monday of January
1828

Wm Brown
C. S. C.

Supplicating
S. A. Parkman
vs
James Kirby

J. D. June 28 1828
To July 1828

Parham
vs
Kirby 3 3 In error.

On the 22^d Oct 1827 Parham sued out a warrant before James Upson a justice of the peace against Kirby, for and upon a school article; 27th Oct, judgment for Kirby; appeal to the county court of Blount; verdict and judgment and verdict for Parham, p. 11; appeal by Kirby to circuit court verdict and judgment for Kirby and writ of error to this court - The record shows that on the 14th day of March 1826 the s. Parham, upon the same school article, sued out a warrant before Ebenezer Hitchcock a justice of the peace for Blount County against said Kirby that on the 21st March 1826 both parties appeared before s. justice, procees evidenced and both sides, and the cause being tried upon its merits, a judgment was given for Kirby against s. Parham: grounds which were appellate proceedings were had - This Kirby insists is a bar to a second suit - But it is insisted for Parham that on the 11th June 1827 fifteen months after said trial on the first warrant, without having the parties before him gave a new trial and, also, retook

said judgment - This paper was correctly
by rejected by the let. Judge, as depts
instit - and the judgment remained
a bar -

It is also, proved that p[er]p never
taught school as he should
have done, and indeed did not find
with his public quantities -

Prise for Dept.

Parkman

as 3

his by

Depts brief

Lewis & Parkham } Parkham sued Kirby by warrant in debt
James Kirby } on the 14th March 1826. executed ^{& for trial} on the 15th
March - but by whom does not appear -

On the 21st March 1826 Judgt against Plff for \$3.95
costs. New trial granted by the Justice on condition
that Plff pay Nat Ewing his costs who it seems was
the constable deputed on this occasion -

On the 11th day of June 1827 the Justice enters a revocation
of this Judgment & declares all the proceedings null
and void - Parkham again sues Kirby on the 22^d
October 1827 & the warrant is returned for trial
on the 29th - On that day Judgment is rendered
against Plff for costs - Appeal to the county
court & Verdict & Judgment there for four dollars
for Plaintiff - Appeal to Circuit court &
Verdict & Judgment there for debt - Appeal
in nature of writ of error to this court &c &c

Brief for Plaintiff - Appellant
Anderson - Atto.

Parham
vs
Kirby

Plff's Brief

Atto. Anderson