

State of Tennessee

Be it remembered that at a Circuit Court begun and held for the County of Blount at the Court house in Marietta in the 3^d Judicial Circuit in the State of Tennessee on the 4th Monday it being the 24th day of September A. D. 1866, Present and presiding the Honorable Elijah S. Hall Judge &c. of the 3^d Judicial Circuit of the State of Tennessee Commissioned and assigned to hold the Circuit Court of said County in said Circuit the following among other proceedings were had and done, to, wit;

Bonds,

Know all Men by these Presents That the James Donaldson Jr, Wm. B. Parish, J. A. Dyer and W. J. Vinyard are jointly and severally ~~bound~~ held and firmly bound unto Stephen S. Porter Admors Receiver, Alexander McLain, Andrew McLain and John Lelass, in the penal sum of Two hundred and Fifty Dollars, to be said on Condition that the said James Donaldson Jr doth with effect present an action of Trespass this day commenced against the said defendants in the Circuit Court of for Blount County, otherwise to pay and Satisfy all costs and damages that

May be awarded for failure,
Witness our hands and seals, this
23rd day of March 1865.

Attest	James Donaldson	Seal
Sam. P. Rowan	Wm. B. Parish	Seal
Deft. Clerk,	J. A. Dyer	Seal
	W. F. Conyant	Seal

Summons

State of Tennessee

To the Sheriff of Blount County = Gratifying,
You are hereby commanded to
Summon Stephen S. Porter Adeline Roper,
Alexander McLain, Andrew McLain and
John McLain to appear before the Judges of
the Circuit Court, to be held for the County
of Blount at the Court-house in Maryville
on the fourth Monday of May next to answer
James Donaldson Jr, of a plea of trespass
to his damage two thousand dollars.

He/she fail not; and have you true and
true this summons.

Witness W. W. Dyer, Clerk of said Court
at Office in Maryville the 4th Monday of
January A.D. 1865. W. W. Dyer Clerk

By Sam. P. Rowan
Deft.

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Endorse

No. 133 Summons James Donaldson Jr.
vs. Stephen S. Porter, Adams Rorex et al.
Issued March 22nd 1865. W. M. Durbin
learned to hand March 28th 1865; Moses
Gamble Sheriff Executed as commanded
of the ~~defendants~~ within except Adams
Rorex, Alexander McLain and John Lelass
they could not be found in my County this
March 31st 1865. Moses Gamble Sheriff of B. Co.

Affidavit

State of Tennessee }
Blount County } This day personally ap-
peared before me W. M.
McDowd Sheriff of the Circuit Court of said
County, James Donaldson Jr., who makes
oath in due form of law that Stephen S.
Porter, Adams Rorex, Alexander McLain and
John Lelass, are justly liable to
him for trespass to person and property in the
sum of two thousand dollars, that said de-
mand is just, that of the foregoing defendants,
Adams Rorex, Alexander McLain and John
Lelass are non-residents of the State, or so
abscond that the ordinary process of law cannot
be served on them, and he therefore prays for
an Ancillary Attachment to issue against in
~~said case~~ aid of a writ this day instituted
against said defendants.

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Sworn to and Subscribed }
 before me this 22nd day of } James Donaldson
 March 1865 W. McDonald }
 By Sam. P. Rowan Not. Pub. }

Bonds

We James Donaldson Jr, Solomon Farmer, William Farmer and W. B. Parish acknowledge ourselves indebted to Adison Rorax, Alexander McLain, and John Glass in the sum of twenty thousand dollars, to be paid if the said James Donaldson Jr, shall prosecute with effect an attachment against the goods and chattels, lands and tenements of the said Adison Rorax, Alexander McLain, and John Glass, this day ~~and~~ obtained from W. McDonald Clerk of the Circuit Court for Blount County, Alabama to said Courts; or if he fail to do so, shall pay the said defendants all costs that may be adjudged against the said James Donaldson Jr, and also all such damages as the said defendants may sustain by the wrongful issuing out of said attachment.

Witness our hands and seal, this the 22nd day of March 1865,

James Donaldson Seal
 Solomon Farmer Seal
 William Farmer Seal
 Wm B. Parish Seal

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Attest
Saml. Rowan
Deft, Clerk

J. A. Dyer Seal
W. S. Loring Seal

Attachment

The State of Tennessee

To the Sheriff of Blount County - Greeting.
Whereas James Bonderson, for hereto
heretofore commenced an action of trespass
by Original writ in the Circuit Court of the
County aforesaid against Stephen S. Porter
Adison Perax Alexander McLain Andrew
McLain and John West, and having
Complained on oath to one W. M. Dyer
Clerk of the said Court that the said
Defendants are justly liable to him in the
sum of ten thousand dollars; and Affidavit
having been made in writing and bond
given as required by law in Attachment Cases;
You are hereby commanded to attach so
much of the goods and chattels, lands and
tenements of the said Adison Perax, Alexander
McLain and John West as will be of value
sufficient to satisfy the debt and costs accord-
ing to the Complaint; and such goods and
chattels, lands and tenements unless relieved
so to secure that the same may be liable to
further proceedings thereon, to be held at the
Circuit Court to be held for the County

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ofensaid on the fourth Monday of May next,
show and where you will make return how
you have executed this writ.

Witness W. M. Sur Clerk of the said Court
of Office in Maryland, this 4th Monday of
January A. D. 1865

W. M. Sur Clerk
By Saml P. Rowan
Deft. Clerk

Enclosed

No. 133 Auxiliary Attachment James
Donaldson Jr. & Adverses Rowan, S. S.
Poster et al. Issued March 22 1865.
On W. M. Sur Clerk. Leave to hold next
25th 1865 Misses of amble Shff.

Search

Search made and no personal properties
to be found in my County of the defendants
I lay this Attachment upon an tract
of land belonging to John Black containing
about 200 acres more or less adjoining the
lands of Richard Kebley of W. Rowan and
others lying on the Waters of Cullip River
in District No. 14 of Blount County, also
two other tracts of land belonging to Alexander
McClain containing about 300 acres more or
less lying on the waters of Sixto River adjoining
the lands of Mass Gamble of A. B. Sept
Sent to John Gamble and others lying in dis-

7 tract No. 14 of Blount County also two other tracts of lands belonging to Addison Perax containing about two acres more or less lying on each side of Little River adjoining the lands of A. Kennedy, Elijah Brown, the Cowan Gillespy farms James Lewis, Elijah Brown, William Goddard Jr. A. Dyke and others lying in District No. 12th of Blount County this March 29th 1865.
Wm. Gamble
Sherriff Blount County,

Declarations James Donaldson Jr
Stephens E. Poster, Blount County
Addison Perax,
Alexander McLain, Circuit Court,
Andrew McLain
and John Wilson } May Term 1865.

The plaintiff sues the defendants for ten thousand dollars as damages for maliciously and illegally arresting and imprisoning him, or causing him to be arrested and imprisoned for two years from the first day of July 1862.
And the plaintiff sues the defendants for ten thousand dollars, as damages for

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wrongfully taking or causing to be taken the following goods and chattels, the property of the plaintiff to wit: Six horses; two head of cattle; twenty head of hogs, 1490 lbs of Bacon; three hundred bushels of Corn; and various, furs &c, out of plaintiffs house &c -

Truvelin Rodgers
Atty for Plaintiff

Pled

Ands deftd by Atty, Coms and defends the wrong &c and for plea say they are not guilty in Manner and form as alleged in vider Counts of the pliffs Declaration alleged against them and of this they put themselves upon the Country,

Butter Atty for Defts.

Endorsed

Declaration James Donaldson Jr vs Stephen S. Porter et al. Filed May 22nd 1865.
W W Surber

Wednesday September 27th 1865.

James Donaldson Jr. vs Trussars

Adison Roxas Atty leave the pliff by Atty, and dismissed

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his quit as to defendant Andrew McClain,
 It is therefore considered by the Court that
 the said defendant go hence and secure of
 the plaintiff & S. Farmer & Wm Farmer & Wm
 W. B. Parish his Security for the prosecution
 costs of this suit all costs expended in
 making him a party to this suit for
 which execution is awarded

Wednesday January 31st 1860

James Donaldson }
 " }
 S. S. Porter et als } continued by Consent
 } until the next term of
 } the Court

James Donaldson }
 " }
 S. S. Porter et als } Despaired
 } leave the defendant
 } release by his Attorney
 } and moved the Court
 } for leave to withdraw the plea as to him-
 } self, which motion was disallowed by the
 } Court, to which ruling of the Court the
 } defendant by Attorney excepts.

Tuesday June 5th 1860

James Donaldson }
 " }
 S. S. Porter et als } Damages
 } An execution of defendants

By Act, the Court enters a rule upon the plaintiff to give new security, or justify the old security in this case as to both presentment bonds and Attachment bonds, on or before the second day of the next term of this Court, Thereupon Came Wm. Donaldson and entered himself as security to the presentment bonds in this case for the costs which have accrued and for costs which may accrue hereafter and is accepted, hence the rule is discharged as to the presentment bonds.

Tuesday September 25th 1866.

James Donaldson }
 vs }
 J. S. Porter et al. }

In this case a rule having ~~been~~ ^{been} entered heretofore at the last term of this Court on the plaintiff for new security, or to justify the present on or before the second day of this term, and good and sufficient security having been given as to the presentment bonds at the last term of this Court, and this being the third day of this present term of this Court, and he having failed to give the required security, or justify the present on the Attachment bonds. Therefore it is

11 by the court that the said rule heretofore
entered be made absolute as to the Attachment
levied and that the Attachment be dismissed
And it is further considered by the court
that the defendants versus of plaintiff
James Donaldson and his Security, Wm. B.
Parish, J. A. Dyer, W. D. Vinyard and Wm.
Donaldson all cast as to the attachment
in this cause for which execution may issue

Tuesday October 2nd 1866

James Donaldson }
vs }
S. S. Porter et al. } On Motion of deft. by
Att. it is ordered by the
court that a rule be
entered on the plaintiff to give new security and
good security or justify the present on or before
the 2nd day of the next term of this court

Thursday October 4th 1866

James Donaldson vs }
vs }
S. S. Porter et al. } learn the parties by
their attorneys and the
rule heretofore entered for
the plaintiff to give new security or justify the
present, the plaintiff having fully justified the

present Security it is ordered by the Court that said rule be discharged.

Thereupon to try the issue joined came the following jury good and lawful men Citizens of Blount County, to wit: John N. Bedford, J. B. Russell, A. W. Emmett, James Harrison, St. R. Rodgers, Calvin Lane, John Jeffries, T. J. Flannegan, Daniel Walker, Josias Gambel, John A. Haunah, W. W. Taylor who having heard a portion of the evidence were respited from rendering their verdict until the meeting of the Court to-morrow morning.

Friday October 5th 1866.

James Donaldson }
 on } leave the parties by
 S. S. Porter et. al. } their Attas, and also
 the same jury who are
 yesterday were respited from rendering further
 hearing, to wit: John N. Bedford J. B.
 Russell A. W. Emmett James Harrison,
 St. Rodgers, Calvin Lane, John Jeffries, T.
 J. Flannegan, Daniel Walker, Josias Gambel,
 John A. Haunah, W. W. Taylor - who having
 heard the conclusion of the evidence and
 argument of counsel and hearing the

Charge of the Court and note appearing in their
 verdict were respited until the meeting of the
 Court to-morrow morning.

Saturday October 6th 1866.

James Donaldson for

S. S. Porter et. al.

Leave the parties by their
 Attorneys and also the
 same jury who on yesterday were respited
 until this morning, to wit: - John A. Sedgwick,
 J. B. Russell, A. W. Cummins, James Hear-
 sions, H. R. Rogers, Leolin Sand, John
 Jeffries, D. J. Flannery and James Walker
 James Gaubly, John A. Beaumont, W. W. Taylor
 who upon their oath do say that they find
 the issue in favor of the plaintiff defendants
 Addison Rexas and in favor of the plaintiff
 against the defendant S. S. Porter John West
 and Alexander McLain, and assess the plain-
 tiff's damages against the defendant S. S.
 Porter John West and Alexander McLain at
 the sum of Eighteen hundred dollars (\$1800)

It is therefore considered by the Court that
 the defendant Addison Rexas recover of the
 plaintiff and William Donaldson his security
 an prosecution here at costs in this behalf
 expended as to him not otherwise adjudged

for which execution may issue

And it is further considered by the Court that the plaintiff James Donaldson seizes of the defendants S. S. Porter John L. Lusk and Alexander McLain the said sum of Eight hundred dollars together with all costs of this cause not otherwise adjudged for which execution may issue. Thereupon comes the defendants by Attorney and returns a plea to show cause why a new trial should be granted, which after arguments of counsel was dismissed by the Court and new trial refused. Thereupon the defendants S. S. Porter Alex. McLain, and John Lusk pray an appeal from the judgment rendered against them in this cause to the Supreme Court of the State of Tennessee to be held at the Court house in Knoxville on the 4th Monday of October 1860.

Having executed bonds for said appeal and undered their bill of Exceptions, the same is signed and sealed by the Court and assents by ~~the~~ to be made a part of the records in the cause. And thereupon said appeal is granted.

Bill of Exceptions.

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James Donaldson

S. S. Pester,

Thos. McElaine

John L. West

James A. Ross

Be it remembered that
 at a Circuit Court of said
 and held for the County of Blount at the Court-
 house in Maryville on the 14th Monday of Septem-
 ber, 1862. The issues in this Cause came on
 and were tried before the Honorable Elijah T.
 Shell, Judge of Blount County, when
 the following proceedings were had to wit:-

The following witnesses being sworn intro-
 duced and examined in behalf of the plain-
 tiff, testified as follows.

1st. James L. Emuloff said. - That he
 knows the facts from sight; he was at Don-
 aldson when he was arrested; it was about
 1st of July 1862; he was arrested by a man by
 the name of Allen about an hour before
 Morgan came; Deft. Pester and Burt Thomp-
 son were along with Morgan; when Morgan
 came up, Allen said here are some men
 we have arrested; Mr Burt was there also
 under arrest; Leut. Morgan asked if any
 body knew the prisoners. No answer
 I said I knew Pester and Thompson; that

16 they did not speak; Porter then went off
and talked with Morgan; after this Morgan
came back, cursed us and threatened to
have us all hung, as Sinecluites; we were
afterwards taken to John's and kept there all
night, and till the next evening; Staid the
second night at Melclair's we were then taken
to Marysville; I walked and peff. rode; we
detained as prisoners 4 or 5 days; we had
been turned over to Capt. Ghormley, provost
Marshal of Marysville; Saw Ross at John's
didn't see or hear him do or say anything;
he was just going about; Melclair was also
there; didn't see Porter there or at Marysville
Porter came with Morgan; Morgan swore
he intended to hang the last man of us; at
this time Porter said printing at Melclair's
might be released; can't tell where Ross
came from; heard Melclair say that he had
captured 3 men; that is there were three
men who were sent to be taken that day:-
While at Melclair's house, Melclair wanted
me to tell all I knew about bushwhacking
and the Sinecluites; said he thought it would
go lighter by him; Some Morgans fore
took our horse from peff. north about
#15-18th peff. had a wife, had children and a
sister and brother who made up his family

17 at the time.

Porter didn't come with the first that
came; Allen was at the head of them; there
were 18 in this crowd; it was this first that
arrested Jeff; when Porter came up, witnesses
and Jeff, were standing in the Store porch;
McBath was with them; Porter got on the
porch; didn't hear McBath ask to come
with Porter; didn't see McBath go aside
and talk with him; didn't see Melclair
or Roxas there nor did I see them do anything
at Ishus; I didn't ask Melclair to get me
released; saw Roxas and Melclair in
Maryville; didn't know what they came for
me were kept 4 or 5 days under arrest.
Porter lived 6 miles from Ishus; Melclair
one mile; Roxas 3 miles; and Clark one
mile. They were not Soldiers but all were
citizens. Ishus was two miles from Jeff.

Mr. R. M. Bath, Said: - He
was arrested about 1st July 1862, at Jeff.
Saw defendant Porter there with others, don't
know what the arrest was made for; the
Officer arresting us told us to consider our
selves under arrest till his Col. came up;
was held there as a prisoner until they took
me as a pilot into the Knobs; was released
through Porter and Melclair's influence, when

he parted with plaintiff he was $\frac{1}{2}$ mile from
 his house on his way to Pehus; didn't see either
 one of the other defendants there; left Porter 2
 miles from Donaldsons out in the woods;
 didn't see the foreman take pliff's horse; Dun-
 lap was under arrest; we were all together;
 I asked in Dunlap's presence leave to talk
 to Porter; requested Porter to interpose for me,
 he did so; Cal. Morgan cursed and threatened
 to hang us all; I didn't see Morgan Porter
 have any conversation with Morgan before
 he cursed and threatened us; If Porter had
 talked Morgan aside I think I would have
 seen him do it; don't remember that he had
 had any conversation with Morgan there;
 and that was at my instance; Morgan Porter
 and I were all together; Morgan did not curse
 and threaten us after that; he might have
 some remarks in general; Porter did not
 come up at the time Morgan was cursing
 and threatening us and point to me and
 say that man can be released; nor did he
 say anything like it; he began to have me
 released; He said I was a reliable man,
 would do what I promised, and if I said I
 had not been engaged in Bushwhacking it
 was true; I didn't remember that pliff. asked
 Porter to interpose for his release; Porter and

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Morgan both came to peff. - Don't know that they came together. Porter came with the Morgan crowd

Daniel Nicholson - Knows nothing about peffs arrest; In the evening of this same day Morgans crew took 1190 lbs. Bacon and a horse from peff, they proceeded to haul it to Kuroailo, went under orders to Mr. McLain that night; Bacon was worth about a shilling a lb., and the horse about \$150. It was taken Morgans Command that took the horse and Bacon, It was taken an hour and a half by sun in the in the evening.

William Goddard - Had a conversation, perhaps two, with Porter. Morgans Command passed near my house, I asked Porter why they didn't come by - he said he told Morgan that I was all right; that I had been imprisoned but since my release they all regarded me as their friends - My friends understood my position, but that appeared to me did not, Porter said as left the impression on my mind - that the refusal to go with Morgan, and that Morgan told him there was no use in it, he had to go.

Porter said he did not want to go, I would not at that time have told Porter what my political opinions were. While the conversation was going on, McLain stepped up and said he endorsed all that was done by the said; that it was the best thing that had been done for the Country; that it would rid us of Bushwhackers and Sinecalites and leave new true friends.

I ohw American said:- That he was a prisoner with pliff. at Ichu; pliff. was under arms and night and part of two days there, he was treated badly by the Soldiers. Saw St. Wigg put his shirt over his head. Saw Ross and McLain both there conversing about; didn't see them do anything in particular. McLain went my security and upon this I was released to appear at Marysville a few days thereafter.

I ohw Kelley said - Was present and helped arrest the pliff. guarded him at Ichu. pliff. asked McLain to get him released, so that he could go and get a Doctor and take him to his ~~house~~ sick child; offered him \$50. to do it. McLain said he could not do it. didn't remember that

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McClaine offered to go his security, Claess was at Iches, Ghermy's force went from Blankville, Ghermy and Morgan's forces Co-operated: think it was Morgan's Command that made the arrest.

Coutter said: - Claess told me when the said was coming: - they came about the time ~~they~~^{he} said they would: he made preparations to receive them: Cried for them from S. C. Claess till day: Came to my house to get provisions for them: - Farmer was under arrest at Claess, and Claess told him that he could not get off until the pickets were called in. The said got to Claess about daylight - there had been some Rebels shot in the neighborhood by Union men; the said was coming to put them down and to arrest leading Union men: named Jeff. as one of the leading men - His partner arrested at same time.

The following witnesses were then sworn and examined in behalf of defendants,

1st Alfred Denton said - he said the Jeff. a prisoner about 1st July 1862, at Iches, saw the deft. McClaine there; don't know who went with him or what he was there for; heard Jeff. ask McClaine to get him released, Jeff. said he had

a sick child; would give \$50 to get to go after a doctor to see his child; McClain said pliff. could not give him any money that he could do all he could for him without money - McClain spoke to Sr. Wigg who seemed to have the control of the prisoners in favor of pliff. released; he said the pliff was his neighbor that it was hard to keep him from going to see his sick child; that he believed the pliff would do what he said he would; that he had always found him to be a truthful and reliable man, Wigg replied that he did not believe that he would keep his word seemed to get mad with McClain cursed about a good deal; I think McClain offered to go pliff. security; told pliff that he thought it was because Wigg had his hands that he didn't want to release him McClain tried to get Wigg to release pliff. his hands; Wigg said McClain was favoring the Lincolnites - I was said that Ghormley men were Co-operating together McClain made the application for Donaldson. Her McClain - was made a prisoner He was intimate with the Officers; -

John Garbelle said; - He was was at Pikes when pliff. was a prisoner; saw McClain there; didn't remember seeing

McClain do anything: was at Clarks
 when the troops came into the neighborhood
 Staid there every night for 8 or 10 nights before
 they came; till the night they did come
 was not there the night they did come; I
 am brother-in-law of Clarks; Clarks said
 that he heard that he and a man by the
 name of Ellidge, were to be shot by the
 Union men; was afraid to stay at home
 at night; got witness to stay with his
 family of nights; Ellidge was killed;
 Clarks did not say that the troops had been
 sent for; Clarks came in with the troops.

Joseph Tully said: Saw Morgans
 men at Capt. Porter's; I was living with
 Porter; had been living there five years;
 got to Porter that morning about sunrise;
 it was my usual time to get there; the troops
 left Porter about two hours by sun; Porter
 went with them; he returned that evening;
 Porter told Morgan that he did not want
 to go; Morgan pressed him to go; Morgan
 said he should go; Porter objected several
 times; Morgan cursed him a good
 deal; said he began to believe that Porter
 was a Lincolnite; Porter said his wife
 was sick; that he had not had his

breakfast! Morgan said that ^{he had} seen several
times gone several days without eating; and
he thought Porter could go on. He said
he wanted Porter to pilot him Morgan had
about 200 armed men; they were all
strangers to me - It was Wash. Morgan
that cursed Porter, - don't know that they
put any bayonets at him, but he called
some men to take him; don't know that
Porter was scared; Morgan said he wanted
some one to go along and show the roads,

Henry Brasell, said: - I saw
Morgan's command when they came
over was with a portion of them; they
came to my house; pressed me to go with
them as a guide: - I didn't see Porter along.

William McAmphill said: - I first
saw Morgan's force at Knoxville, they came
to Blount Co. about 1st July 1862; - Morgan
told me he wanted me to go along with them
and I went; came with them to ~~Rockford~~
where a part of them stopped all night, and
the balance went on. Alexander Gardiner
went on with those who did not stop at
Rockford - I think he returned that night
saw him early next morning; I left

early the next morning with those that had staid all night at Roesford Stopped at Capt. Porter: I was a Rebel Soldier at that time: I told Morgan that I did not know the roads and Country he was going to, and suggested Porter as a suitable man for a pilot, when we got to Porter Morgan told Porter he wanted him to go along, Porter objected: affords ex cuss: said his wife was sick that he didnt want to go Morgan said he could not take ex cuss he must go along, at this I left Morgan and Porter taking and went to another part of the Command - didnt hear what else passed between them. - These last sides admitted that the two Morgans were bad secretes ~~and~~ dangerous ~~and~~ determined Buss - The witness further states that he went on with the force that day until the middle of the evening: Porter was along and returned with me: heard Porter say at Donaldson's that he would try and get off: Saw him speak to Morgan there didnt know what he spoke about, seems that he showed impatience to leave: gets angry at Elliger Cobbin: Supposed that Morgan regarded him as a friend - In say getting Porter to Morgan

I meant that he knew the roads and Country better than I did:- Don't think any violence would have been used against Porter if he had not gone

Alexander Gardiner said:- Saw Col. Mynors force at Rockford sent with part of them to Capt. Porter. Some stayed at Drights, some at Capt. James Porter, and the balance at Capt. Porter. We got to Capt. at 10 or 11 O'Clock at night. The Capt. and family had gone to bed:- the light menant and took a long time to awake them: Porter asked me who they were: said he didn't want to sleep them: asked why I had brought them there; he said take them away: said his wife was sick, that he had no way of entertaining them: I left the force there and went back to Rockford the two Mynors staid at Rockford that night, I was not an officer or soldier. Porter didn't say he thought they were Swedes: he didn't say he was afraid.

This will all the evidence offered or heard on the trial of this Cause.

Capt. Counsel insisted that there was no evidence in the Cause

as against Defts. Porter and McLain
to be submitted to the consideration of the jury.

The Court charged the jury
as follows =

The plaintiff gentlemen in this action
sues the Defendants for ten thousand Dollars
as damages for falsely and illegally arresting
and imprisoning him or causing or procuring
the same to be done, and also for wrongfully
and illegally and forcibly taking or causing
to be taken from him certain personal
goods mentioned in the Declaration. The
plaintiff has dismissed his suit as to
Andrew McLain and it is admitted by
his Counsel that there is no evidence to
warrant a verdict against the deft. Roxe.
It remains therefore gentlemen for you to
determine whether the other three defts.
are guilty as charged and if so what amount
of damage the plff. has sustained thereby. The
Constitution protects every good citizen in
his personal liberty and right of property
(The Constitutional provisions were read to
the jury.) A citizen except in certain cases
prescribed by our laws (and these provisions
and exceptions were fully stated.)

cannot be deprived of his liberties, except by due process of law, and for any such arrest unauthorized by law, the Citizen has a right to bring his action against the wrongdoer — So also in regards to the wrongful & illegal Seizing & Tasting of his properties

If the plaintiff being a Citizen of your County was wrongfully and illegally arrested and imprisoned it becomes your duty to enquire whether the defendants or either of them are responsible for such arrest and imprisonment. (They may be responsible for having personally participated in the arrest if such arrest were made, or they may be held responsible if they incited, counseled or procured such arrest and imprisonment, and if you find from the proof that there was any such incitement, counsel or procurement on the part of the defts or either of them, although they may not personally participated in the act, the plff. would be entitled to a recovery against such as are so guilty. Whether either of the defendants in this cause is so guilty of the arrest and imprisonment of the plff. or of the wrongful and illegal Tasting of his properties is purely a question of fact to be determined by the Jury. The burden is added to charge you

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gentlemen that there is no evidence against the deft. McLain and Porter upon which a verdict can be predicated. This the Court is not prepared to do, but without deciding any facts left for your determination, will charge you that after a trespass has been committed any mere approval or inducement of such trespass would not of itself be sufficient to fix liability upon the party expressing such approval, but if the proof ~~is~~ should satisfy the jury that the party expressing such inducement or approval had been connected or associated with the party or parties during the commission of the trespass, such expressions or approvals on his part may be treated to as explanatory of his previous motives or purposes, where the evidence of his conduct at the previous time leaves a doubt as to his real purposes.

Y

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In civil actions gentlemen, the doctrine of reasonable doubts does not apply but you will decide this cause ^{according} to the preponderance of testimony, giving to the statements of each witness just such weight as his testimony and character will justify.

The charge of the Court in regards to the measure of damages and other not being accepted to is not stated.

E. J. O'Neal
Judge &c.

The Jury returned a verdict against
 depts. McClain, Porter and Class for \$1800.
 Thus depts. moved the Court for a new
 trial, and after the arguments of the only the
 Court overruled the motion and refused
 to grant the new trial prayed for. It is all which
 the depts. excepts and under this their Bill of
 exceptions, which is signed sealed and made
 a part of the record in the cause, and
 said depts. severally pray an appeal to the
 Supreme Court at Knoxville, and the same
 is allowed, and depts. do execute Bonds
 with security as required by law.

E. S. Hall
 Judge

Appeal
 Bonds

We Alexander McClain, Stephen S. Porter,
 John Class and Campbell Gillispie of A. R. R. R.
 acknowledge ourselves indebted to James
 Donaldson, in the sum of Two hundred
 and fifty dollars but to his said of the said
 Alexander McClain, Stephen S. Porter, and John
 Class shall present with effect an appeal
 to the Supreme Court of Tennessee at
 Knoxville from a judgment this day pronounced
 in the Circuit Court of Blount County,
 against them in favor of James Donaldson
 otherwise to pay all Costs and damages that

May be awarded against them for failure
Witness our hands and Seals this 6th day
of October 1866.

Attest	3	Alex. McLain	Seal
M. McSur	3	S. S. Porter	Seal
By R. J. Howard	3	John Glass	Seal
	3	By his Atto. S. P. Remann	
	3	W. Gilkey	Seal
	3	Security for S. S. Porter	
	3	J. A. Rouse	Seal

Bill of Costs,

James Donaldson Jr	3		
"	3		
S. S. Porter,	3	State Tax,	\$5.00
Alexander McLain	3		
and John Glass	3		

Class M. McSur Summons & Bond		\$1.00
Recording Bonds 25¢ Filing 3 Aff. D 25¢		1.00
Filing Dec. 25¢ Filing Plea. 25¢		.50
Postage 12¢ 30 Subpoenas @ 10¢		3.12
2 Securities of Records @ 25¢		.50
77 Prohibs @ 5¢ 1 Continuance @ 25¢		4.10
July 10¢ 5 Motions @ 25¢ 9 orders @ 25¢		3.60
Judgt. 75¢ Filing Bill of Ex. 25¢ Appeal Bond 50¢		1.50
Bill of Costs 50¢ Transcript to S. Court 56 words @ 6, 10		
certificates & Seals		
		50.2192

Amount Forwarded

\$ 26.92

32	Shff. Gaudin	1	Summons 1.00	2 non est. @ 25¢	1.50	
		17	Subpoenas @ 25¢			4.25 5.75
	" Griffy 2 "		" 25¢			.50
	" Kidd 2 "		" "			.50
	" Bearden 3 "		" "			.75
	" Sharp 1 "		" "			.25
	" Alexander 1 "		" "			.25
	" Davis 4 "		" "			1.00

Witnesses

	Jerry Guinness	22	days @ 1.00			22.00
"	L. Vinyard	8	" " " 40 miles			9.60
"	A. Perry	15	" " "			15.00
"	Isaac Burnett	12	" " "			12.00
	David Payne	19	" " "			19.00
	W. B. Parish	18	" " "			18.00
	Wm Goddard	23	" " "			23.00
	Alfred Seaton	28	" " "			28.00
	J. W. Donaldson	9	" " "			9.00
	Joel Southard	12	" " "			12.00
	Jesse Millsaps	16	" " "			16.00
	J. D. Temple	28	" " "			28.00
	J. A. Clemens	12	" " "			12.00
	John Gambel Esq.	18	" " "			18.00
	John Amersin	24	" " " 80 miles			24.20
	William Farmer	15	" " " 60 "			17.40
	J. C. Duvalapp	25	" " " 60 "			27.40
	Daniel Nicholson	13	" " "			13.00
	Mary Nicholson	3	" " "			3.00

\$ 364.52

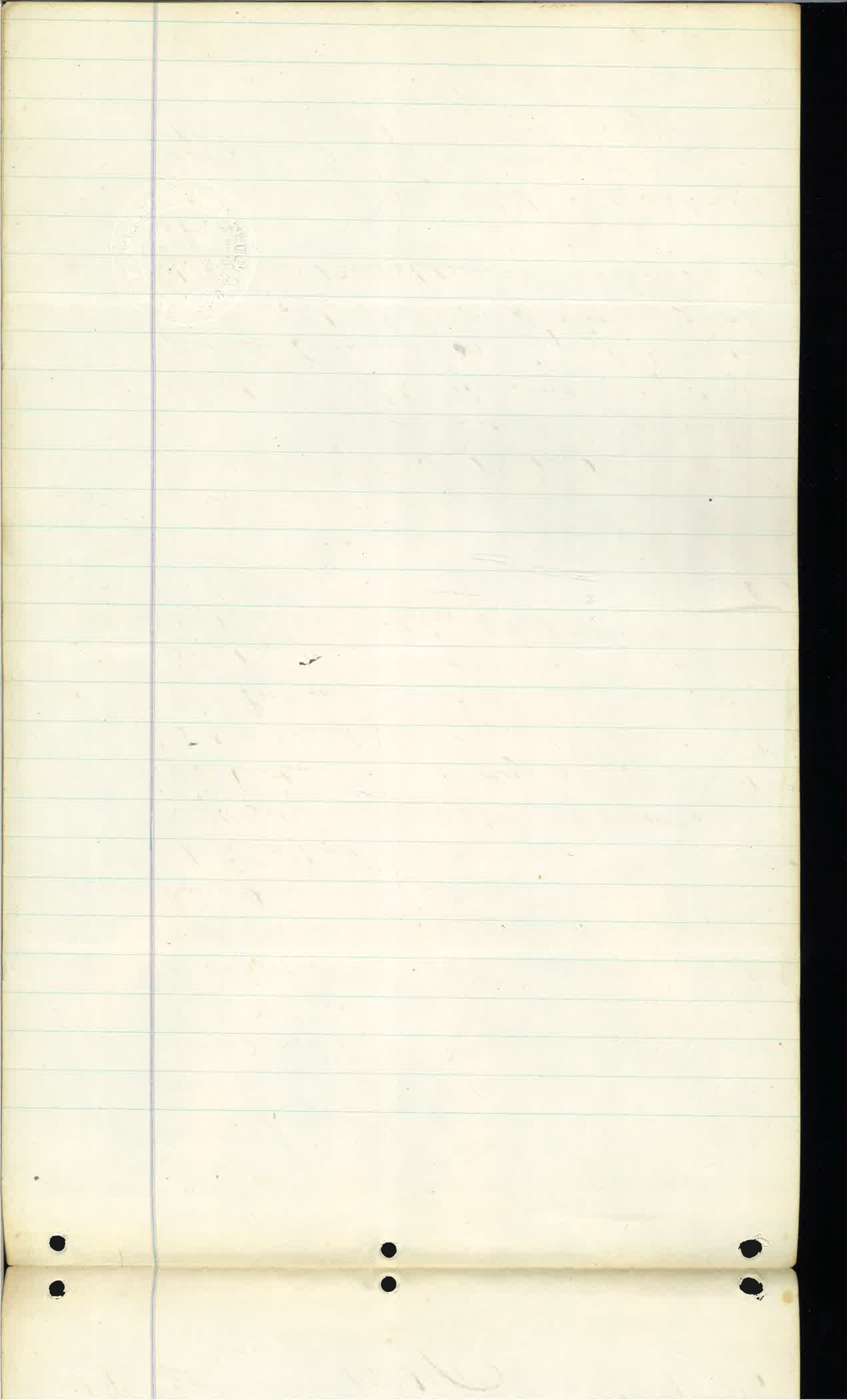
Amount Forwarded		\$ 364,52
John E. Gamble	3 days @ 100	3,00
James Henry (B)	3 " " "	3,00
James W. French	26 " " "	26,00
C. P. Tipton	15 " " "	15,00
J. O. Lewis	5 " " "	5,00
John Kelly	23 " " "	23,00
A. R. McBee	10 " " "	10,00
Joseph Tally	9 days 82 miles 2 fello @ 109 = 20	11,48
J. R. Conter	10 days @ 100	10,00
D. D. A. Chambers	6 " " "	6,00
W. L. Piers	3 " " "	3,00
Sol. Farmer	2 " " " 20 miles	2,80
Judgment	October 6 th 1866.	\$ 1800,00
		<u>\$ 2282,80</u>

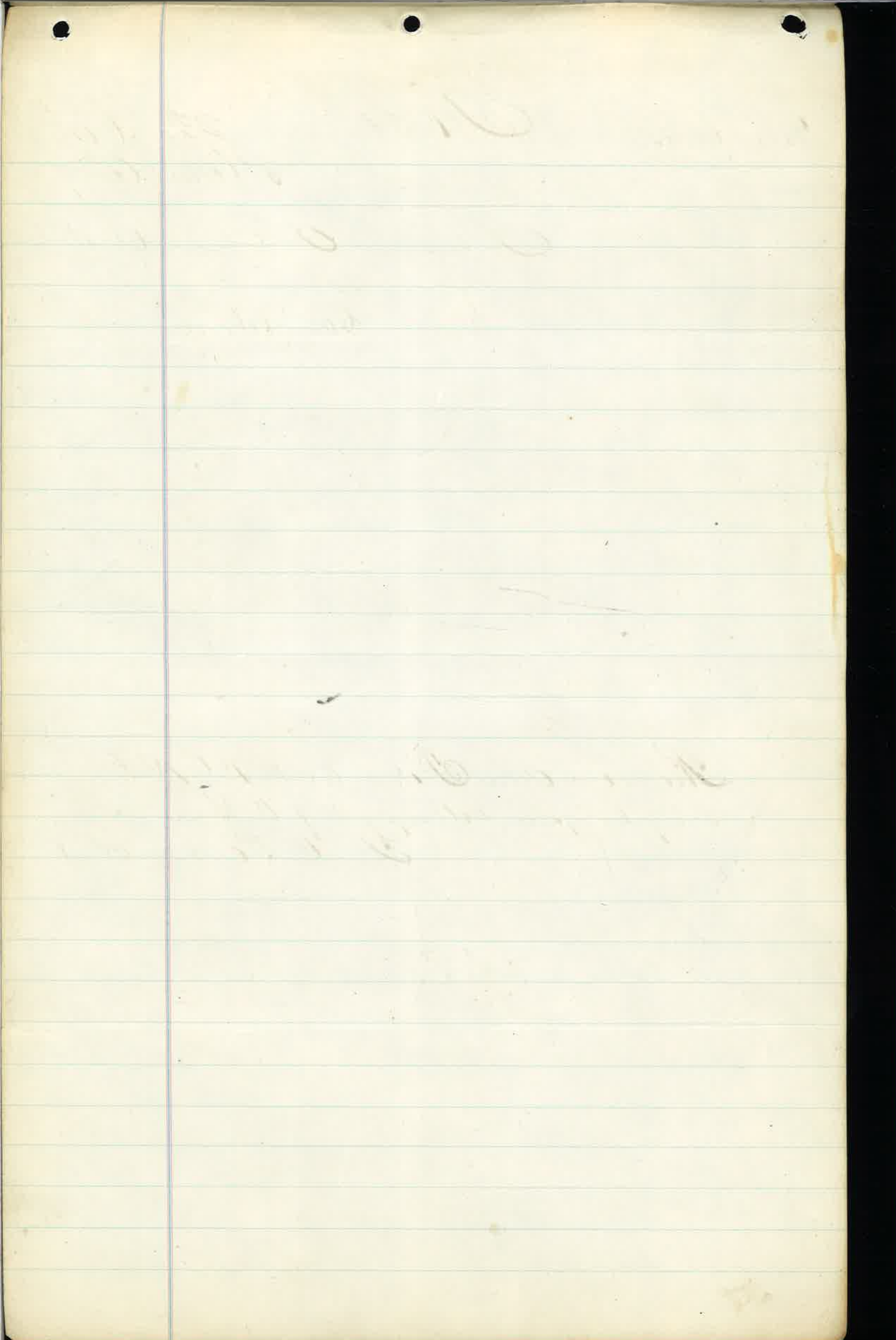
State of Tennessee }
 Blount County } }

I M. M. Gier Clerk of the Circuit Court for the County and State aforesaid hereby certify that the foregoing is a perfect transcript of the records and bill of Costs in the case of James Donaldson Jr. vs. S. J. Porter et. als.

Given under my hand and seal at Office in Maryville Oct. 17th 1866

M. M. Gier Clerk
 By R. A. Blood
 W. G.





Dear Sirs

No. 37.

East Kent
Blount Creek

Stephens McLean & Co.

James Donaldson

Manuscript

James Donaldson

S. S. Foster
et. al.

Proposals

Received from Office Oct. 18th 1866.

Very Respectfully Solicited by J. A. Ross

Wm. D. Patterson Clerk.

Office

Blount Creek

James Donaldson