

41

Geo. W. Ferguson
Att. in Error
vs.

William Lane and
William H. Lane
Defts in error.

Error to Washington

Error Confessed -
Judgment reversed &
Case remanded.

Cost bill on Page 31 of
freebook "B".

Copy of final order
& fee for costs sent
down. Dec. 11. 66.

8683

No. 8683

Supreme Court of Illinois

George W. Ferguson

vs.

W. & N. H. Lane

71641  7

Be it remembered that at a regular Term of the Circuit Court begun and holden at the Court house in Nashville Washington County State of Illinois, on the first Monday in the month of September A D 1866, Hon Silas C Bryan Judge of the 2^d Judicial Circuit of said State of Perry Johnson States Attorney, James W Sawyer Sheriff & John A Bernor Clerk officers of said court present & holding said court, the following orders were made & proceedings had in the following case to wit

William Lane & Williston W Lane	2	Trespass on the case
vs	2	on promises.
George W Ferguson	3	Damages \$200.00

On the 24th day of August A D 1866 the following ~~Summons~~ was ~~issued~~ in said case

State of Illinois 2 ss The People of the State of Illinois
 Washington County 2 To the Sheriff of said county, Greeting
 We command you to summon
 George W Ferguson if to be found in your county to appear
 before the Circuit Court of Washington County on the
 first day of the next term thereof to be holden at the
 Court house in Nashville in said county on the first
 Monday in the month of September next to answer William
 Lane and Williston W Lane in an action of Trespass
 on the case on promises. Damages \$200.00
 and hereof make due return to our said Court as the law
 directs. Witness John A Bernor Clerk of our said Cir-
 cuit Court and the Judicial Seal thereof at Nashville

this 24th day of August A D 1866,

John N. Vernor, Clerk.

50 cent Int. rev
stamp cancelled!

Judicial
Seal of Circuit
Court

On the back of said summons are the following
indorsements,

1st Indorsement

I hereby appoint John Seibert Special Bailiff
to serve the within summons and return same this
August 24th 1866.

J. N. Sawyer
Sheriff.

2^d Indorsement,

I have served the within by reading the same to the
within name George W. Ferguson this August 25th
1866.

J. N. Sawyer By John Seibert
Sheriff Special Bailiff.

On the 24th day of August A D 1866 the following
declaration was filed in said case.

State of Illinois 353 In Washington circuit court
County of Washington 3 September Term A D 1866

George W. Ferguson defendant in this
suit was summoned to answer William Lane and
Williston W. Lane Plaintiffs in this suit of a plea
of Trespass on the case on promises. Whereupon said
Plaintiffs by Watts & Vernor their Attorneys complain
of said defendant. For that whereas said defendant
heretofore comit on the 30th day of July in the

Page 3 year of Our Lord 1866 was indebted to said plaintiffs at and in the county of Washington aforesaid in the sum of Nine hundred dollars for divers goods wares Merchandise & Brick by the said Plaintiffs before that time at the special instance and request of said defendant sold and delivered to him. And being so indebted the said defendant afterword to wit on the day and year aforesaid at and in the county aforesaid undertook and then and there promised said Plaintiffs to pay them said sum of Nine hundred dollars when he should be thereunto afterwords requested.

For that Whereas also said defendant heretofore to wit on the day and year and in the county aforesaid was indebted to said Plaintiff in the sum of Nine hundred dollars for certain goods wares merchandise and brick by said Plaintiff before that time sold and delivered to said defendant at his ~~said~~ defendant's special instance and request and he so indebted he said defendant in consideration thereof afterword to wit on the day and year and at and in the county aforesaid undertook and then and there promised to pay said Plaintiffs said sum of Nine hundred dollars when he should be thereunto afterwords requested.

For that whereas also said plaintiffs on the day and year aforesaid at and in the county aforesaid, had before that time sold and delivered to said defendant at the special instance and request of said defendant, certain other goods wares merchandise and brick, he the said defendant undertook and then and there faithfully promised said Plaintiffs to pay

Paye of them for said goods wares merchandize and brick as much money as the said goods wares merchandize and brick were reasonably worth at the time of the sale and delivery thereof when he said defendant should be thereunto afterword requested, And said Plaintiffs aver that said last mentioned goods wares merchandize and brick were at the time of the sale and delivery thereof reasonably worth the sum of Nine hundred dollars of all which said defendant had notice to wit on the day and year and at and in the county of said.

Nevertheless said defendant not regarding his said several promises and undertakings hath not as yet paid said several sums of money or any or either of them or any part thereof to said plaintiffs, although often requested so to do, but to do this hath hitherto wholly neglected and refused and still neglects and refuses to the damage of said Plaintiff of Nine hundred dollars wherefore he sues &c.

Watts & Bernor,

For Plaintiffs.

Copy of Account sued on in 1st & 2^d counts of declaration.

July 30th 1866. George W Furgerson Dr
To William Leane and Williston H Leane
To One hundred thousand brick at \$9 per thousand - \$ 900 00

July 30th 1866. Geo W Furgerson Dr
To William Leane and Williston H Leane.
To One hundred thousand brick at \$9⁰⁰ per thousand \$ 900 00

Copy of Account sued on in 3^d count of declaration

George W Furgerson Dr
To William and Williston H Leane, To One hundred thousand brick worth \$9⁰⁰ per thousand \$ 900 00

Page 5 On the September Term AD 1866 the following judgment
was rendered in said cause to wit,

William Goane and Williston M Goane }
vs } Assumpsit
George Ferguson }

And now on this
day to wit September the 3^d leave is given to the Plain-
tiff to amend his return and on Sept the 5th defend-
ant who had been duly served with Process makes
default. And September 7th the cause is submitted to
a jury to assess the damages to wit A S William
son, William Dickey, S G House, Nathan Pitts,
Jacob Stoker, John Dickie Jesse Hall & J Fitchie
Clark Gordon, Phillip Gibbs John D Carter and
Barnett Woodrom twelve good and lawful men who
being empannelled and sworn to assess the damages
between the said P'tiffs and def't & after hearing the
evidence argument of counsel &c return into
Court the following verdict to wit: We the jury
assess the plaintiffs damages at \$567 and the
Court orders judgment on the verdict for \$567 &
costs of suit and that execution issue therefor &c

State of Illinois }
Washington County } I John N Bernor Clerk of the
Circuit Court in and for said county hereby certi-
fy that the foregoing is a complete and correct
copy of the Process, Declaration, Pleadings & judg-
ment & of the proceedings in said case as appears
from the Records and files of papers in my

Office,

Witness my hand & the Judicial Seal of
said court at Nashville in my office this
16th day of October A.D. 1866;

John H. Venable Clerk,

In the Supreme Court of the said Division
November Term thereof A.D. 1866

Enos from Washington
George Ferguson Plaintiff in Error
vs

William L. Lane Et al Defendants in Error
Error assigned by Plaintiff in Error

That the judgment of the court below is erroneous

That the court erred in giving judgment
for Plaintiff below when there was
not due diligence on the part of the defendant

That the Court erred in giving judgment
against the Defendants below when
there was no lawful service on them

J. H. Durham

att'y for Plaintiff in Error

41
Wm & W H. Gane
vs
George Ferguson
Certified Copy for Record & C.

Circuit Clerk's fees for
making record 1700 words \$2.55
at 15cts per 100 =
Certificate, Seal & Stamp. 35
\$3.10
Paid payment from Dist. pro. G. M.
Durham, this 17th Oct 1866,

Filed Oct-23-1866-
at St. Lawrence City -
Paid by Durham ~~for~~
\$11.00

STATE OF ILLINOIS, }
SUPREME COURT, } ss.
First Grand Division. }

The People of the State of Illinois,
To the Sheriff of Washington County.

BECAUSE, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of Washington county, before the Judge thereof between William Lane and

William H. Lane plaintiff and

George W. Ferguson defendant it is said that manifest error hath intervened to the injury of said defendant

as we are informed by his complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at MOUNT VERNON, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said William Lane and William H. Lane

that They be and appear before the Justices of our said Supreme Court; at the next term of said Court, to be holden at MOUNT VERNON, in said State, on the first Tuesday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if They shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said William & William H. Lane notice together with this writ.

WITNESS, the Hon. P. H. Walker Chief

Justice of the Supreme Court and the seal thereof, at

MOUNT VERNON, this twenty three day of

October in the year of our

Lord one thousand eight hundred and Sixty Six

Noah Johnston

Clerk of the Supreme Court.

I have duly served the within writ
by reaching the ~~Home~~ to the woman named
William Lane; William H. Lane
not found in my County this 25th day
October 1866.

James H. Sawyer Off
for John Adams Off

44
SUPREME COURT.

FIRST GRAND DIVISION.

George W. Ferguson

PLAINTIFF IN ERROR.

*William Lane and
William H. Lane*

DEFENDANT IN ERROR.

Scire Facias.

FILED

Thompson & Co
Barber
20 Miles
Return
Filed Nov. 6. 1866
W. C. Johnston Off

State of Illinois,
SUPREME COURT,
First Grand Division.

SS

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Washington Greeting:

Because, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of Washington county, before the Judge thereof between William Lane and Millston &c.

Lane

plaintiffs and

George W. Ferguson defendant it is said manifest error hath intervened to the injury of the aforesaid defendant

as we are informed by his complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given: you distinctly and openly without delay send to our Justices of our Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at **Mount Vernon**, in the County of Jefferson, on the first Tuesday in the Month of November next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

WITNESS, the Hon. P. H. Walker Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this twenty third day of October in the year of our Lord one thousand eight hundred and Sixty Six -

Noah Johnston

Clerk of the Supreme Court.

44
SUPREME COURT.

First Grand Division.

George W. Ferguson

Plaintiff in Error,

VS.

William Lane and

William H. Lane

Defendant in Error.

WRIT OF ERROR.

and FILED. Cert.

23-1866-

St. Johnstone Ch

State of Illinois } In the Supreme Court
J. M. Durham } 20th November Term
thereof A.D. 1866

George W. Ferguson
vs
Cuthbert Lane and
William Lane

Judgment is Assessed
at the Term; Costs \$568

Shore Part of Error & the Circuit Court
of Washington County against William
Lane and Cuthbert Lane in the suit of
George W. Ferguson returned on
the first day of the next Term

J. M. Durham

Atty for Off & Error

Ashley Ills Oct 22 1866
To the Clerk of the Supreme Court

44

Edw. W. Ferguson

NY

W. & M. K. Lane

Receipt

Juliet, Oct. 23-1866-

Dr. G. L. L. L. My

Sabbly Decs Oct 22 1860

Hon Wm Johnson

Dear Sir

Enclosed please find
prospect & Record & issue
as soon as you can & Mail
to me here

Very respectfully
J M Durham

IN THE SUPREME COURT.

First Grand Division, State of Illinois,

NOVEMBER TERM, A. D., 1866.

GEORGE W. FURGERSON, *Pl'ff in Error*,
vs.
WILLIAM and WILLISTON H. LANE, *Def'ts in Error*. } Error from Washington.

PLAINTIFF'S ABSTRACT.

This was an action of assumpsit in the Washington County Circuit Court.

1 Summons was issued on the 24th day of August, 1866, returnable on
2 the 3d day of September, 1866.

Sheriff appointed John Sibert bailiff, who served summons on defend-
2 ant August 25, 1866, and whose appointment was not under seal.

5 Defendant was defaulted, and judgment for plaintiff \$567.

BRIEF.

Error to take judgment by default when not ten days service.

Patteson vs. Hood, 3 Seam. Rev. S., 413.

The appointment of bailiff should have been under seal.

Allen on Sheriff, p. 75, and authorities there cited.

J. M. DURHAM,

Attorney for Plaintiff in Error.

41
George W. Johnson
to
William L. Lane
J. Sullivan & Lane

John R. Boyle

Filed Nov 4 1866
Book of Deeds

Wm. L. Lane
J. Sullivan & Lane
George W. Johnson
JANUARY 1867
First State Division, State of Illinois
IN THE SEVERAL COURTS

State of Illinois } Supreme Court
Jefferson County } 1st Branch & Division

George W. Ferguson Plaintiff } Error
in error } from
Wm & William W. Lane Deft } Washy
in error } ton

And now on this 8th Nov-1866
Comes defts in error and move to
~~dismiss this~~ quash writ and
dismiss this case, because they
say that record presented here is
different from record passed
upon by Court below—

George Vernon
Sole for Defts in
error

State of Illinois }
Jefferson County } 88

Hargeson }
vs } Error from
Sane Sane } Washington

George Vernon being duly
Sworn in oath states that the
return on the Original
Summons in this Cause
was changed after Judgment
was rendered below from the
24th to the 28th Day of Aug 1866
by means whereof there appears to be only 4 days more
~~to the 28th Day of Aug 1866~~ as
he is informed and verily believes
and that as he is informed said
Change of date was made af-
ter the Court below had adjourned
but before making up record for
writ of error, but he can not give
exact date of said Change
Sworn to & Subscribed
before me 8th Nov 1866
At Johnston, Ct.
George Vernon

41

41

Ferguson
by
Lance

41

Ferguson
vs
Fane

41

Affidavit

Filed Nov. 8. 1866.
Pro Colchester Ch

IN THE SUPREME COURT.

First Grand Division, State of Illinois,

NOVEMBER TERM, A. D., 1866.

GEORGE W. FURGERSON, *Pl'ff in Error*,
vs.
WILLIAM and WILLISTON H. LANE, *Def'ts in Error*. } Error from Washington.

PLAINTIFF'S ABSTRACT.

This was an action of assumpsit in the Washington County Circuit Court.

1 Summons was issued on the 24th day of August, 1866, returnable on
2 the 3d day of September, 1866.

Sheriff appointed John Sibert bailiff, who served summons on defend-
2 ant August 25, 1866, and whose appointment was not under seal.

5 Defendant was defaulted, and judgment for plaintiff \$567.

BRIEF.

Error to take judgment by default when not ten days service.

Patteson vs. Hood, 3 Scam. Rev. S., 413.

The appointment of bailiff should have been under seal.

Allen on Sheriff, p. 75, and authorities there cited.

J. M. DURHAM,
Attorney for Plaintiff in Error.

George W. Ferguson

William Lane &
Wells Lind Lane

Obey & Duff

Filed Nov 8 1860
North Gloucester City