

Jefferson County Circuit Court
Case Files - Civil

Box 2 | Folder 2 |

May 1868

Holman, John

vs.

Ball, John

Appeal

Plaintiff appealed from JP James
C. Power on the account for work
done; depositions

Mr. John Ball

To John Williams Dr

Jan'y 1867. To ~~25~~ days work, at \$2.00 per day \$52.00
as per contract

Dec 1866 } To Rent \$9.00 overcharged for
land, in the month of December

1866, for wet days & Sundays, in
violation of contract

Amount due \$61.00

John Ball
in acct with
John Halman -

Demand \$61.00

justice fees 175

Constable fees 70

~~Guila~~ Sept 21st 1861

Jas b Pamerquist
of the peace

County of Jefferson

The State of Missouri

To the Constable of Central Township
Greeting We command you to Summon
John Ball to appear before ~~the~~
the undersigned Justice of the peace
within and for Central Township
in the County aforesaid at my office
in said Township on the ~~10th~~^{4th} day of
~~September~~^{October} 1867 to answer the Complaint
of John Halman given under my
hand this 4th day of September 1867

Jas C Power Justice
of the peace

Summons
John Halman
vs

John Ball

Debt \$61.00

J. C. Pipes

Const fees

85-

25

John Hairs. Const
Wm. S. Harris & Son
Attys

Served the within Summons on the
within named person Wm. S. Harris & Son
at his place and being in custody
of the Sheriff in September 1864
26 day of September 1864

Deposition of witness, produced, sworn & examined
on the 9th day of October, A. D. 1867, between
the hours of Eight O'clock in the forenoon, &
Six O'clock in the afternoon of that day at the City
of St. Louis, in the County of St. Louis in the
State of Missouri, before me, John B. Christopher,
a Notary Public, duly commissioned & qualified
within & for the State & County aforesaid, in
a certain cause, now depending before James
C. Power, a Justice of the Peace, of Central
Township, Jefferson County, Mo. between John
Halman, plaintiff, and John Ball defendants
on the part of the plaintiff -

Timothy Kennessy, of lawful age,
being produced, sworn & examined on the part
of the plaintiff, deposes & says:

I know the plaintiff John
Halman, he worked under me, as Foreman,
for Mr. Ball - on the levee in the State
of Louisiana - he worked 22 $\frac{1}{2}$ days in
the month of January 1867, and 3 $\frac{3}{4}$
days in the month of February 1867,
he was to receive \$2.00 per day
& board for his work - he was
hired in St. Louis Mo. I was present

at the time - he was employed by
Mr. John Ball at the rate of \$2.00
per day + board - he was not to
pay for board on wet days + Sunday
or when he was sick - he was only
to pay board if he loafed on good
working days - The Plaintiff had \$9.00
deducted out of his wages for December
1866, as board for wet days + Sunday
I was present at the time Plaintiff
was paid for the month of December
~~1866~~ 1866, + gave Mr. Ball an account
of the wet days + Sundays in the
month of Dec 1866 - I was present
+ saw him (deft) deduct \$9.00
out of Plff's wages - in direct
violation of contract - Plaintiff was
sick 2½ days in month of December
1866 - he did not lose any other
time - plaintiff did not receive any
pay for any part of the work char-
ged in his account - I made out
an account of his time by Mr Ball's
orders - Mr. Ball never paid him
for the work charged - I don't know
where ~~where~~ Mr. Holman now is -

The Plff ~~the~~ returned his account to
me + told me to present it for

collection when pay-day came -
Pay-day has not come yet &
I have this my account of his
work still in my possession -
I live in St. Louis Mo. I have
not seen the Plff since about the
12th day of February 1867, I have
corresponded with him -

Timothy Hennesey

Sworn to & subscribed before me,
this 9th day of October A.D. 1867, in
the day, place & hours first aforesaid.

John A. Christopher.

Notary Public,

St. Louis County,
Mo.

I, John A. Christopher, a Notary Public,
duly commissioned & qualified, within & for the
State & County aforesaid, do certify, that in
pursuance of the annexed notice, came
before me, at St. Louis, in the County of
St. Louis & State aforesaid, at No. 224 Chesnut
St. Timothy Hennesey, who was by me
sworn, to testify the whole truth of his
knowledge, touching the matter in contro-
-versy aforesaid; that he was examined &
his examination reduced to writing & subscri-
-bed by him in my presence, on the day,
~~before~~ between the hours & at the place in

that he had first appeared, and his said
deposition is now herewith returned.

Given at the City of St. Louis, in the County
of St. Louis and State of Missouri, on this the
9th day of October A. D. 1867.

Jos. A. Whitaker.

Notary Public,
St. Louis County,
Mo.

Notary fee \$2.00
due:—

Filed October 14th
1867 Jas C. Pomeroy
Justice of the peace

Patrick Murphy
Patrick Kelly and
John Holman
against

John Ball

before Jas C. Pomeroy
Justice of the
peace

John Holman, Plaintiff
vs
John Ball, Defendant } Before James
C. Power J. P.

We John L. Thomas as principal
and Isham Williams as
security acknowledge ourselves to
owe John Ball the sum of twenty five
dollars to be void upon the condition
Whereas John Holman has appealed from
the Judgment of James C. Power a Justice
of the peace in the above entitled Cause
Now if on such appeal, the Judgment of the
Justice be affirmed, or if on the trial anew in
the appellate Court Judgment be given
against the appellant he shall satisfy
such Judgment or if his appeal shall
be dismissed and he shall pay the
Judgment of the Justice with the costs
of the appeal, this recognizance is to
be void.

approved this 20th day of March 1868 for J. C. Power Justice of the Peace John L. Thomas
Isham Williams
mark

This official states that an appeal in
the above entitled Cause is not
taken for vexation or delay, but because
the Plaintiff is aggrieved by the Judgment

of the Justice.
done and to be done

to be done we do not say

March 1855 to the Justice of the Peace

John L. Moore

John Holman

3

John Ball

Appeal Bond
affidavit

Depositions of witnesses produced sworn and examined on the fourth day of January in the year of our Lord one thousand eight hundred and sixty eight between the hours of nine o'clock in the forenoon and six o'clock in the afternoon of that day at Sents Station in the County of S. B. Francois, Missouri before me Cyrus Sents a Justice of the Peace in and for said County in certain causes now depending in the Justices Court County of Jefferson State of Missouri before J. C. Power Esq. a Justice of the Peace in and for said County between ^{Patrick} Kelly plaintiff and John Ball defendants And also in an action wherein John Holman is plaintiff and John Ball is defendant on the part of the defendant, John Ball, it having been agreed by and between the Attorney for the Plaintiff as well as the Attorney for the defendant that the testimony in each of the suits in the above named causes should be used on the trial of both causes so far as applicable to each.

Miles Burke's flawed age being produced
sworn and examined on the part of the defendant
deposes and says

Ques. Are you acquainted with Patrick Kelly?

Ans. I have been acquainted with many a
man by the name of Patrick Kelly.

Ques. Were you employed by Mr. Ball on
Aston Levee, La.?

Ans. I was last winter - winter of 1866 & 1867.
I commenced work there in Nov 1866.

Ques. When did you ^{leave} ~~quit~~ work there.

Ans. About the 10th Feby 1867.

Ques. Were you a laborer or foreman?

Ans. I was Foreman

Ques. Did you know a man ^{by the name of Patrick Kelly} employed on that work by Mr. Ball?

Ans. Not to my knowledge.

Ques. What was the custom in regard to keeping the time of the hands?

Ans. The Foreman kept a book in which he kept the time of each hand ^{under him} & gave the time in of each hand every Saturday night to Contractor.

Ques. Did you know a man by the name of Kennessy?

Ans. I did.

Ques. Was he bars on the work?

Ans. Yes, Sir - he was foreman.

Ques. Do you what time he quit work there?

Ans. He quit work there or four days before I did -

Ques. About what time did you quit work there?

Ans. I quit work there about the 7th or 8th Feb 1867.

Ques. Did the foreman have any chance of knowing whether the hands were paid or not?

Ans. Yes Sir, he had a chance to know it

Ques. What chance did the ^{have to} preman know that the hands were paid?

Ans. The hands were paid off in the presence of the preman.

Ques. Were the hands under you paid off by Mr. Ball?

Ans. They were.

Ques. About how many men were employed on this work?

Ans. From 125 to 250.

Ques. How often did Mr. Ball pay the hands?

Ans. Once every month - This was the uniform rule for all the hands employed.

Ques. ^{Were you} ~~Was~~ present every pay day from the time ^{you} commenced work until ^{you} quit?

Ans. Yes Sir.

Ques. So far as you know were all the hands employed on this work paid off?

Ans. So far as I know they were.

Ques. What was the custom in regard to wet days?

Ans. Each hand had to pay \$1. per day for wet days. It was a rule then to deduct this board

bill on pay day.

Ques. Was there more than one man employed as Foreman by the name of Hennessy?

Ans. No Sir, not to my knowledge.

Ques. Do you know a man by the name of John Holman employed on the work there? or a man by the name of Halinan?

Ans. I do not know any man by the name of John Holman - I did know a man employed on the work by the name of Peter Halinan - He was under me as his foreman.

Ques. Do you know whether Halinan ever worked under Hennessy as foreman?

Ans. I do not think he ever did.

Ques. Do you reside here in St Francis Co.?

Ans. I reside at Deut Station St Francis Co. I do not know ~~for~~ how it is to Kernboro in Jefferson Co. It is about 30 miles from Deut Station to De Soto.

Cross Examination by John L. Thomas atty
for Plaintiffs -

Ques. Did you see Mr. Ball for any hours

slept there under your supervision?

Ans. I did.

Ques. What other hands did you see him pay?

Ans. I saw him pay all hands around there.

Ques. Were the foremen present when the hands were paid off? ^{up to} Now could you see what was going on at other places?

Ans. The hands were all paid off in the same room.

Ques. Did you see Mr. Ball pay Patrick Kelly & John Holman any thing?

Ans. No sir, I did not know the men at all.

Re-examined -

Ques. Did you remain there until the work stopped.

Ans. I did.

Ques. Did you hear of any complaint among the hands about not getting their pay?

Ans. Not while I staid.

Ques. Did you have any opportunity of hearing complaints if any had been made?

Ans. Yes I had.

Ques. What caused Mr. Ball to stop work?

Ans. He finished the work.

Ques. Do you know whether Mr. Ball got pay for the work or not?

Ans. I do not.

Ques. At the time the work stopped did Mr. Ball get the hands together & pay them?

Ans. Yes Sir.

Paul Burk

Patrick Flynn of lawful age being produced sworn & examined on the part of the Plaintiffs deposes & says.

Ques. Were you employed acquainted with a man by the name of Patrick Kelly employed on the work in La. by Mr. Ball?

Ans. I was not but I knew a man by the name of Thomas Kelly.

Ques. Were you employed on the work in La. by Mr. Ball.

Ans. Yes Sir, I was.

Ques. In what Capacity were you employed?

attack to Filymus testimony

Depositions of witnesses produced sworn and examined on the fourth day of January in the year of our Lord one thousand eight hundred and sixty eight, between the hours of nine o'clock in the forenoon and six o'clock in the afternoon, of that day at Sluts Station in the County of St. Francois Missouri before me by virtue of a Justice of the Peace in and for said County, in certain Causes now depending in the Justice Court of the County of Jefferson State of Missouri before J. C. Power Esq a Justice of the Peace in & for said County between Patrick Kelly plaintiff and John Ball defendant and also in an action wherein John Holman is plaintiff and John Ball is defendant on the ~~part~~ of the defendant John Ball - it having been agreed by and between the Attorney for the plaintiff as well as the Attorney for the defendant that the testimony in each of the ^{cases} ~~suits~~ ^{with} above named, should be used on the Trial in both cases so far as applicable to each.

Ans. I was foreman.

Ques. Did you know a man employed on the work by the name of Kennessy?

Ans. I knew one man by that name. Kennessy was a foreman on the work.

Ques. What time did Kennessy leave the work?

Ans. He was discharged about the first of July 1867 - but waited about a week before he left.

Ques. What time did you go there to work?

Ans. The 7th Nov 1866.

Ques. Was that as soon as Mr. Ball went there to work?

Ans. It was.

Ques. When did you quit work there?

Ans. I quit work about 10th Feb 1867.

Ques. What was the custom with the foreman in keeping time of the hand?

Ans. The foreman returned the time of each to the Contractor every Saturday night.

Ques. Was Ball a Contractor or Sub-Contractor?

Ans. He was a sub Contractor.

Ques. Did all the hands receive their pay at one office?

Ans. They did. There was but one pay office.

Ques. Did all the men employed under you receive their pay?

Ans. They did.

Ques. How often did Mr. Ball pay the hands?

Ans. Once a month.

Ques. Did you ever hear of any complaint among the hands about not getting their pay?

Ans. No I never did. The only thing I heard complaint about was they were charged board for wet days.

Ques. Were you present every pay day from the time you commenced until you quit?

Ans. Yes.

Ques. How many men were under one foreman?

Ans. From 25 to 40.

Ques. Were the hands working near together?

Ans. Yes - not very far ^{apart} ~~about~~ - it was one job.

Ques. Were you present at the pay day in Jan^y 1867?

Ans. I was.

Ques. Did you see Mr. Hennessy there either one of those pay days?

Ans. I could not tell.

Ques. Were the hands all paid off at the same place.

Ans. They were paid off on the same day.

Ques. What was the custom in regard to wet days & Sundays?

Ans. The hands were charged board on wet days but not Sundays.

Ques. How many men were employed on the work?

Ans. About 160 or 185.

Ques. Did you know a man by the name of Holman or Holman?

Ans. I knew no man by the name of Holman but I knew a man by the name of Holman.

who worked for Miles Burkh. I did not know a man
by the name of John Holman.

Ques. How much did Mr. Ball give the hands?

Ans. \$2. per day - but charged them \$1.
per day for board for wet days.

Ques. As far as you know were all the hands
down there paid?

Ans. They were so far as I know.

Cross Examination.

Ques. Do you know of your knowledge that
all the hands were paid?

Ans. I was in the room where they were called
& paid off.

Ques. Do you swear that the hands all got
their pay?

Ans. I saw them paid at that time - that
is in Jan. 1867.

Ques. What time in Jan was that it was the
14th or 20.

Ans. It was the 14th or 20.

Ques. Did you see every hand paid, each pay
day

Ans. Yes Sir. I did.

Ques. Did you have nothing to do but to observe who was paid?

Ans. I had nothing to do.

Ques. How many hands were paid in Jan. 1867?

Ans. I cant say - all that were working there paid. Those who had been paid off before hand were not present on pay day.

Ques. How many had been paid off before pay day?

Ans. I cant tell.

Ques. How many were sick on pay day in Jan. 1867.

Ans. Cant tell - I was not watching.

Ques. How much wages did the hands receive on pay day in Jan. 1867?

Ans. I cant tell.

Ques. How can you tell whether they got pay if you do not know much they received.

Ans. I was standing looking at them when they

they needed money.

Ques. Can you tell whether they needed all that was due them?

Ans. I can't tell that.

Ques. Did you see P. Kelly & John Holman there receiving pay?

Ans. No Sir, I did not know the men at all.

Resumed.

How long did it take to pay the hands off?

Ans. About a half day.

Ques. Was it customary for the hands to work on pay day?

Ans. It was not. I was present on pay days to get my pay. The foreman was the last to be paid.

Lett Flynn

attach at the end

I Cyrus Dent, a Justice of the Peace within and for the County of St Francois in the State of Missouri do certify that in pursuance of the annexed notice ~~came~~ before me at Deuts Station in the County & State last aforesaid Miles Burk and Patrick J. Lynn who were by me severally sworn to testify the whole truth of their knowledge touching the matters in controversy aforesaid, that they were examined and their examination reduced to writing and subscribed by them respectively in my presence on the day between the lines and at the place in that behalf first aforesaid and their said depositions are herewith returned. And I further certify that said Miles Burk and Patrick J. Lynn are residents of said County of St Francois in said State of Missouri.

Given at my office in the County of St Francois in the State of Missouri this day of January A.D. 1867

Cyrus Dent Justice of the Peace

State of Missouri

355

County of St Francois I William R Taylor
Clerk of the County Court in and for said
County do hereby Certify that Cyrus Scott
Esq who subscribed the within Certificate was
at the time of Signing the same an acting
Justice of the Peace within and for said County
duly Commissioned and qualified as such
and that his signature thereto is genuine

In Testimony whereof I have
hereunto set my hand and affixed
the seal of said Court at office
in Farmington this 15th day
of January A.D. 1868

Wm R Taylor Clk
St Francois County Court

Filed February 8th 1868
James C Power
Justice of the
Peace

7252

John Halman
 was
 John Ball

account filed September 21st 1867
 for sixty Three Dollars Summons Issued
 Returnable on the 18th day of October 1867 now
 on this the 18th day of October the Returnable to Summons
 Duley served according to Law and the Defendant
 comes in to Court and Tenders his affidavit asking for
 a continuance which is considered by the Justice
 that the Defendant have until the 20th day of December
 1867 for Trial now on this Day comes the parties
 and by the consent of both parties this Cause is
 continued until the 17th day of January 1868
 now on this day the parties comes and by consent
 of both parties this Cause is continued until
 the 21st day of February 1868 now on this day comes
 both parties and by consent it is continued until
 the 20th day of March 1868 now on this 20th day of
 March 1868 comes the Defendant John Ball and
 being ready for Trial and the plaintiff being
 three Times called comes not but makes Default
 it is therefore considered by the Justice that the
 Defendant have Judgment for his paper costs
 herein expended of the plaintiff and on the
 same day the plaintiff comes and moves the
 Court to set aside the judgment which is overruled
 by the Justice whereupon the plaintiff

J. C. Power Justice
 fees

Packet Case 10

Index Case 10

Summons 35

5 Continuances 25 each 175

Bond for Cost 35

Judgment 50

Two affidavits 30

Bond for appeal 35

Transcript 50

\$430

E. E. Jones cost

fees 95

asked for an appeal to the circuit Court
which is granted by the Justice which a writ
was then and there given to the Defendant
by the Plaintiff that this case would be
appealed to the circuit Court for further
investigation and the appeal bond is
affirmed Jas C Power Justice of the peace

State of Missouri
County of Jefferson

John Holman Plaintiff
vs

John Ball Defendant

I James C Power a Justice of the peace ~~I James~~
within and for the Township of Central in the County
of Jefferson aforesaid hereby certify that the above
and foregoing is a full true and complete Transcript
of all the entries made in my docket relating to said
case of John Holman Plaintiff against John Ball
defendant and that such Transcript is accompanied by
all the papers filed with the Justice relating to such
suit given under my hand this 13th day of
April 1868 Jas C Power Justice of the peace

Transmitted
from Justice

John W. Holman
John Dale,

Filed April 18th 1868,
at Honey Lake,

~~Mass~~

Received
Book 8 p 5-23

COUNTY OF JEFFERSON.

The State of Missouri,
To

John Ball

You are Hereby Comanded, That setting aside all manner of excuse and delay, You appear before our Circuit Court for the County aforesaid, on the *13th day of May 1868*, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy, now pending in our said Court, wherein

John McManis is

Plaintiff, and

John Ball is

Defendant, on the part of

Defendant

and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *13th* day of *April* . . . A. D. 1868.

Elias F. Honey

Clerk.

Per C. F. Honey

SUBPŒNA.

TO

Jefferson Circuit Court

May TERM, 1867

John Holman

vs.

John Ball

For Def't

John Ball

John Williams
Sheriff fee

50

I certify the within in Jefferson County Mo on
the 12th day of May 1868 in John Ball by
reaching the same to King

John Williams
Sheriff