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2-5-1771

Provincial Case File No. 16916, New Hampshire State Archives - Subsequent Action of Peter Pearse

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Anno regni Regis Georgii
tertiū undecimo

Province of
New Hampshire
Rockingham Co

At his Majestys Superior Court of judicature held at
Exeter in and for the County of Rockingham in the
Province aforesaid on the first Tuesday in September in
the eleventh Year of his Majestys reign Annoque Domini
one thousand seven hundred and Seventy one

Present

The Honorable Theodor Atkinson Esq - Chief Justice

The Hon^{ble} { Mashek Weare
Levell Hubbard } Esquires Justices
William Parker

Return of Grand Jurors

Methuen	Samuel Lane
	John Dearborn
Dover . . .	Elijah Sattle
	Jonathan Hayes
Nottingham	James Glass
Hampton	Henry Elkins
Newmarket	James Hill
Epping . .	Moses Page
Salmon Falls	Robert Parker
	Pease Long
Epsum . .	Reuben Sanborn

Exeter	Phillips Gilman
	Elihu Coffin
Chester . .	Samuel Roby
Durham	Francis Matthes
	Stephen Cogan
Brentwood	
Greenland	Samuel Dukeing
	Tales
	Thomas Merrill
	John Haven
	Andrew M Clary
	Satchel Clark

Pease & March

1771

Josh. Crummet

Bradstreet Doe

Stephen Clark

Joseph Knowles

Stephen Jones

Rich. Thimbal

Benj. Backer

David Jewell

Elph. Sanborn

Nathan Crum

Benj. Mauleen

John Dearborn

Execution issued

Sept. 16. 1771

Peter Yearse of Portsmouth in the Province of
New Hampshire Merchant Appellant against Clement
March of Greenland in said Province Eq. Appellee from
the judgment of the inferior Court of common Pleas
held at Portsmouth in and for said Province on the first
Thursday next following the first Tuesday in March
1771 in an Action of trespass on the Case commenced by
the said Pease against the said March at the inferior Court
of common Pleas held at Portsmouth in and for the Province
aforesaid on the first Thursday next following the first
Tuesday in June 1770 but prosecuted at the inferior Court
of common Pleas held as aforesaid on the first Thursday
next following the first Tuesday in September 1770 in the
following words viz "In an action of trespass on the Case
for that whereas he the said Peter now is a good honest
true and faithful Subject of us and hath all his lifetime
hitherto carried and behaved himself among all his
Neighbors and other faithful Subjects of us and our
Predecessors so as to be esteemed by them of good name
fame credit honest and faithful conversation and good
behavior and all his lifetime hitherto hath lived remain-
ed and continued without any blot or having ever
been guilty of any contempt or contempts against our
Royal Authority Person or Government or against any
of our Courts of Justice and hath always been untouched
unsuspected & free from the suspicion and imputation of
any such crime by reason of which good name fame
credit and honest conversation he not only gained to
himself the good will and esteem of many of our good
and loyal Subjects but also reaped and enjoyed great
advantages arising therefrom nevertheless the said Clement
March being in no wise ignorant of the premises but
contriving and maliciously intending unjustly to grieve
the said Peter and to injure and defraud him the said
Peter in his aforesaid good name fame credit & reputation

and also to subject him to imprisonment he the said
 Clement at Portsmouth aforesaid on the first Thursday
 next following the first Tuesday of December 1769 did
 falsely and maliciously represent and asport to our
 Justices of our inferior Court then sitting at Portsmouth
 within and for the aforesaid Province of New Hampshire
 on the said first Thursday next following the first Tuesday
 in December 1769 that soon after the rising of said
 inferior Court at September Term last past the said Peter
 Pearce rudely and indecently insulted him the said March
 for his sentiments delivered on the Bench and in the due
 execution of his office as a Judge of said inferior Court in
 a Cause wherein one Elizabeth Bennett was Plaintiff and Paul
 March was Defendant which tended greatly to contemn the
 royal Authority and the due execution of the Laws and
 to the subversion of all Government and order by means
 of which false and malicious representation of the said
 Clement March the said Justices of our inferior Court ordered
 that a Rule should be made out and entered that the
 said Peter should be notified to shew cause at that December
 Term why an attachment should not go against him for
 the supposed contempt and misdemeanor aforesaid whereupon
 a Rule issued to notify the said Peter to appear and shew
 cause as aforesaid and the said Peter in obedience to said
 Process did appear at the said Term to answer the charge
 aforesaid before the said Justices of our inferior Court holden
 in December as aforesaid and then and there denied the said
 Charge and the said Clement March in his own proper
 Person appeared at said Court and in prosecution of his
 aforesaid malicious intention in order to blacken defame
 and scandalize the said Peter Pearce and to cause him
 to be imprisoned he the said Clement March did then &
 there falsely and maliciously without any legal or
 probable Cause asport and declare to the said Justices of
 our said inferior Court that the said Peter Pearce was
 guilty

guilty of a contempt of that Court by rudely and
 indecently insulting him the said Clement March for
 delivering his Sentiments on the Bench in a Cause
 depending before the said inferior Court in September 1769
 wherein one Elizabeth Bennet was Pla^t and one Paul
 March was Def^t in which Cause the said Clement March
 solely affirmed that he sat as Judge by means whereof
 the said Peter Pearce was ordered by the Justices of said
 inferior Court to make a submission to the said Court
 and Stitches for his good behavior for the space of three
 months in the sum of ten pounds and stand committed
 till said sentence was performed and by pretext thereof the
 said Peter Pearce was committed to the common Prison
 in said Portsmouth and there for a long time over for the
 space of eight hours was detained & until he was admitted
 to bail by order of Theodore Atkinson Esq^r Chief Justice of
 our Superior Court of judicature for the said Province of
 New Hampshire and recognized for his appearance at said
 Superior Court and a Writ of certiorari was issued by order
 of the said Chief Justice of the said Superior Court (the
 Superior Court being not then sitting) to certify the Tenor
 of the Record proceedings and judgment of the said
 inferior Court against said Pearce to our Justices of our
 Superior Court of judicature & ~~then~~ then next to be
 holden at Portsmouth within and for our said Province
 of New Hampshire on the first Tuesday of February 1770
 being the Term at which said Pearce recognized to appear
 as by said Writ bearing date the 23^d day of December
 1769 and the return thereof now remaining filed of
 record in our said Superior Court may more fully and
 certainly appear and at the said Superior Court holden
 at said Portsmouth within and for the said Province
 of New Hampshire on the first Tuesday of February
 last the said Peter Pearce appeared to answer according
 to his recognizance and was then & there by the judgment

of the Justices of the said Superior Court discharged in a due and lawful manner from the said Group judgment and commitment and the whole proceedings against Pearce in said Inferior Court (which arose upon the aforesaid false & malicious representation of the said Clement March) was ordered to be and by the judgment of the Justices of said Superior Court was quashed now the said Pearce in fact says that by reason of the said unjust and malicious representation of the said March made as aforesaid in the said Pearce was not only deprived of his Liberty during all the time aforesaid but also was forced and compelled to undergo and be at great Labor charges and expences for the obtaining a discharge from the imprisonment aforesaid all of which is to the damage of the said Peter Pearce as he saith the sum of two hundred Pounds". To which declaration the said Clement March pleaded in abatement saying first because the Plea in his declaration therein contained had not directly alledged that he was innocent of the offence charged against him by the said Clement as set forth in the declaration

Secondly Because as appeared by the said Declaration that the said Clement brought his aforesaid accusation information and complaint against the said Peter before a Court of Record proper to try the same & the same being duly heard and considered by the same Court was adjudged and determined against the said Peter as the same declaration also sets forth all which the Def^t being ready to verify prayed judgment of the aforesaid that the same might be abated and for his costs saving which if over ruled the said Clement said he was not guilty and thereof put himself on the Country

At the Inferior Court of common Pleas first mentioned judgment was rendered that the said Writ should be and truly was abated for the Plea saved and that the

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The Def^t should recover against the Pl^t Cost of Court
From which judgment the said Pearce appealed
to the then next Superior Court held at Portsmouth in N^H for
the Province aforesaid on the first Tuesday in February
A^D 1771 when and where the appeal was entered and
judgment was rendered that the former judgment should
lie and thereby was reversed that the said Pearce in abatement
being adjudged insufficiently should be & thereby were over-
ruled that the Cause should be sent down to the inferior
Court for trial and that the said Peter Pearce should
recover against the said Clement March Costs of Court taxed
at the sum of five pounds seventeen Shillings

At the inferior Court of common Pleas held at
Portsmouth in and for the Province aforesaid on the first
Thursday next following the first Tuesday in March 1771
judgment was rendered that the Defendants should recover
against the Pl^t Cost of Court

From which judgment the said Pearce appealed to
this Court when and where the appeal was entered and
the Parties being fully heard by their Council learned
in the Law the Case was committed to the Jury sworn
according to Law to try the issue who make return of
their verdict thereon upon oath and say the Jury find
for the Appellant the sum of seven pounds damage &
Cost of Courts

It is then considered that the former judgment
be and hereby is reversed and that the said Peter Pearce
recover against the said Clement March Seven pounds
damage and Costs of Court taxed at the sum of
Nine pounds ten Shillings

Cotton & Evans
J. S. Mr. H. P.
Execution issued of New Hampshire
Sept. 25. 1771

William Coffey of Portsmouth in the Province
Tanner Appellant against John Evans
now residing at said Portsmouth Appellee from the
judgment of the inferior Court of common Pleas held
at