

13923


No. _____

Supreme Court of Illinois

Northern R. R. Co.

vs.

Clark.

71641  7

State of Illinois }
McDonough County } ss

Pleas before the Hon O. C. Skinner judge of the
tenth judicial Circuit of the State of Illinois
Now presiding in the fifth judicial Circuit
by reason of a change of seats with the Hon
S. H. Walker judge of the fifth judicial Circuit
of the State of Illinois at a Circuit Court
begun and held at the Court House in
Macomb on the second Monday in the
Month of October A.D. 1854

Present The Hon

O. C. Skinner judge
John S. Bailey States attorney
Wm. H. Randolph Clerk
S. H. Hogan Sheriff

And afterward to wit on Monday the ninth
day of October A.D. 1854 The following order
was entered herein To wit

Northern & Rail Road Co

vs

James Clark

} Appeal from an assessment
of damages

And now on this day came the Defendant
by his attorney and filed his motion to dismiss this suit.
~~with its said motion is in the words and figures~~
following to wit

Tuesday October the 10th A.D. 1854

Northern Cross Rail Road Co

vs

James Clark

} Appeal

And now on this day came on to be
heard the motion filed herein on yesterday to dismiss

2 This suit, And after hearing the argument of Counsel
it is considered by the court that said Motion is
sustained And that this cause be dismissed
for want of jurisdiction It is therefore
considered by the court that the said Defendant
have and recover from off the said Plaintiff
their costs by them in this behalf expended &
that Execution issue therefore.

And afterwards
to wit on the Fourteenth day of October
A.D. 1854 the following order was entered herein
Northern Cross Rail Road Co

vs } Appeal
James Clark }

This day came the Plaintiff by
their attorney and prayed an appeal to
the second Grand Division of the Supreme
Court of this State Which is granted them
on their entering into Bond with James
Mc Campbell as security in the Penal sum
of one hundred dollars conditioned as the
law directs within Thirty days from this
date

Bill of Exceptions

Northern Cross Rail Road Co

vs } On Appeal
James Clark }

Be it Remembered that on
the trial of this cause the Appellant James
Clark moved the court to dismiss this
suit for want of jurisdiction Appellant
on the face of the papers
to wit

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State of Illinois }
County of McDonough } 2d

To James M Campbell or any other
Citizen of the said County of McDonough
Upon the application of N Bushnell Esqr. President
of the Northern Cross Rail Road Company You are
hereby notified to summon Robert R Bean Rezin
Taylor Abner Kream Russell householders of said
County to appear on the 15th day of April A.D.
1854 before me the undersigned a Justice of the
Peace within and for said County, then and
there to be sworn as appraisers, to assess the
damages which will be sustained by James Clark
by reason of the construction by the Northern Cross
Rail Road Company, of their Latent Branch
Rail Road, extending from near Camp point
in Adams County to Galesburgh in Knox County
over certain lands claimed by James Clark and
situated in said County, to wit: Block No
Forty nine (49) and the East half of Lot No
Five (5) in Block No Fifty two (52) all
in the western addition to Macomb.

And that they proceed to view of said premises
and make said appraisement on the
fifteenth day of April A.D. 1854, and this you
are not to omit, and have you then and
there this summons Given under my
hand and seal this 14th day of April A.D.
1854 William S Heil J.P. seal

State of Illinois }
County of McDonough } 2d

The foregoing summons was at the request of N
Bushnell Esqr. President of the Northern Cross
Rail Road Company served by me by reading

4 the same to Robert R Bean Regim Taylor and
Hiram Russell therein named this 15th
day of April AD 1854 signed

James M Campbell
State of Illinois }
County of McDonough }

Personally appeared before the undersigned
a Justice of the Peace in and for said County
Robert R Bean Regim Taylor & Hiram Russell
house holders of the County and state aforesaid
who were by me severally sworn in manner
and form as follows, to wit: That they would
faithfully and impartially examine the lands
that should be appointed out to them by St
Bushnell the President of the Northern Cross Rail
Road Company, or by any other agent of
said company as lands claimed by James
Clark over which the Lateral Branch Rail
Road of said company, extending from
Mac Camp point, in Adams County to Gallego
in Knox county, now being constructed
will pass and that they would assess the
damages which they should believe the said
James Clark will sustain by reason of
the construction of said Rail Road, and
that they or a majority of them would within
five days after said view and assessment
report their decision in the premises accord-
ing to law

Witness my hand and seal this 15th day
of April AD 1854
William S Hail J.P. Seal

5 State of Illinois }
County of McDonough } ss James M Campbell You are
hereby directed to notify James Clark of said County
that on the 15th day of April AD 1854 three householders
of said County after having been sworn accord-
ing to law, will proceed to view the land
claimed by him, situated in said County and
being described as Block No Fifty Nine (49)
and East half of Lot No Five (5) in Block
No Fifty two (52) in the west addition to
Macomb And to appraise the damages
they believe he will sustain by reason of the construc-
tion by the Northern Cross Rail Road Company
of their Lateral Branch Rail Road, from near
Camp point to Galesburgh, over the said premises
over and above the additional the said land
will derive from the construction of said Rail Road
at which time the said James Clark may
attend upon said land with said householders
as he shall think proper

Witness my hand and seal this 15th day of
April AD 1854

William S Hail J.P. Seal

State of Illinois }
County of McDonough } ss

Personally came James M Campbell before me
the undersigned a Justice of the Peace in and
for said County, and made oath that he did, on the
15th day of April AD 1854 serve the foregoing notice
by reading the same to the said James Clark

Witness my hand and seal this 15th day
of April AD 1854

William S Hail J.P. Seal

6 State of Illinois } ss
County of McDonough }

We the undersigned householders of the County and State aforesaid having been duly summoned and sworn according to laws by and before William S. Hail a Justice of the Peace of said County to view certain premises herein after described, situated in the said County claimed by James Clark and to assess the damages which we believe the said James Clark will sustain by reason of the construction by the Northern Cross Rail Road Company of a Lateral Branch Rail Road from near Camp Point, in Adams County, to Galesburgh in Knox County, over said premises and having proceeded on the day in the said summons mentioned to view the said premises which were pointed out to us by James M. Campbell Esq. the agent of the Northern Cross Rail Road Company, as lands claimed by the said James Clark and over which the said Lateral Branch Rail Road, now being constructed will pass, do now award and report as follows, to wit, That the said Lateral Branch of the Northern Cross Rail Road passes over the land of the said James Clark situated in the said County of McDonough and described as Block Number Forty nine (49) and the East half of Lot No Five (5) in Block No Fifty Two (52) all in the West addition to the town of Macomb And that the said Northern Cross Rail Road Company necessarily for the purpose of a right of way for the construction and use of their said Rail Road over the said premises require and use a portion of said premises

7
Fifty feet in width on each side of the center line of
the said Rail Road ~~are the said premises~~ for the
whole distance which said Road passes over
the same, and that the damage sustained
by the said James Clark by reason of the Construc-
tion of the said Rail Road over the said
premises as aforesaid over and above the additi-
onal value which the said land will derive
from the construction of the said Rail Road
is Eighty Dollars.

In Testimony whereof, we have hereunto
set our hands and seals this 15th day of
April AD 1854

Signed R Taylor
Hiram Russell
R R Bean

Jes Commissioners \$600
J M Campbell 100
J P Lee 100
Transcript 25 Bond 25 50
850

I William S Hail are acting justice of the
Peace within and for the County of McDonough
and State of Illinois do certify that the foregoing
is a true copy of the original on file in
my office this 3^d day of May 1854

William S Hail (Signed)

Which motion was resisted by the attorneys of the
appellants The Northern Cross Rail Road Company.
But the Court sustained the motion and dismissed
the suit, on the ground that the appraisers
have not ^{been} appointed according to the provisions
of the act entitled an act to amend the laws
concerning the right of way for purposes

8 of internal improvements approved June
The 22^d 1852 To which Opinion and
judgment of the Court the appellants by
their attorney Excepted at the time
the same was rendered, and they pray
that this their Bill of Exception may be
signed sealed and enrolled which is
done accordingly
O. C. Keiser End

Copy of Appeal Bond
Know all men by these Presents That we
the Northern Cross Rail Road Company of the
State of Illinois and James M. Campbell of
the county of McDonough and State of Illinois are
held and firmly Bound unto James Clark of
the county of McDonough and State of Illinois in
the penal sum of one hundred dollars current
money of the United States, for the payment of
which, well and truly to be made we bind our
selves our successors, our heirs executors and
administrators, jointly severally, and firmly by
these presents; Witness our hands and seals
at the Clerks office in Macomb this 27th day
of October AD 1854

The condition of the above obligation
is such, that whereas the said ~~James Clark~~^{James Clark}
~~Road Company~~ did on the tenth day of October
in the year of our Lord one thousand eight
hundred and fifty four, in the Circuit Court
in and for the county of McDonough, and State
of Illinois, recover a judgment against the
above bounden Northern Cross Rail Road Com-
pany for the sum of four dollars costs of
said, from which said judgment of the said
Circuit Court, The said Northern Cross Rail
Road Company, has prayed for and obtain-
ed an appeal to the Supreme Court
of said State Now if the said Northern
Cross Rail Road Company shall duly prose-
cute his said appeal with effect and
shall moreover pay the amount of the
judgment costs interest, and damages
rendered and to be rendered against him

in case the said judgment shall be affirmed
in the said Supreme Court, then the above oblig-
ation to be void otherwise to remain in
full force and virtue.

In witness whereof the said company have
caused their President to subscribe his
name and affix the corporate seal hereto
and the said James M Campbell hath also
subscribed his name and placed his seal
hereto all the day and year first above
written

Maken and entered into } W Bushnell President of the
before me at my office } Northern Cross Rail Road
in Macomb this } company Seal
31st day of October } James M Campbell Secy
AD 1857

Attest W^m H Randolph Clerk

On the Back of said Bond is Endorsed
Filed & Approved October 31st 1857
W^m H Randolph Clerk

required herein.

State of Illinois }
McDonough County } ss

I William H. Randolph Clerk of the Circuit Court in and for said County do certify that the foregoing contains a full and complete copy of the summons and service thereof for the appraisers. The notice of the time of appointment and service of the same. The affidavit of the oath of the appraisers, as also the appointment of damages. Together with all the orders entered herein. As also copies of all orders entered herein. During the trial of said cause. As also a copy of the appeal Bond filed in this cause.

In testimony whereof I have hereunto set my hand and affixed the seal of said Circuit Court at my office at Macomb this 31st day of October A.D. 1854.
William H. Randolph
Clerk

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State of Illinois }
County of McDonough } ss

James M Campbell you are hereby directed to notify James Clark of said County that on the 15th day of April AD 1854 three householders of said County after having been sworn according to law, will proceed to view the land claimed by him, situated in said County and being described as Block No Fifty Nine (49) and East half of Lot no Five (5) in Block No Fifty two (52) in the west addition to Macombs. And to appraise the damages they believe he will sustain by reason of the construction by the Northern Cross Rail Road Company of their Lateral Branch Rail Road, from near Camp point to Galesburgh, over the said premises and also above the additional the said land will derive from the construction of said Rail Road at which time the said James Clark may attend upon said land with said householders as he shall think proper.

Witness my hand and seal this 15th day of April AD 1854

William S Hail J.P. Seal

State of Illinois }
County of McDonough } ss

Personally came James M Campbell before me the undersigned a Justice of the Peace in and for said County, and made oath that he did, on the 15th day of April AD 1854 serve the foregoing notice by reading the same to the said James Clark.

Witness my hand and seal this 15th day of April AD 1854

William S Hail J.P. Seal

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State of Illinois }
 County of McDonough } ss

We the undersigned householders of the County and State aforesaid having been duly summoned and sworn according to laws by and before William S. Hail a Justice of the Peace of said County to view certain premises herein after described, situated in the said County claimed by James Clark and to assess the damages which we believe the said James Clark will sustain by reason of the construction by the Northern Crop Rail Road Company of a Lateral Branch Rail Road from near Camp Point, in Adams County, to Galesburgh in Knox County, over said premises and having proceeded on the day in the said summons mentioned to view the said premises which were pointed out to us by James M. Campbell Esq. the agent of the Northern Crop Rail Road Company, as lands claimed by the said James Clark and over which the said Lateral Branch Rail Road, now being constructed will pass, do now award and report as follows, to wit, That the said Lateral Branch of the Northern Crop Rail Road passes over the land of the said James Clark situated in the said County of McDonough and described as Block Number Forty nine (49) and the East half of Lot No. Five (5) in Block No. Fifty Two (52) all in the West addition to the town of Macomb. And that the said Northern Crop Rail Road Company necessarily for the purpose of a right of way for the construction and use of their said Rail Road over the said premises require and use a portion of said premises

N & R R Co

as } Transcript
James Clark

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