

No. 14516

Supreme Court of Illinois

Neustadt et al

vs.

Ill. Cen. R. R. Co

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division

No. 212

Neustadt

vs

McCarrick

Deputy

1863

14516

Mr. Justice Breese delivered the opinion of the Court:

~~Breese J.~~ The question arising on this record is, have the corporate authorities of the City of LaSalle, power to levy a tax for municipal purposes upon the property of the Minn. & Central Rail Road Company situated within the limits of that city?

By the act in incorporating the Minn. & Central Rail Road Company approved Feb. 10. 1851 it is provided by Section 22, That the lands selected under the act of Congress, and thereby authorized to be conveyed, shall be exempt from all taxation under the laws of this State, until sold and conveyed by said Corporation or trustees, and the other stock, property and effects of said Company shall be in like manner exempt from taxation for the term of six years from the passage of this act. After the expiration of six years, the stock property and effects belonging to said Company shall be listed by the President, Secretary or other officer with the Auditor of State, and an annual tax for State purposes shall be assessed by the Auditor upon all the property and effects

of every ~~kind~~ name, kind and descrip=
tion belonging to said corporation. When=
ever the Taxs Office for state purposes
shall assess them forthwith of one per cent=
um per annum, but except shall be
deducted from the prop proceeds or
income herein required to be paid
by said corporation to the state, and
the said corporation is hereby exempted
from all taxation of every kind, except
as herein provided for. (Lepion Laws. 1851
page 72.)

The act to incorporate the
Minor Central Rail road company, of
which the above ^{section} is part, is a contract
between the state and the company,
which cannot be changed, or annulled
without the consent of both contracting
parties. ~~As the incorporation of~~
~~this contract~~ ~~conforms with~~ ~~the~~
~~supractions~~ ~~created by~~ ~~this act,~~
~~and the power of taxation~~ ~~to be exercised~~
~~therein~~

In consideration of the undertaking
of the company to construct a great thorough-
fare which would involve the expenditure
of millions, and which was an adjunct,
~~with~~ ^{and} ~~in connection with~~ ^{to} business prospects, I saw

per cent of the gross amount of ~~estimated~~ ~~estimated~~ its receipts or income to be paid to the state, the company was whined from the payment of all other than state taxes, to be assessed as provided for in the ~~twenty~~ ~~second~~ section. The language is plain and explicit, "the said corporation is ^{fully} exempted from all taxation of every kind except as herein provided for."

This being the content of between the state and the corporation, no city or town authority can impose a tax for municipal purposes, on the property of that company ~~which~~ ~~which~~ which may be within their limits.

M. Cent. R. R. Co vs The Co. of Madison 17 Me 291

The judgment of the circuit court is affirmed.

Judgment affirmed.

~~Look up the case of Madison Co~~
~~vs M. Cent. R. Co.~~

212 — 144

Kenstads & city of
Lafayette

as

The M. Central R. R. Co.

—

Opinion by

Meese J.

Advising

C. R.

Reconstr Book 13,
R 90,

Comp?

SUPREME COURT OF ILLINOIS.

THIRD GRAND DIVISION.

APRIL TERM, A. D. 1863.

MORRIS NEUSTADT and the CITY OF LA SALLE,
Plaintiffs in Error,
vs.
THE ILLINOIS CENTRAL RAIL ROAD COMPANY,
Defendant in Error,

} *Error to
La Salle County
Circuit Court.*

RECORD.

STATE OF ILLINOIS, }
LA SALLE COUNTY, } ss.

Pleas before the Honorable Madison E. Hollister, the Judge of the Ninth Judicial Circuit of the State of Illinois, and the presiding Judge of the La Salle County Circuit Court, at a term of said court, commenced and held at the Court House, in Ottawa, on Monday, the 2d day of February, A. D. 1863, the same being the first Monday in said month of February, and the eighty-seventh year of the Independence of the United States of America.

Present, the Honorable Madison E. Hollister, the Presiding Judge, Absalom B. Moore, Clerk, William R. Milligan, Sheriff, David P. Jones, States Attorney.

Be it remembered, that, on the 7th day of March, A. D. 1863, a certificate was filed in said court, in the words and figures following, to-wit:

STATE OF ILLINOIS, }
LA SALLE COUNTY, } ss. Circuit Court for said County,
February Term, A. D. 1863.

THE ILLINOIS CENTRAL RAIL ROAD COMPANY, }
vs. MORRIS NEUSTADT and the CITY OF LA SALLE. } *Injunction.*

I, Madison E. Hollister, Judge of the Ninth Judicial Circuit of the State of Illinois, do hereby certify that, on the trial of said cause, the following question of law arose, viz:

Whether the act of the General Assembly, passed the 23d day of June, A. D. 1852, incorporating the City of La Salle, confers upon

said city the right to levy a tax, for municipal purposes, upon all the property of said rail road company, situated within the limits of said city, or does the act of the General Assembly, passed February 10th, 1851, still continue in force, with reference to property of said company, situated within said city, and exempt said company from the payment of any such taxes on any of said property.

Upon which question I held that said company was not liable to pay such taxes on said property, and by agreement of Glover, Cook and Campbell, solicitors for complainant, and E. F. Bull, solicitor for defendants, I make this certificate so that the question may be presented to the Supreme Court for its decision thereon.

Witness my hand and seal, this seventh day of March, A. D. 1863, at Ottawa, in La Salle County, Illinois.

M. E. HOLLISTER, } SEAL. }
Judge of 9th J. D., State of Ill. }

STATE OF ILLINOIS, }
LA SALLE COUNTY, } ss.

I, Absalom B. Moore, Clerk of the Circuit Court in and for said county, do hereby certify that the foregoing is a true, full and complete copy of a certificate filed in said cause on the 7th day of March, 1863, the same being one of the days of the said February term of said court for said year; and I further certify that said cause is undecided and still depending in said court.

Witness my hand and the seal of said court, at Ottawa, this 17th day of April, A. D. 1863.

A. B. MOORE, Clerk,
CHAS. H. HOOK, Deputy.

And now come the said plff's in error, and assign the following cause of error on the above record, viz:

The court erred in holding that the property of said deflt. in error, situated within the city of La Salle, was exempt from the payment of city taxes.

E. F. BULL, Att'y for Plff's in Error.

144 212

SUPREME COURT.

MORRIS NEUSTADT AND THE CITY
OF LA SALLE, Plff's in Error,
vs.
THE ILLINOIS CENTRAL RAIL ROAD
COMPANY, Deft's in Error.

RECORD.

E. F. BULL, for Plff's in Error.

Filed April 23^d 1883

L. L. Leland
Clerk

SUPREME COURT OF ILLINOIS.

THIRD GRAND DIVISION.

APRIL TERM, A. D. 1863.

MORRIS NEUSTADT and the CITY OF LA SALLE,
Plaintiffs in Error,
vs.
THE ILLINOIS CENTRAL RAIL ROAD COMPANY,
Defendant in Error,

} *Error to
La Salle County
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February Term, A. D. 1863.

THE ILLINOIS CENTRAL RAIL ROAD COMPANY, }
vs. }
MORRIS NEUSTADT and the CITY OF LA SALLE. } *Injunction.*

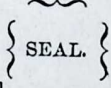
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said city the right to levy a tax, for municipal purposes, upon all the property of said rail road company, situated within the limits of said city, or does the act of the General Assembly, passed February 10th, 1851, still continue in force, with reference to property of said company, situated within said city, and exempt said company from the payment of any such taxes on any of said property.

Upon which question I held that said company was not liable to pay such taxes on said property, and by agreement of Glover, Cook and Campbell, solicitors for complainant, and E. F. Bull, solicitor for defendants, I make this certificate so that the question may be presented to the Supreme Court for its decision thereon.

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M. E. HOLLISTER, 
Judge of 9th J. D., State of Ill. 

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E. F. BULL, Att'y for Plff's in Error.

SUPREME COURT.

MORRIS NEUSTADT AND THE CITY
OF LA SALLE, Plff's in Error,
vs.
THE ILLINOIS CENTRAL RAIL ROAD
COMPANY, Deft's in Error.

RECORD.

E. F. BULL, for Plff's in Error.

Filed April 23, 1863
J. Leland
W

SUPREME COURT OF ILLINOIS.

THIRD GRAND DIVISION.

APRIL TERM, A. D. 1863.

MORRIS NEUSTADT and the CITY OF LA SALLE, Plaintiffs in Error,	} <i>Error to La Salle County Circuit Court.</i>
<i>vs.</i>	
THE ILLINOIS CENTRAL RAIL ROAD COMPANY, Defendant in Error,	

RECORD.

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THE ILLINOIS CENTRAL RAIL ROAD COMPANY, }
vs. } *Injunction.*
MORRIS NEUSTADT and the CITY OF LA SALLE. }

I, Madison E. Hollister, Judge of the Ninth Judicial Circuit of the State of Illinois, do hereby certify that, on the trial of said cause, the following question of law arose, viz:

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144 212

SUPREME COURT.

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COMPANY, Deft's in Error.

RECORD.

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Filed Atail 23.1863
J Seland CM

SUPREME COURT OF ILLINOIS.

THIRD GRAND DIVISION.

APRIL TERM, A. D. 1863.

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Plaintiffs in Error, } *Error to*
vs. } *La Salle County*
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Defendant in Error,

RECORD.

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A. B. MOORE, Clerk,
CHAS. H. Hook, Deputy.

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E. F. BULL, Att'y for Plff's in Error.

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vs.
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COMPANY, Deft's in Error.

RECORD.

E. F. BULL, for Plff's in Error.

Filed At 23.1863
L. L. L. M.

State of Illinois }
La Salle County } Pleas before the Honorable Madison

E. Hollister the Judge of the ninth
Judicial Circuit of the State of Illinois, and the presiding
Judge of the La Salle County Circuit Court at a term of said
Court commenced and held at the Court House in Ottawa
on Monday the 2^d day of February A.D. 1863. the same
being the first Monday in said month of February
and the Eighty ~~sixth~~ seventh year of the Independence
of the United States of America.

Present. The Honorable Madison E. Hollister the Presiding Judge

Absalom B. Moore Clerk

William R. Molligan Sheriff

David P. Jones State attorney

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"State of Illinois }
La Salle County } Circuit Court for said County
Feb. Term A.D. 1863

The Illinois Central
Rail Road Company

vs

Defendants.

Morris Newstadt and
The City of La Salle

J. Madison E. Hollister

Judge of the ninth Judicial Circuit of the State

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Wm. E. Hollister 
Judge of 9th J.D. State of Ills.

State of Illinois

La Salle County

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for said County, do hereby certify that the foregoing
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Term of said Court for said year; And I further
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depending in said Court.



Witness my hand and the Seal of said
Court at Ottawa this 17th day of April
A. D. 1863.

A. B. Moore Clerk
Chas W. Hook Deputy

And now come the said Plaintiffs in
error and assign the following cause
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The Court erred in holding that the
property of said def. in error, situated
within the city of LaSalle was exempt
from the payment of city taxes

C. F. Bull

Atty for Plt in error

147 212
Supreme Court

Morris Mustail &
The City of LaSalle
Plffs. in error

vs.

The Ill. Cent.
R. R. Co —
Defts in error

~~Abstract of Record~~

Filed At. 23. 1863

J. Seaman
Clerk

E. F. Bull
for Plffs. in error

\$1.00 fee paid by
E. F. Bull depts. Solicitor

[Faint, illegible handwriting in the right margin, possibly bleed-through from the reverse side.]