

No. 12634

Supreme Court of Illinois

Prettyman.

vs.

Bd. of Supervisors Tazewell
County.

71641  7

326

Prepared

X

858

Transcript of Records of Proceedings continued and
held at the Court House in Bloomington within and for
the county of McLean and State of Illinois before the
Hon David Davis Judge of the Eight Judicial Circuit
of said State - in a certain cause wherein Benjamin
S. Prettyman was complainant and Board Supervisors
Sagewell County - Henry R. Green and Ponca and Petersburg
Rail Road company Respondent and wherein final Decree
was rendered on the 1st day of April 1858 -

B. S. Prettyman

vs.

Bill for Injunction

Board Supervisors Sagewell county
Henry R. Green Ponca and
Petersburg Rail Road company

Be it remembered that
hitherto to wit on the fourth day of March A.D 1858
came M. L. Young Esq clerk of Circuit Court in and
for the County of Sagewell and State of Illinois and
filed in the Office of the Clerk of the Circuit Court of said
county of McLean certain papers transferred to said Circuit
Court of McLean County by order of the Judge of Circuit Court
of said County of Sagewell - which papers are in words
and figures following to wit -

Bill - To the Honorable James Harriott Judge of the 21st
Judicial Circuit of the State of Illinois comprised of the
counties of Sagewell and others - Your orator Benjamin S.

2 Petitioner humbly complaining sheweth with your Honor that he is a citizen of the State of Illinois and a resident and tax payer in the county of Tazewell aforesaid and as such he is interested in every thing done in and by said County which is calculated to effect its welfare or militate against its prosperity Your Orator shews with your Honor that on the day of 1853 the due majority of the legal voters of the county of Tazewell at an election held by order of the board of Supervisors of said county voted for the County of Tazewell to take and subscribe \$75,000 Dollars in and to the Capital Stock of the Mississippi and Mahaback Rail Road company and \$25,000 Dollars to the Capital Stock of the Eastern extension of the Peoria and Ogawoka Rail Road company and he avers that pursuant to said vote of said legal voters of said County the said Board of Supervisors of said County of Tazewell did subscribe \$75,000 Dollars to the Capital Stock of the Mississippi and Mahaback Rail Road company and ordered the Chairman of the Board of Supervisors to propose the Bonds of the said County to be delivered over to the said Mississippi and Mahaback Rail Road company in payment of said Subscription and your Orator further shews that on the 1st day of May July 1857 the said Board of Supervisors of said County again ordered an election to be holden in said County on the 32^d day of August 1857 to vote for or against subscribing \$100,000 One thousand Dollars to the Capital Stock of the Peoria and Petersburg Rail Road company and your Orator shews that the

3 Clerk of the County Court of said County certified to the said Board of Supervisors that a Majority of the legal voters of said County had voted at said Election for the said Subscription and he shows that said Board of Supervisors on the - day of April 1857 resolved that the Clerk of Tazewell County caused \$100,000 of the Bonds of said County to be proposed and that he signed the same and attached the Seal of the said County thereto and that the said Bonds be signed by the Chairman of the Board of Supervisors of said County and that after the said Bonds were so proposed and signed that the Clerk for and on behalf of Tazewell County subscribed for \$100,000 Dollars of the Stock of said Rail Road company and pay for the same in said Bonds at par issuing and paying the same out at such times and in such amounts as other Stock holders may be required to pay and that said Bonds should bear date the day or days in which they should be paid out said Bonds to run 25 years from the date thereof and bear interest at 7 percent per annum and for greater certainty your orator filed herewith a copy of all the orders resolutions and acts of said Board of Supervisors relating to said votes Subscriptions and Bonds as far as shown by the Records, (marked "B") and prays they may be taken as part and parcel of this Bill and your orator shows in as much as that the County of Tazewell had prior to the 22nd of August 1857 subscribed \$75,000 Dollars to the Capital Stock of One Rail Road company and voted to subscribe \$25,000 Dollars to another, by said the said County of Tazewell had no power or authority to subscribe

4 another Hundred thousand Dollars to the Capital Stock
of any other Rail Road company or order the same to be
done or issue the Bonds of the said county for the payment
of the same - And your Orator shows that the order of
said Board of Supervisors was to submit the question of
said Subscription to the Capital Stock of the Tonica and
Petersburg Rail Road company to the People of said
county and the Citizens of Washington and other Towns
favorable to the proposed Subscription taking advantage
of said phræology in said order produced and caused to
vote and to be requested as voters at said Election hundreds
of inhabitants and mere transient men, some of whom were
transported thither for the express purpose of voting at said
Election and for said Subscription and who were not legal
voters in said county and forbid and prohibited by threats
and menacing other legal voters of said county from voting
at said Election who desired to vote against said Subscrip-
tions and your Orator shows that there was not a majority
of the legal voters of said county who voted in favor of said
Subscriptions to the Capital Stock of the Tonica and
Petersburg Rail Road company - And your Orator further
charges that the constitution of the State forbids the State
to give its credit in any manner to aid any corporation and
he submits that under said constitution the Legislature
has no power to authorize a county to issue any bonds
to aid such corporations and to levy taxes under the laws
of the State upon the inhabitants to aid such corporations
and to pay the same - And your Orator charges that there
was not and is no law authorizing the said Board of

8
superior to order said Election in August 1857
aforesaid in said county for the purpose of deciding whether
the county would subscribe said \$100,000 Dollars to the
Capital stock of the Ionia and Peterburg Rail Road com-
pany nor to order or make said Subscription of \$100,000 Dollars
to said Capital Stock of the Ionia and Peterburg Rail Road
company nor to issue the Bonds of the county for the same
nor to pledge the faith of the county for, or cause the seal
of the county court to be placed upon the same and ap-
parent shows and charges that said Board of Supervisors of
said county well knowing that they had by Law no power
or authority to cause said Election to be held said Bonds
to be issued or said subscription to be made, Have collu-
sion-ed and combined with the Directors and friends of the
Ionia and Peterburg Rail Road company and with the
said clerk of said Board and not withstanding said
Bonds were not prepared and signed by the Chairman of the
Board of Supervisors yet they pretend to have procured the
said clerk to make the said subscription of \$100,000 Dollars
to the Capital stock of the said Ionia and Peterburg
Rail Road company for and in the name of said County
and to purpose the Bonds of said county with the provisions
therein contained that the interest thereon should be payable
Semiannually on the first day of April and October in each
year, when the resolution requiring the preparation of said
Bonds and the making of said Subscription provides that said
Bonds shall run 25 years from date and bear date when they
were paid out. and that interest should be paid Semiannually
thereon and that the subscription should be made only when

the Bonds were duly prepared and signed by the chairman of the Board of Supervisors which is not yet done - and your orator avers that the said Clerk without any authority of Law or any order of said Board did prepare said Bonds and stipulated therein that both principal and interest thereon should be paid at the American Exchange Bank in the State of New York and for greater certainty your orator also files herewith a copy of the Bonds prepared as aforesaid marked exhibit "B" and prays that the same may be made part and parcel of this Bill - and your orator charges that the said Chairman of the Board of Supervisors because the said Bonds were not prepared according to the order of the said Board of Supervisors and according to the vote of said people, and that they were irregular and informal refused to sign the same and your orator shows that the said Board of Supervisors thereupon on the 7th day of November 1857 ordered the said Clerk, because the said Bonds were thus inefficient and informal to cause to be prepared at the expense of the county new Blank Bonds and coupons for said purpose of being signed and delivered to the said N.Y. R.R. Co and to make the same payable at the American Exchange Bank in the City of New York and that one J.S. March sign the same in lieu of said Board of Supervisors and he avers that said Board of Bonds and coupons were so prepared, except that the Bonds were all dated December 1st 1857 and the coupons made payable on the 1st day of December and June of each year, although your orator charges they were alike as the other lot informal

and insufficient; and \$10,000 Dollars in amount of said Bonds bearing date on the 1st day of December aforesaid were on the 5th day of said December signed by said clerk and sealed and signed by said J. L. Marsh and then by said clerk on said 5th day of December 1857 paid out to said Ponca & Petersburg Rail Road company and delivered over to one Henry R. Green for their use and benefit although your orator charges that no subscription has even been made by said county to the capital stock of said company - And your orator is informed and believes that said Bonds are still in the hands of of the said Green or said company, and your orator charges that make said Bonds and interest payable in New York city as now provided therein would cost the county the sum of \$13,000 Dollars more than to pay the same in Tazewell county and he charges that the said clerk & Marsh are about to sign seal and deliver all the rest of the said \$100,000 Dollars in Bonds aforesaid to the said N & P R R co to be prepared dated and signed as the Bonds already delivered - a Blank copy of which is herewith filed as Exhibit "C" and prayed to be taken as part and parcel of this Bill And said company design disposing of them to innocent holders and having them placed out of the reach of said county greatly to the prejudice and against the credit of said county and to the injury of all the inhabitants thereof and out of which endless litigation will issue and as your orator is remediless except in a court of equity to end thereof your orator prays that the said Board of Supervisors of said county of Tazewell and all their clerk agents and servants and the said Henry R. Green and said

8 Ironica and Petersburg Rail Road company and their
servants and agents be forever enjoined from further keeping
any Bonds of said county to be paid for stock in the said
Ironica and Petersburg Rail Road company and from subscribing
to the capital stock of said company or in any manner issuing
said Bonds or paying out or transferring the same or in any
way pledging the credit of the county in any manner to or for
anything appertaining to said company or to the capital stock
thereof until the hearing of this cause and that on a hearing
thereof that your Honor will make said injunction against the
said company parties perpetual and your orator prays that
the said Court of Supervisors of said county said Henry B.
Green and said Ironica & Petersburg R Road company may be
made Defendants herein and that they may be duly ordered
to attend at the next term of this court and true and perfect
answer make to all and singular the charges and allegations
in this Bill and for such other and further relief as to your
orator may seem with respect and as in duty bound your
orator will ever pray &c.

P. S. Pellyman-

Subscribed and Sworn to
Before me this 7th day of
December 1857

J. Harriott

State of Illinois } The clerk of the circuit court will
County of Tazewell } issue an injunction in this cause according
to the Prayer of the foregoing Bill on the complainant giving
Bonds in the sum of ten thousand Dollars with security to be
approved by the said clerk

James Harriott

which said Bill is endorsed - Filed Dec 7-1857 M.C. Young
etc. - "A."

Bond. Know all Men by these presents that We Benjamin S. Prettyman and Benjamin Criddy of the County of Tazewell and State of Illinois are jointly and severally held and bound firmly by these presents to the Board of Supervisors of and within and for the County of Tazewell and State of Illinois Henry R. Green and the Tonica and Petersburg Rail Road company in the penal sum of Ten Thousand Dollars for the payment of which well and truly to be made we hereby bind ourselves our heirs Executors and administrators - In Witness whereof we have hereunto respectively set our hands and seals this Seventh day of December A.D. 1858.

The condition of the above obligation is such that whereas the above bounden Benjamin S. Prettyman has prayed for and obtained a writ of injunction from the circuit court of Tazewell County Illinois restraining and Enjoining the said Board of Supervisors of Tazewell County against Henry R. Green and the Tonica and Petersburg Rail Road company from subscribing to the capital stock of said Tonica and Petersburg Rail Road company signing or issuing any bonds of said county to be paid to the said Rail Road company upon the subscription of said county to said capital stock of said company and the said Henry R. Green from disposing of or paying out any of the Bonds he may have received from said county and the said Rail Road company from disposing of in any manner any of said Bonds that have or may come into their possession and all of the

11 said parties and their clerk agents Solicitors attorney and
servants from in any manner moving in said premises until
the said court shall make other order to the contrary - Now
if the said Benjamin S. Prettyman shall pay & cause to
be paid to the said Board of Supervisors of Jazwell county
Henry B. Green and the said Rail Road company all such
costs and damages as shall be awarded against him the said
Complainant in case the said Injunction herein granted
shall be dissolved then and in that case this obligation
to be void otherwise in full force and virtue -

B. S. Prettyman

(seal) -

B. S. Prettyman

(seal) -

Benjⁿ Priddy

(seal) -

Approved by me this
7th day of December
A.D. 1857.

M. C. Young clerk S. C. Circuit court =
which said Bond is endorsed "Filed December 7-1857."
M. C. Young ^{clerk} for H. D. W. Maus - Sec. "B"

Bond - Know all Men by these presents that we Benjamin S.
Prettyman and Benjamin Priddy are held and firmly bound
unto the Board of supervisors of Jazwell county Illinois
in the penal sum of Ten Thousand Dollars for the payment
of which well and truly to be made we bind ourselves our
heirs Executors and administrators jointly severally and
firmly by these presents - Witness our hands & seals this
7 day of December 1857-

The condition of the above

11 obligation is such that whereas the above bounden Benjamin S. Prettyman has this day sued out of the Circuit Court of Tazewell County Illinois an injunction to restrain and prohibit said Board from issuing and ordering any bonds of said county to the Petersburg and Ponca Rail Road Company and also to restrain said company from selling said bonds Now if the said Prettyman shall pay all costs and damages that may be sustained by said County by reason of wrongly suing out said Injunction then said Bond to be void otherwise to be and remain in full force

B. S. Prettyman (Read)
Benjn Prettyman (Read)

Taken and approved before
me this 7th Decr 1857.

M. C. Young clerk

which said Bond is endorsed - Filed Dec 7th 1857.

M. C. Young clk - "C"

"Exhibit A" Whereas by a Resolution of this Board passed at the August Term 1857 the chairman of the Board was directed to sign the Bonds of the county to the Ponca and Petersburg Rail Road company and has not obeyed the order of the Board therefore Resolved that so much of the Resolution as directs him to sign the said Bonds be and is hereby rescinded and J. L. Marsh be and is hereby authorized and Empowered to sign the Bonds of the county in the Place and stead of the chairman -

1st as the Bonds are drawn they require the Bonds and coupons to be paid at the American Exchange Bank in the city

1st of New York thus subjecting the county to the additional
Expense for Exchange \$13750.00 Dollars and thus without
any authority of any resolution of the Board either Expressed
or implied=

2nd That the Bonds require the interest to be paid on the 1st
day of April and October of each year which they are
subject to be called for at any time thus subject the county
to pay interest for more time than is just as the Bonds
by the terms of the Resolution of the Board are to be
on date when issued and only to draw interest from date

3rd That the Resolution printed on the back of the Bonds is not
a true copy of the Resolution of this Board as on record
and that the Law as printed on the back of the Bonds
is not a true copy of the Laws of Illinois and is calculated
to mislead purchasers of Bonds=

4th That the county by the resolutions of this board is only
required to pay out new Bonds as other Stockholders are
required to pay and there has been Evidence to show
that other Stockholders in this company have paid anything

5th That the clerk of the county Court has not legally subscribed
even at this time to the capital stock of said company
as required by the resolution of this board=

6th That the Language of the resolution and its true intent and
meaning is that after the clerk shall have subscribed to
the capital stock of said company he shall then pay out
said Bonds to said company pro rata with other Stockholders
and that no legal subscription having been made by said
clerk and no call on Stock Holders even since the time
the clerk made his illegal subscription there is therefore

no Bonds due to said company at this time -
7th and lastly - That my action in this matter does in no
wise effect the interest of said company but allows the
board of Supervisors if they think differently from me to
to appoint some other person to sign said Bonds -
W. S. Maass.

No 7. 1857-

Chairman
Board Supervisors
Jagwell co Illinois

Whereas the Bonds to be issued to the Tonica & Petoskey R.
R. Co. already procured by the clerk of Jagwell county are
insufficient and informal therefore be it resolved that the clerk
of said county be hereby authorized Empowered and directed to
procure some Blanks of Bonds and coupons to be prepared
as soon as may be at the Expense of said county making said
Bonds and coupons payable at the American Exchange Bank
in the City of New York -
which said Exhibit A is Endorsed "Filed Dec 7. 1857.
M. C. Young. Clk. - " 7"

Exhibit A. Rail Road Election - Notice is hereby given that there will
be an Election holden at - in - Township on Saturday the
22nd day of August next to vote for or against a subscrip-
-tion by Jagwell county of One Hundred thousand
Dollars to the Capital Stock of the Tonica and Petoskey
Rail Road company, the said Subscription to be made
payable by issuing the bonds of said county to run for the
period of twenty five years and to draw interest at the
rate of seven per cent per annum payable Semi annually

14 and it is Expressly understood that the Directors of the
Tonica and Peteeburg Railroad shall have liberty to
call for the Bonds of the county as aforesaid in the same
proportion as they are entitled to call on the subscribers
of private stock from the said stock holders said Bonds
to bear date at the time when paid to said company.
Those voting in favor of making said subscription to the
Road as above will vote "for subscription" those voting against
making such subscription will vote "against subscription"
Done in pursuance of the Board of supervisors of Tazewell
County.

July 1st A.D. 1857-

which said Exhibit A. is Endorsed - Filed Dec 7. 1857
M. C. Young clk - "J"

Aug 24/57.

"Exhibit A"

Whereas at an Election held in the county of Tazewell
and State of Illinois on the 22 day of August A.D. 1857
for the purpose of deciding whether or not the county of
Tazewell would take stock in the Tonica & Peteeburg Rail
Road company to the amount of One Hundred thousand Dollars.
And Whereas it was decided at said Election by a majority
of the voters of said County taking the votes cast at the last
annual Election as the basis of calculation to take said
stock and to issue Bonds of said county for the same amount
payable in twenty five years with semiannual interest at the
rate of seven percent Therefore

Resolved that the Clerk of Tazewell county be hereby
authorized Empowered and directed to procure said Bonds

16. with suitable Coupons to be engraved and prepared as soon as may be at the expense of said county and that said Bonds when so procured shall be filled up and signed by the Clerk and sealed with the seal of said county and dated on the day or days when they shall be paid out. That the Coupons shall also be filled up and signed by said Clerk and the Bonds shall be signed by the chairman of the Board of Supervisors of said county - Resolved That as soon as said Bonds shall be prepared as aforesaid the Clerk of the county for and on behalf of the county of Tazewell shall subscribe for One Hundred Thousand Dollars of stock of said Railroad Company and pay for the same in said Bonds at par issuing and paying the same to said Company at such times and in such amounts as other stock holders may be required to pay - which said Exhibit-A is Endorsed-Filed Decr 7 1857. M. C. Young clk - "H"

July 1-57.

"Exhibit A" Resolved that the clerk of the county court be authorized to issue notices for an Election to be held on Saturday the 22nd day of August next for the purpose of submitting the question to the People of Tazewell county whether the county of Tazewell will subscribe One Hundred Thousand Dollars \$100,000 to the Capital Stock of the Ponca and Petersburg Railroad company.

Resolved That the proposed subscription be made by issuing the Bonds of Tazewell County said Bonds to run for the period of Twenty five years and draw interest at the rate of seven percent from the date thereof payable Semi annually.

11 which said Exhibit A. is Endorsed - Dated Dec 7-1857
M. L. Young clk - "I"

Exhibit B. No - United States of America - \$500.

State of Illinois - County of Jazueville
Bonds due in Twenty five years from date -
Tonica and Pleasburg Rail Road Company -
Shas all Men by these presents That there is
due from the county of Jazueville to the Tonica and
Pleasburg Rail Road company a certain Five Hundred
Dollars lawfull money of the United States with
interest at the rate of Seven percent per annum pay-
able semi annually on the first days of April and
October in each year at the American Exchange Bank
in the City of New York on the presentation and
surrender of the annexed coupons The principal is
payable at the above place twenty five years after
the date hereof. In the performance of all which
the faith of the said County of Jazueville is irrevocably
pledged as also the property and resources of the said
County of Jazueville.

500 Dollars -

In Testimony whereof - Chairman of the
Board of Supervisors and - clerk of the
County Court have hereunto subscribed their
names and affixed the common seal of said
County Court this - day of - 1857.

clerk

Chairman

To which said Bond or Exhibit B. is attached fifty
interest coupons -

17 On the Back of said Bonds are printed the following Laws, to wit

An act Supplemental to an act entitled "An act to provide for a general System of Railroad Incorporations"

Section 1st. Be it enacted by the People of the State of Illinois represented in their general Assembly. That whenever the Citizens of any City or County in this State are desirous that the said City or County should subscribe for Stock in any Railroad Company already organized or incorporated, or hereafter to be organized or incorporated under any law of this State. Such City or County may and are hereby authorized to purchase or subscribe for shares of the Capital Stock in any such Company in any sum not exceeding One Hundred Thousand Dollars for each of such Cities or Counties. and the Stock so subscribed for or purchased shall be under the Control of the County Court of the County or Common Council of the City making such subscription or purchase in all respects as Stock owned by Individuals

§. 2. That for the payment of said Stock the Judges of the County Court of the County or the Common Council of the City making such subscription or purchase are hereby authorized to Borrow money at a rate not exceeding ten per cent per annum and to pledge the faith of the County or City for the annual payment of the interest and the ultimate redemption of the principal, or if the said Judges or Common Council should deem it most advisable they are hereby authorized to pay for such subscription or purchase in Bonds for the City or County, making such subscription to redemption of that purchase in sums not less than fifty Dollars bearing interest not exceeding ten per centum per annum: Provided that no Bond shall be paid out at a rate less than par value.

§. 3. The Railroad Companies already organized or incorporated or hereafter to be organized or incorporated under the Law of this

State are hereby authorized to receive the Bonds of any County or City becoming Subscribers to the Capital Stock of such Company. at par, and in lieu of Cash, and to issue their Bonds bearing interest not exceeding ten per centum per annum for any moneys by them borrowed for the construction of their Railroad and fixtures or for the purchase of Engines & Cars, and for such purpose may dispose of any Bonds by them received as aforesaid

§. 4. No Subscription shall be made, or purchase, or Bond issued by any County or City under the provisions of this act, whereby any debt shall be created by said Judges of the County Court of any County, or by the Common Council of any City to pay any such Subscription unless a majority of the qualified voters of such County or City (taking as a standard the number of votes thrown at the last general election previous to the vote had upon the question of Subscription under this act, for County officers) shall vote for the same, and the Judges of the County Court of any County, or for the Common Council of any City desiring to take Stock as aforesaid, shall give at least thirty days notice in the same manner as notices are given for the Election of State & County officers in said Counties, requiring said Electors of said Counties or said Cities, to vote upon the day named in such notices, at their usual place of voting, for or against the Subscription for said Capital Stock which they may propose to make, and said notices shall specify the Company in which said Stock is proposed to be subscribed the amount which it is proposed to take, and the time which the Bonds proposed to be issued are to run, and the interest which said Bonds are to bear, or in case it is proposed to borrow money to pay such Subscription then the notices shall state the terms upon which such loan is to be effected, and the opinion of the Electors shall be expressed upon their Ballot, "For Subscription" or "Against Subscription" and Counted.

and returned by the judges and Clerks of Elections as in other cases and if a majority of the voters of said County or City - assuming the standard aforesaid. Shall be in favor of the same, such authorized subscription or purchase of any part thereof shall then be made by said judges or Common Council - In case any election had under this act is held upon ^(any of) a general election, then the number of votes thrown at such general election for County officers shall be the standard of the number of qualified voters as aforesaid, No Bonds shall be issued under the provision of this act by any County or City excepting for the amounts required to be paid at the time of subscription and for the amounts of and at the time when assessments upon all the Stockholders of said Company shall be regularly assessed and made payable.

§. 5. This act shall take effect from and after its passage.

Approved November 6. 1848.

An Act to facilitate the Construction of Railroads.

Section 1st Be it enacted by the People of the State of Illinois represented in the General Assembly, That any City or County of this State, which under the provisions of an act entitled, "an act supplemental to an act entitled an act to provide for a general system of railroad incorporations" Approved November 6. 1848, has heretofore subscribed or may hereafter subscribe for any stock in any Railroad Company, payable in the Bonds of said City or County, it shall be lawful for the City Council of such City or the judges of such County, and they are hereby authorized and empowered to issue and deliver to such Railroad Company, the whole or any portion of the Bonds of such City or County, payable on such subscription at any time hereafter when in their opinion the interest of such City or County will be promoted thereby, whether the assessment upon the

2) Stockholders of said Company have been regularly assessed and made payable or not.

§. 2. This act shall take effect and be in force from and after its passage,

Approved March 1st 1854

An Act to provide for Township Organization -

In force April 1st 1851.

Article fifteenth, Powers of Counties. How Exercited.

Section 4. The Powers of a County as a body politic can only be exercised by the Board of Supervisors thereof or in pursuance of a resolution by them adopted (See Art. VII. Sec. 6. State Con- 1848)

Article Sixteenth, Power of Board of Supervisors.

Section 4. The Board of Supervisors of each County in this State shall have power at their annual Meetings, or any other meeting -

1st. To make all such orders concerning the Corporate property of the County as they may deem expedient.

2^d. To audit all — accounts chargeable against such County and to limit the raising of such sums as may be necessary to defray the same,

4th. To appropriate sums to aid in the Construction of Roads and Bridges in any part of their respective Counties, whenever the majority of the whole Board of the County may deem it proper and expedient.

5th. To perform all other duties not inconsistent with this act which may be required of or enjoined on them by any law of this State to the County Courts,

Approved February 17th 1848.

" which said Exhibit B is endorsed. Filed Dec 7
1857- m. h. Young clk - "E".

Exhibit B. No — United States of America - \$1000. -
State of Illinois - County of Jazuewell -
Bond due in twenty five years after date -
Tonica and Petersburg Rail Road company.
Know all Men by these presents that there is due
from the County of Jazuewell to the Tonica and
Petersburg Rail Road Company or lessee One Thousand
Dollars - lawful money of the United States with
interest at the rate of Seven percent per annum
payable Semi annually on the first days of June
and December in each year at the American
Exchange Bank in the City of New York on the
presentation and surrender of the annexed Coupons.
The principal is payable at the above place Twenty
five years after the date thereof - For the performance
of all which the faith of the said County of Jazuewell
is irrevocably pledged as also the property, revenue
and resources of the said County of Jazuewell

1000 Dollars

In Testimony whereof — appointed by the
Board of Supervisors and — clerk of the
County Court have hereunto subscribed their
names and affixed the common Seal of said
County Court this first day of December 1857
— clerk of the County Court.

To which said Bond or Exhibit B. is attached fifty
interest coupons -

which said Exhibit "C" is Endorsed Filed Dec 7
-1857- M. C. Young clk - "D"-

Writ of Injunction State of Illinois

Jazewell county } ss- The People of the State of Illinois
vs Henry R. Green The Tonica and Petersburg Rail
Road company The Board of Supervisors within and for
the county of Jazewell in the State aforesaid their clerks
counselors Attorneys Solicitors and agents Justing -

Whereas Benjamin B. Pettigrew has lately
exhibited his Bill of complaint to the Judge of the
Circuit Court in and for the county and State aforesaid
on the Chancery Side thereof against you the said Henry
R. Green The Tonica and Petersburg Railroad Company
and the Board of Supervisors within and for the county
and State aforesaid wherein it is alleged that said com-
-plainant is a citizen of the State of Illinois and a
resident and tax payer in the County of Jazewell aforesaid
and as such he is interested in everything done in and
by said county which is calculated to effect its welfare
or militate against its prosperity - that on the day of -
1853 the due majority of the legal voters of the county of
Jazewell at an election held by order of the Board of
Supervisors of said county voted for the county of Jazewell
to take and subscribe \$7500 Dollars in and to the Cap-
-ital Stock of the Mississippi and Wabash Rail Road
company and \$25000 Dollars to the Capital Stock of the
Eastern Extension of the Tonica and Squawka Rail Road

company that pursuant to said vote of said legal voters of said county the said Board of Supervisors of said county of Tazewell did subscribe \$75,000 Dollars to the Capital Stock of the Mississippi and Wabash Rail Road company and ordered the chairman of the Board of Supervisors to prepare the Bonds of said county to be delivered over to said Mississippi and Wabash Rail Road company in payment of said subscription that on the 1st day of July 1857 the said Board of Supervisors of said county again ordered an Election to be held in said county on the 22^d day of August 1857 to vote for or against subscribing One hundred Thousand Dollars to the Capital Stock of The Iowa and Petersburg Rail Road company - That the clerk of the county court of said county certified to the said Board of Supervisors that a majority of the legal voters of said county had voted at said election for the said subscription - That said Board of Supervisors on the — day of August 1857 Resolved that the Clerk of Tazewell County cause \$100,000 of the Bonds of said county to be prepared and that he sign the same and attach the seal of said county thereto and that the said bonds be signed by the chairman of the Board of Supervisors of said county That after the said Bonds were so prepared and signed that the clerk for and on behalf of Tazewell county subscribe for \$100,000 Dollars of the Stock of said Rail Road company and pay for the same in said Bonds at par issuing and paying out the same at such times and in such amounts as other stock holders may be required to pay and that the said Bonds should bear

date the days or days on which they should be paid out
said Bonds to run 25 years from the date thereof and bear
interest at 7 per cent per annum -

That inasmuch as the county of Izewell had prior to
the 22nd of August 1857 Subscribed \$45,000 Dollars to
the Capital Stock of One Railroad company and voted
to subscribe \$25,000 Dollars to another by law the said
county of Izewell had no power or authority to subscribe
another Hundred Thousand Dollars to the Capital Stock
of any other Rail Road company or order the same to be
done or issue the Bonds of the said County for the payment
of the same - That the order of said Board of Supervisors
was to submit the question of said Subscription to the Capital
Stock of the Ionia and Petoskey Rail Road company to the
"People" of said County and that the citizens of Washington
and other Towns favorable to the proposed subscription taking
advantage of said "Phrasology" in said order produced
and caused to vote and to be requested as voters at
said Election hundreds of inhabitants and mere transient
men some of whom were transported thither for the
express purpose of voting at said Election and for
said Subscription and who were not legal voters in
said county and forced and prohibited by threats and
menaces other legal voters of said county from voting
at said Election who desired to vote against said
Subscription that there was not a Majority of the legal
voters of said County who voted in favor of said Subscrip-
tion to the Capital Stock of the Ionia and Petoskey
Railroad Company - That the constitution of the State

75 forbids the State to give its credit in any manner to aid any corporation that under said constitution the legislature has no power to authorize a county to issue any bonds to aid such corporations to levy taxes under the laws of the State upon the inhabitants to aid such corporations and to pay the same - That there was not and is no law authorizing the said Board of Supervisors to order said Election in August 1857 aforesaid in said county for the purpose of deciding whether the counties would subscribe said \$100,000 to the Capital Stock of the Ironia and Petersburg Railroad company nor to order or make said subscription of \$100,000 to said Capital Stock of the Ironia and Petersburg Rail Road Company nor to issue the Bonds of the county for the same nor to pledge the faith of the county for or cause the seal of the County Court to be placed upon the same - That said Board of Supervisors of said county well knowing that by law they had no power or authority to cause said Election to be held or said Bonds to be issued or said subscription to be made have colluded and conbined with the Directors and friends of The Ironia and Petersburg Rail Road company and with the said clerk of said board and notwithstanding said Bonds were not prepared and signed by the Chairman of the Board of Supervisors yet they pretended to have procured the said clerk to make the subscription of \$100,000 to the Capital Stock of the said Ironia and Petersburg Rail Road company for and in the name of said county and to prepare the Bonds of said county with the provision therein that the interest thereon should be payable semi-annually on the first day of April & October in each year when the resolution

requiring the preparation of said Bonds and the making of said subscription provides that said Bonds shall run 25 years from date and bear date when they are paid out and that interest should be paid semi annually thereon and that the subscription should be made only when the Bonds were duly prepared and signed by the Chairman of the Board of Supervisors which is not yet done.

That the said clerk without any authority of law or order of said board did prepare said Bonds and stipulated thereon that both principal and interest should be paid at the American Exchange Bank of the State of New York That said Chairman of the Board of Supervisors because the said Bonds were not prepared according to the order of the said Board of Supervisors and according to the vote of the said people and that they were irregularly and informal refused to sign the same - That said Board of Supervisors thereupon on the 7th day of November A.D. 1857 ordered the said clerk because the said Bonds even then insufficient and informal to cause to be prepared at the expense of the county new blank bonds and coupons for said purpose of being signed and delivered to said N.Y. & N. Co - and to make the same payable at the American Exchange Bank in the City of New York and that one J.S. Marsh sign the same in lieu of said chairman of said Board of Supervisors - That said Bonds and coupons were so prepared (except that the bonds were all dated December 1st 1857 and the coupons made payable on the 1st of December and June each year that they were alike

27 as the other lot informal and inefficient / and \$10000
in Amount of said Bonds being dated on the first day
of December aforesaid were on the 5th day of said December
signed and sealed by said clerk and signed by said J. S.
Marsh and then by said clerk on the said 5th day of
December 1857 paid out to said Iron & Petersburg Rail
Road company or delivered over to one Henry K. Green
for their use and benefit although no Subscription has
ever been made by said County to the Capital Stock
of said company That the complainant is informed and
believes that said bonds are still in the hands of said
Green or said company That to make said Bonds payable
in the City of New York as now provided therein would
cost the county the sum of \$1200 more than to pay the
same in Tazewell county - That the said clerk and Marsh
are about to sign seal and deliver all the rest of the said
\$100000 in Bonds aforesaid to the I & P R R Co: to be
prepared signed and Dated as the Bonds already delivered
That said company design disposing of them to innocent
purchasers and having them placed out of the reach of said
county greatly to the prejudice and against the credit
of said County and to the injury of all the inhabitants
thereof and out of which useless litigation will issue -
That the complainant is remediless except in a court of
Chancery and prays that the said Board of Supervisors of
said County and all the clerks agents and Servants and
said Henry K. Green and said Iron and Petersburg Rail
Road company and their Servants and agents be forever
enjoined from further preparing and Bonds of said

1) county to be paid for Stock in the Ionica and Petersburg Rail Road company and from subscribing to the Capital Stock of said company or in any manner issuing said Bonds or paying out or transferring the same or in any way pledging the credit of the county in any manner to or for anything appertaining to said company or to the Capital Stock thereof until the hearing of this cause.

We therefore in consideration of the Premises do strictly enjoin and command you the said Board of Supervisors of Tazewell county Henry R. Green and the Ionica and Petersburg Rail Road company that you desist absolutely and entirely from doing any of those things which the said complainant has prayed you to be enjoined from doing until you and each of you shall appear to and fully answer the complainant's Bill and the said Court make other order to the contrary. Henceof fail not under the penalty of what the law directs.

(Seal) - Witness Merritt C. Young clerk and the
Seal of said circuit court hereunto attached
at Pekin this 8th day of December A.D. 1857
Merritt C. Young clerk
Per Wm Don Maus D.C.

Upon which said Writ of Injunction is Endorsed "Served
by Delivering a true copy of the within writ to the
within named Henry R. Green William S. Maus and
John Gridley Dec 18th 1857 -

Williamson
Sheriff Say 6 "

27 which said writ of Injunction is endorsed - Filed Feb'y
23^d 1858 - M. C. Young - clk - "J"

Subpoena - State of Illinois The People of the State of Illinois
in Chancery - Tazewell county } To the Sheriff of said County greeting
We command you to Summon The Board of Supervisors
of Tazewell county Henry R. Green and The Union and
Pittsburg Rail Road company personally to be and appear
before the circuit court of said county on the 1st day of the
next term thereof to be holden at the court House in
Pekin on the first Monday of April next then and there
to answer the matters and thing contained in a certain
Bill of complaint filed against them in the Chancery Side
of said court by Benjamin S. Pettymore and also to do
and receive whatsoever the said court may order and decree
in the premises - Hereof make due return -

(Seal) - Witness Merritt C. Young clerk and the Seal of
said court this 8th day of December A.D. 1857
at Pekin -

Merritt C. Young clerk
By W. Don Maus - D.C.

which said Subpoena in Chancery is Endorsed "Served by
delivering a true Copy Henry R. Green Wm. S. Maus and
John Guidley Dec 18th 1857 -

R. Williamson
Sheriff of Co.

which said Subpoena in Chancery is Endorsed "Filed Feb'y
23^d 1858 M. C. Young clerk - "K"

36
Petition and
Affidavit -

Benjamin S. Prettyman
vs -
The Board of Supervisors
of Izard County The Ionica
& Petersburg Rail Road Company
and Henry B. Green

In the circuit court
of Izard County
In Chancery -

To the Honorable James
Harriott Judge of the 21st Judicial Circuit in and for
the State of Illinois in Chancery Sitting -

The Petition of
The Board of Supervisors of the County of Izard in
the State of Illinois - of the Ionica and Petersburg
Rail Road Company and Henry B. Green who are Defen-
-dants in the above entitled cause respectfully represents
that they fear they cannot have a fair and impartial
trial in said cause in the Circuit where the same is
now pending on account of the prejudice of the Judge of
said court and they therefore may pray that a change of
venue may be granted, to some county and where no such
prejudice exists -

George W. Danforth - Directors of Ionica
Josiah Sawyer }
Henry B. Green } & Petersburg RR Co -

John S. March } agent for the Board of
Supervisors -

1. State of Illinois, Josiah Sawyer one of the Directors
Jagwell county } of the Tonica & Peterson Rail Road
company being duly sworn deposes & says that the matters
& things set forth in the foregoing petition are true -

Witness my hand & Seal this 27th day of Jan'y 1858.
Sworn & Subscribed before me } Josiah Sawyer (D).
this 27th day of Jan'y 1858 }
H. R. Brown J. P. }

State of Illinois }
Jagwell county }

John S. Marsh being duly sworn
doth depose & say that the facts set forth in the foregoing
Petition are true and that all the Defendants in the
above entitled cause consent and agree to said applica-
tion for the change of venue and said application is
made with their consent -

Witness my hand and Seal at Washington this
28th day of Jan'y A.D. 1858 =

John S. Marsh agent for the
Board of Supervisors =

Sworn and Subscribed before
me this Twenty Eighth day of
January 1858 =

(Seal) = Thomas Taylor J. P.

27
In pursuance of the prayer of the within petition for a change of venue and reasonable notice having been given to the opposite party it is hereby ordered and adjudged that the venue of the within mentioned cause be and is hereby changed from the County of Tazewell to the county of McLean State of Illinois - and the clerk is hereby directed to make out and transmit the transcript of the Record and papers in said cause to the clerk of the circuit court of McLean county as required by law -

Given under my hand & Seal this 5th day of
Feb - 1858

James Harriott (Seal)

The clerk of the circuit court of Tazewell county hereby notified that a change of venue to McLean county has been granted according to the prayer herein in the cause herein mentioned -

Feb 5th 1858.

James Harriott -

which Petition and affidavit is Endorsed - Filed Feb 5 - 1858 - Mc. Young clk - " B " -

Transcript of Proceeding in vacation in the Tazewell circuit court before the Honorable James Harriott Judge of the 21st Judicial circuit in the State of Illinois at his chambers in Pekin in the County of Tazewell and State of Illinois to wit -

Benjamin S. Pettyman-
 vs.
 Board of Supervisors of
 Sagwell county et als

Springfield - 1858-

And now this day came
 the parties by their attorneys and move that court upon
 agreement for a change of venue in this cause to the
 County of McLean.

It is therefore ordered by the court that
 the clerk of the court transmit the papers filed in this
 cause together with a certified copy of this order to the
 clerk of the circuit court of McLean county aforesaid -
 State of Illinois

Sagwell county vs I Merritt C. Young clerk of the
 circuit court within and for said county do hereby certify
 that the foregoing is a true copy of the order entered in the
 cause herein named and that the accompanying papers
 marked respectively "A" "B" "C" "D" "E" "F" "G" "H" "I"
 are all the papers in said cause remaining on file in my
 Office -

Witness Merritt C. Young clerk and the
 seal of said circuit court this 23rd February
 A.D. 1858 at Pekin

Merritt C. Young clerk

Manuscript of State of Illinois }
Record - Jazwell county } Jazwell circuit court.
In Vacation -

Benjamin S. Prettyman

vs
The Board of Supervisors
of Jazwell county et als

In chancery Bill for
Injunction -

Be it remembered that on the
fifth day of February A.D. 1858 the Defendants in said
entitled cause appeared before the Honorable James Harriott
Judge of the 21st Judicial circuit of said State at his
chambers in Pekin in said county and State and presented
their petition for a change of venue in said cause: whereupon
by agreement of parties an order was entered for change of
venue to the county of McLean in the words following
to wit " In pursuance of the prayer of the within
Petition for a change of venue and reasonable notice having
been given to the opposite party It is hereby ordered and
adjudged that the venue of the within mentioned cause
be and is hereby changed from the County of Jazwell
to the county of McLean State of Illinois and the clerk
is hereby directed to make out and transmit the Transcript
of the Record and papers in said cause to the clerk
of the circuit court of McLean county as required by law

State of Illinois

Jazwell county } J. Merrit - C. Young clerk of the circuit
court of said county do hereby certify that the foregoing is

35- a true copy of the Record of the Record of the proceed-
-ing in the cause therein named and that the ac-
-companying papers marked A.B. C. D. E. F. G. H. I.
K. L. M. are all the papers in said cause remaining on
file in my Office-

read

Witness Merritt C. Young clerk and
the seal of said circuit Court hereto affixed
at Pekin this 23^d February A.D. 1858.
M.C. Young clerk

37 And thereupon, afterwards, to wit at the March Term of the Circuit Court held within and for the County of McLean on the 27th day of March. A.D. 1858. Present.

Hon. David Davis	Presiding Judge
Ward H. Lamon	Pros. Atty
Wm. McCullough	Clerk.
Joseph H. Moore	Sheriff

On Wednesday the third day of said Term. came said Defendant by their Attorney and filed among the papers of this cause their Answer. Plea & Demurrer to said Complainant Bill, which said Answer. Plea & Demurrer. are in words & figures as follows to wit,

Benjamin S. Prettyman

vs

The Sonica & Petersburg Railroad Company

The Board of Supervisors of Tazewell County

& others.

In the McLean Circuit Court. March T. 1858.

In Chancery.

Ans. 1858.

The Joint & Separate Answer of the Sonica & Petersburg Railroad Company, The Board of Supervisors of Tazewell County & Henry B. Green to a Bill in Chancery, now pending in said Court in favor of Benjamin S. Prettyman, Complainant

These Respondents for answer to all that part of said Bill which charges that no subscription had ever been made by said County of Tazewell, to the Capital Stock of the Sonica & Petersburg Railroad Company. Say that said County did on the day of A.D. 1857 & long before the issuing of the Bonds as set forth in Complainant Bill of Complaint. subscribe One Hundred thousand Dollars to the Capital Stock of said Sonica & Petersburg Railroad Company in pursuance of the order of the Board of Supervisors of said County.

38
of Jagersall and in due form of all — and they therefore deny that
said Allegation in said Bill contained, is true

The Board of Supervisors.

Weed. Solicitor

By J. L. Marsh. Agent & Chairman.

The Seneca & Petersburg Railroad Company

By G. W. Danforth. President of said
Road.

Henry B. Goree

Plea.

And now come the said Defendants and plead to all that part
of said Bill of Complaint which alleges that the last mentioned Bonds
in said Bill described & the Coupons thereto attached were made payable
at the American Exchange Bank in the City of New York, the said
Defendants say that heretofore, to wit. on the 16th day of February
A.D. 1857. the Legislature of the State of Illinois passed "An act
supplemental to an act to incorporate the Seneca & Petersburg
Railroad Company" which act was approved on that day by the
Governor of the State of Illinois & ever since that time has been &
now is a law of said State legally passed & in full force & now
ready in Court to be produced, whereby it was enacted among other
things as follows.

"Sec. 3^d. Be it enacted by the People of the State of Illinois
represented in the General Assembly, that the County Court of each
County which may by a vote of said County have subscribed, or may
hereafter subscribe to the Capital Stock of said Company, is hereby
authorized to make the interest on the Bonds of Subscription, afo-
-said payable at such place or places as the said County Courts
respectively may order, & determine"

39 And thus the said Defendants are ready to satisfy, wherefore they
pray judgment, whether the said Defendants shall be com-
pelled to make any further answer to the allegations aforesaid
in said Complainants' Bill Complainied.

By Weed & Williams
their Solicitors.

Demurer And as to all the other matters & things contained in said
Complainants' Bill of Complaint, except such as are above
pleaded to or answered, the said Defendants doth Demur,
and for cause of Demurer, say that the said Complainants said
Bill of Complaint, in case the same are true, which these Defendants
do in no wise admit, contains not any matter of Equity whereon
this Court can ground any Decree, or give the Complainant any
Relief or assistance as against these Defendants, wherefore they
pray judgment &c.

By Weed & Williams
their Solicitors.

And also on the day and year last aforesaid came said Defendants
and filed in this cause the Affidavits of Josiah Sawyer, H. H. Green
Charles E. Dennison & J. L. Marsh, which said Affidavits are in the
words & figures as follows, to wit.

Affidavit of
Josiah Sawyer

Benjamin S. Poltymann

is

the Tonica & Petersburg Railroad
Company, et al.

In the McLan C.C.

Mar. 5. 1858.

Josiah Sawyer, being duly sworn

41 deposes & says that he is a Citizen & Tax payer of the County of Jazewell & State of Illinois and a Resident of said County, that he is also a Director in the Tonica & Petersburg Railroad Company, that at the August Term A.D. 1857 of the Board of Supervisors of said County, said Board passed an order, requiring the Clerk of said County to subscribe \$100,000. to the Capital Stock of the Tonica & Petersburg Railroad Company, and that said Clerk did, as this Affiant has been informed & Believes. soon after, subscribe that sum as directed by said order on a Subscription Book carried by Henry R. Green, one of the Directors of said Road.

Subscribed & sworn to before me

Josiah Sawyer.

March. 31st. /58.

Wm. McCullough. Clk.

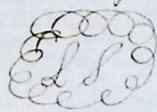
Affidant of
Henry R. Green

State of Illinois
Jazewell County

Henry R. Green, being first duly sworn according to Law, on his oath Deposes & says, that he is a Resident Tax payer & voter of Jazewell County in the State of Illinois, that he is also one of the Directors of the Tonica & Petersburg Railroad Company, that as such director he was legally empowered to receive subscriptions to the Capital Stock of the said Railroad Company, that John Gridley, the County Clerk of the said County of Jazewell did in accordance with a resolution of the Board of Supervisors of said County, subscribe One Hundred thousand Dollars to the Capital Stock of the said Tonica & Petersburg Railroad Company, for and on behalf of the said Jazewell County, and that, he the said Henry R. Green as such Director did on behalf of the said Tonica & Petersburg Railroad Company, receive said Subscription so made by the said John Gridley.

Henry R. Greene

41 Subscribed & sworn to before me
this 1st day of April A.D. 1858.



Nathaniel W. Greene, Notary Public for the Town of
Delavan in said Tazewell County

Affidavit of
Chas. E. Dennison

Benjamin S. Prollyman

vs

In the McLean Circuit Court
March 5. 1858.

The Tazewell & Petersburg Railroad
Company & others

In Chancery.

State of Illinois

Peoria County — Charles E. Dennison of said County, being duly
sworn doth depose and say that he is Chief Engineer of the Tazewell & Peter-
burg Railroad Company, that he knows of his own personal knowledge
that John Gridley, Clerk of the County of Tazewell has subscribed the sum
of One Hundred thousand Dollars to the Capital Stock of said
Company in behalf & for the County of Tazewell in pursuance of an
order made by the Board of Supervisors of said County, authorizing
such Subscription, that this Deponent has seen such Subscription
and that he took the paper on which such Subscription was made to the
office of the Secretary of said Company for the purpose of having the
same filed in said office & he truly believes the same is now on file
in said office.

Chas. E. Dennison.

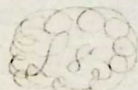
State of Illinois

ss

Peoria County

City of Peoria

J. Lewis Ryan, a Notary Public in and for said City
& County do certify that on this day came before me Charles E. Dennison
the signer of the above affidavit & made oath that the same is true in
substance & in fact.



Witness my hand & seal Notarial at Peoria this

2^d day of April A.D. 1858Lewis Keyon. Notary Public, in and for
the City of Peoria IllinoisAffidant of
John L. Marsh

Benjamin S. Proffelman

In the McLean Circuit Court.

the Seneca & Petersburg Railroad

March 3. 1858

Company & others.

In Chancery.

State of Illinois

Peoria County

John L. Marsh being duly sworn, doth depose & say that he is a Citizen & Tax payer of the County of Tazewell in said State & one of the Supervisors of said County for the Town - Washington in said County that he has been repeatedly informed by John Griddle the County Clerk of said County that he had subscribed one hundred thousand Dollars, to the Capital Stock of the Seneca & Petersburg Rail Road Company, for and in the name of the County of Tazewell, in pursuance of an order heretofore passed by the Board of Supervisors of said County, and that said Clerk is reported to the Supervisors, & that he truly believes and has no doubt that such subscription has been made to said Railroad Company by said Clerk in pursuance of such order.

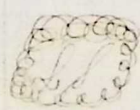
John L. Marsh.

City of Peoria

State of Illinois

Peoria County

I Lewis Keyon a Notary Public in and for said City & County do certify that on this day came before me John L. Marsh who signed the above affidavit & made oath that the same is true in substance & in fact.



In testimony whereof I have hereto set my hand & Seal of office
this 3^d day of April A.D. 1858.

Lewis Keyon.

Notary Public in and for the City Peoria. Illinois.

43 And thereupon, afterward, to wit, on the day and year aforesaid this cause came on for hearing, and final Decree was rendered herein in words & figures following, as the same appears of Record, to wit.

Decree

Benjamin S. Prattysman	In the McLean Circuit
vs	Court.
The Tonica & Petersburg Railroad Company	March Term, 1858.
The Board of Supervisors of Tazewell County	In Chancery.
& Others	

This cause having come up for hearing at the present Term upon the Bill, Answer, Plea, Demurrer & Affidavits of Josiah Sawyer, H. B. Groen, Charles E. Dennison & J. L. Marsh, and the Court having heard the Counsel of the respective parties and being lawfully advised in the premises doth order, adjudge & Decree that the Injunction heretofore granted & allowed herein be dissolved, And the Complainant in open Court stating by his Attorney that he only desires to sustain this Bill for Injunction & does not desire to prosecute it for any other purpose, It is ordered that the Bill be dismissed and that the Complainant pay the Costs herein.

And thereupon, afterward, to wit, on the first day of April in the year last aforesaid, came said Complainant and presented to the Court his Bill of Exceptions to the Decree rendered herein, and prayed the Court that the same might be signed, sealed, and made part of the Record of this Cause, and said Bill of Exceptions is in words & figures as follows, to wit.

Bill of

Exceptions the Tonica & Petersburg Railroad Company

The Board of Supervisors of Tazewell County

McLean Circuit Court

March Term 1858.

Change of Venue from Tazewell.

Be it Reminded that

at the present term of the Circuit Court the following order or Decree was rendered by the Court, to wit.

Benjamin S. Pullyman

The Tonica & Petersburg Railroad Company

The Board of Supervisors of Tazewell County

& Others

This cause having come up

for hearing at the present term, upon the Bill, Answer, plea: Demurrer & Affidavit of Josiah Sawyer, B. B. Inen, Charles E. Dennison & J. L. Marsh. And the Court having heard the Counsel of the respective parties, and being now fully advised in the premises, doth order adjudge & Decree, that the Injunction heretofore granted and allowed herein be dissolved, and the Complainant in open Court stating by his attorney, that he only desires to retain this Bill for Injunction and does not desire to prosecute it for any other purpose, it is ordered by the Court that the Bill be dismissed & that the Complainant pay the Cost herein.

And thereupon said Complainant, at the time said order or decree was rendered, excepted to the rendition of the same and to every part ^(thereof) and prayed that this his Bill of Exceptions be signed sealed & done.

Given under my hand & Seal, April 1st 1858.

(Signed) David Davis.

45 And afterwards: to wit, on the ninth day of April, in the year last aforesaid, came said parties by their Attorneys and filed herein an agreement, which said agreement is in words and figures as follows, to wit:

Agreement

Benjamin S. Prattoman

vs

The Board of Supervisors of Tazewell Co.
The Seneca & Petersburg Railroad Company
& others

In the McLean Circuit

Court, March 5, 1858

In Chancery

It is agreed that said Complainant may within five days, file any exceptions or objections to the Decree made in the said case, or take an appeal thereon & the same shall have the same force & effect, as if done, filed or taken at the very time such decree was made & this agreement is to apply to any order made in said Cause at the present term of this Court. This agreement is made for the purpose of getting said Cause into the Supreme Court so as to have a trial at the present April Term thereof. And said parties hereby agree to enter their appearance in said Cause in the Supreme Court of the State of Illinois and have the same tried at the April Term thereof, A.D. 1858.

April 8th, 1858.

R. M. Word.

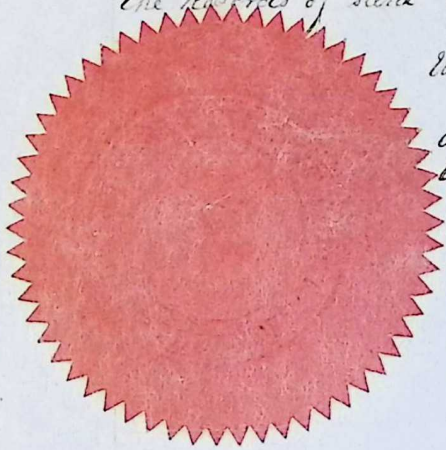
Solicitor & Atty for Defendant

B. S. Prattoman.

State of Illinois

McLean County

J. William McCullough, Clerk of the Circuit Court in and for said County, do hereby certify that the foregoing is a correct transcript of the papers on file in the foregoing cause and of



The Records of said Court pertaining thereto.

Witness my hand and the Seal of said Court hereto
affixed this third day of May. A.D. 1858.

Wm. McCullough Clerk.

By Herman Burr Deputy

Due for this Record \$18 ⁵⁰/₁₀₀

Paid by P.C.C.P.

Wm McCullough Clerk
for Wm Burr Deputy

Atty General 4 April Term
Suprem Court 3 Grand Division
Benjamin L. Hoffman

Board of Supervisors of Town of Court

Henry K. Green & the Town of Court

Real Estate Commission

upon that

In error from the Decree of
the ^{Circuit} Court in the said case

and the said Circuit Court came and
says that in the proceedings of the
said Circuit Court, and the said Decree
Manifest Errors have intervened to
his prejudice, and sets down the
following, to wit:

The Court erred in sustaining the
Demurrer to the Complaints to Bill, and in
giving judgment for Defendants on the same
the Bill -

The

The Court erred in not Decreeing the
Demurrer - and in not rendering judgment for Complaint

The Court erred in dissolving the
injunction, and dismissing the Complaints
- and Bill - and in rendering final Decree as to
Complaint thereon. B. L. Hoffman

And now come the said defendants
by Mead & Williamson their Attornies and
say that in the record and proceedings
aforesaid and in the decree aforesaid
no error hath intervened, wherefore
they pray that said decree may be in all
things be affirmed

By Mead & Williamson
their Attornies

1826
B. A. Gentryman
no

Board of Supervisors
of Jay Co. H. R. Green
& the Terrell & Sitewell
Rail Road Company

Filed May 5. 1858
Leland Ch.

Benjamin S. Pellyman
 vs
 The Board of Supervisors
 of Fuzwell County, Ga. } In the Supreme
 Court April
 Term A.D. 1858

And now comes the said defendant
 by Mead & Williamson their attorneys and
 move the Court to dissolve the injunction
 herein for the following reasons

1st As the counsel for defendants believe
 the only ground for equitable relief which
 can be considered as plausible upon the
 part of complainants is the fact alleged
 in their Bill that a majority of the legal
 voters of said County did not vote in favor
 of said subscription

To this reply is made, that this
 Bill is not filed for the purpose of contesting
 the election, and that no charges of fraud
 are made, nor is it denied that the return
 of the officers was made correctly or
dishonestly or fraudulently, but the main
allegation statement is, that illegal votes
 were received at the election

Now is it possible that a statement
 so made, so long after the election, in a

Bill which does not show how many legal votes and how many illegal votes were cast in the County can be esteemed as a just reason for granting an injunction.⁵

It seems to me that a Bill filed for the purpose of contesting an election should set forth how many legal votes & how many illegal votes were cast at the election; that the names of illegal voters should be given, so that the defendants might know how to ascertain the fact in dispute.

Suppose the injunction is permitted to stand — a great public work is brought to a stand still, and there is no means of compelling the ~~defor~~ complainants to prove that a majority of the voters did not vote for the subscription.

Indeed it seems to me that so far as this case is concerned, when the plaintiffs admit that the returns show a majority of the votes were cast in favor of subscription, and the record produced sustains this position the allegations of the Bill are not only contradicted but disproved, and surely no injunction ought to stand.

under such circumstances. When a man says "a majority of the legal votes were not cast for subscription" "but the record shows a contrary state of facts" he shows himself out of court — he shows that the record contradicts & denies his statement, and this being done no question should arise. Suppose we had denied that fact, and in addition to the denial had produced the record, would not the question have been decided? Most clearly it would. How then does the case stand after this condition of things. The Complainant himself shows prima facie, that his statement is false. He contradicts the record, and still brings the record to show that he states a falsehood. How can this help him?

2. But who is to take the affirmative in this case? The Complainant alleges that a majority of the legal votes were not cast in favour of the election — Suppose the defendants deny this? The complainant introduces no proof — the defendant shows the record

just as the Bill sets it out, should it not be dissolved? And if not, why?

But when is this injunction to be dissolved and the Rail Road permitted to go on? Suppose the judgment of the Court below is reversed, & the Cause remanded — it seems to me that it must be upon the ground of the illegal votes — and if this be the case, when is it to be dissolved? The complainant does not go on to prove a negative — but the defendants ^{do} take proof, but what kind of proof? They cannot know who voted illegally, or who was deprived of voting, because the Bill does not set forth these facts, and they cannot know who to examine or who not to examine. But they take the proof of the judges of election that the votes were legal — what then? They only show what the Bill sets forth viz that the returns show a majority of the legal votes in favor of the election,

3^d But suppose the difficulty in this case is that the Bonds are made payable in New York? In the first place an apportion in the Bill that Exchange will cost \$13,000 is not justified. No man can tell or say that the County will loose by the operation

because no man knows what the rate of
exchange will be when the Bonds become
due?

But ~~where~~ the County Court or Board
of Supervisors are not restrained from
issuing Bonds payable when they please.
It is true that the Company is to take the
Bonds at par, but is there any requirement
that they shall be made payable in any
particular place? Surely not—

The County Court or the Board of Supervisors
by law (by Statute law) have the management
of the fiscal affairs of the County, and having
the management thereof may make the Bonds
payable, where they please. Who is to restrain
them? Is it this Court? And upon what
principle? That Court has the entire &
sole management. It is a matter of
discretion. How is it possible for this
Court to interfere? In a matter too
which is ~~thoroughly~~ ^{thoroughly} discretionary.
It cannot be done. That Court must
be the sole judge.

Suppose however the Bonds are
made payable in New York, what then?
The bill says the County is injured, but the
conclusions of the Bill must be sustained.

by the facts stated. No reason is given why the County should be injured, nor is there any reason set forth why a change on New York should be above par at the time the Bonds become due. It is true that ^{the} Bill alleges that, thereby the County will loose money &c, but it does not say or mean, that when the Bonds become due exchange will be above par in New York. In this respect, the Statements in the Bill are insufficient, uncertain, and entirely not reliable. It does not pretend to say or insinuate that when the Bonds become due Exchange will be above par in New York.

For these reasons, it is urged that a public Work of great practical importance, connecting a line of Rail Roads running through the State, and of essential value to all the people ought not to be arrested and suspended, until some, slow objector, can find time to prosecute his suit.

By Messrs Williamson
his Attorneys

326-114
Benjamin S. Prettyman
vs

The County of Luzerne
& others

Motion for dissolution
of liquidation

Filed May 18, 1858
S. Deland
clerk

Dept of Minors } April Term 1185
 Suprem Court } 3rd Grand Division
 B. J. Buffum }
 Supervisors of Dep. Co. Stab. } Ena & McLean

Power to & Authority, for Complaint.

1st The Complainant is entitled to prosecute
 the suit if the Allegations in the Bill are true
 13 Mc 616, 617, 27 Penn. R 391 & the injunction
 must be sustained

2nd The Legislature had no power to authorize
 counties under the Constitution to lend their aid to
 corporations or subscribe for stock in a R.R. Co
 Constitution Art. 3 Sec 38.

3rd The Board of Supervisors of the County had no power
 by Law to order an Election for, either a Railroad Subscrip-
 -tion, or issue County Bonds therefor, Acts (47) page 33
 sec. 1, 4 Gill, 20, & ~~Penn. R 195~~, 13 Mc, 616, 617,
 Acts of 1851 page 50 sec 15, Authority given to Corporation
^{Pioneer on Railroads, 9.}
 must be strictly construed, as also all innovations
 upon the Common Law 2 Gill, 184 3 Penn 163,
 and when statutes require acts to be done in a particu-
 -lar way that way alone can be pursued 3 Brevard.
 R 306. 6 Mass. R. 44 Groves 750. 767.

The Express Mention of one municipality is the
 Exclusion of an other Co. Litt. 210 Bloomer & Morrisson.
 appeal is from act of Co. Court Blackwell Statute 312, 314.

and the said & the County belongs to that County.

4th The Law did not authorize the County of Tazewell
to take a subscription more than \$100,000. dollars
in R.R. stock - Act (49 page 33, sec. 1, and this act
should be strictly construed against the Company in
favor of the Public 2 Gill 184, 3200 160 Smith's Com.
656, & For contemporaneous construction, acts of Leg
1851, page 110, (52, page 14, 59, (53 page 134, 167, 188, 170, 191,
219, 471, 520, & others -

5th That the Bonds could legally issue unless
a majority of the legal voters of the County voted for
the subscription Act (49 page 33, sec 4

6th The County cannot issue Bonds in any other
form or manner than as required by the vote at the Election
and the Bonds having been issued, prepared & voted. Contrary
to the vote of the People & the order of the ^{first made} supervision
- citation thereto on void. 22 Penn R. 390 11 B Monro, v.
147

B. D. P. H. v. v.

Rothman

Supervisor of Eng. Co, U.S.A.,
M.H.

Penn. & Anth.

May 13 -

State of Illinois / 25 April Term 1858
Superior Court / 3rd Grand Division

Plaintiff
Defendant
Supervisor of Jails, et al

Given to the Court
Points & Authorities for Complaint

1st The Complaint is entitled to present this suit
if the allegations in the bill are true 13 Ill 611, 612
27 June R. 390, 404. & the injunction must be sustained

2nd The Legislature had no power to authorize
Committees under the constitution to lend them aid to corporations
or subscribe for stock in N. H. Co. - Const. Art. 2, Sec. 3,

3rd The Board of Supervisors of the County had no power
by Law to order an election for, make a Rail Road
subscription, or issue County bonds therefor, acts
49 page 33, sec 1, 4 Ill 20. ~~49 page 33, sec 1, 4 Ill 20.~~ 13 Ill 611,

Acts 51 page 50, sec 15, authority of corporations
must be construed strictly ^{Pierce of Railroads?} as also all innovations
upon the Common Law 2 Ill 184 3 Decm 180

When Statute require acts to be done in a particular
way that way alone can be pursued 3 Prevards
R 306, 611, 612 R 441 Decm 180, 267.

The Express mention of one mode implies the
exclusion of an other co. Lett, 210. Breckenridge v. Maxson
505. Appeal on given from order of City Court.
Ill. Statute, 312 314, & the seal of the County
belongs to that Court

4th The Law did not authorize the Com^{ty} of Judges
to take a subscr^{ption} more than \$100,000. Nells
in N.H. Stock. acts (49 page 33 sec. 1). And this act
shows the stock^{holders} Car^{ried} against the Company
& in favor of the Public. 2 Gill 184. 3 Decr 180
Smith Com^{ts} 1858, ^{Pineapple R. 9010} & for Contemporaneous Construc^{tion}
^{to the Legislature} in acts (51 page 110. (52 page 14, 89. (53 page 134, 135,
188, 190, 191, 219, 471, 590, & others,

5th That no Bonds could Legally issue unless
a Majority of the Legal Voters of the Com^{ty} voted for
the subscription act (49 page 33 sec 4)

6th The Com^{ty} cannot issue Bonds in any other
form or manner, than as required by the Voters at the
Election. And ~~the~~ Bonds Having been issued pursuant to
Contract to the vote of the People & the order of the Supreme
Justices in relation thereto as read 27 page R. 399, 1133
November 147

R. H. P. 22

326
Pittman = 114
~

Supervisor of Reg. Co. 8th

Camp

Post & Authority

Wtch of Minis / April Term 1888
Suprem Court / 3^d Quad Division
B. W. Hoffman }
Supervisors of L. & C. & others } Error & Misdean

Pent to custody for Compt

- 1 The Complaint is entitled to Proceed this court, if the Allegations of the Bill are true. 13 Wls 815, 27 page R. 390, 404, & the injunction must be sustained
- 2 The Legislature had no power under the Constitution to authorize committees, to lend them aid & Corporation or subscribe for stock in N. R. Co. Constitution Art 3 Sec 38.
- 3^d The Board of Supervisors of the County had no power by Law to order an Election for, Wtch a Rail Road Sub-
scription, or issue County Bonds therefor, Act 1847
page 33, sec 1. = 4 Gill 20. 13 Wls 816, Act (51 page
50, sec 15. Authority & Corporation must be strictly
constituted, pierce on Railways, page 7, and also all
innovations on the Common Law 2 Gill 184, 3 Decem.
160. When Statutes require acts to be done in a
particular way, that way alone can be pursued
3 Burrows R. 308 6 Wls 44. Decem 750, 767.
The Express Mention of one mode implies the exclusion
of others. Co. Litt. 210. Broons Maxims 308.
Appeals are given from order of Ct. Ct. Wtch Statutes
312 314. & the seal of the County belongs to that
Court.

4th. The Law did not authorize the Comrs of Lawrence
to take a subscription more than \$ 100,000 Dollars
in R.R. Stock acts (49) page 33 sec 1. and this act
should be strictly construed against the Company
and in favor of the Public. 2 July 184. 3. Decm 180
Smith Com 650. Pierce a Railway page 9 & 10, and for
contemporaneous construction of the Legislature, see act (51
page 110. (52) page 1489. (53 - 144. 169. 188. 190. 191. 219. 471
570. &c

5th That no Bonds could lawfully issue unless
a majority of the legal votes of the Comrs voted
for the subscription, acts (49) page 33 sec 4.

6th The Comrs cannot issue Bonds in any other
form or manner, than as required by the votes of
the Election, and these Bonds having been issued
purported and acted contrary to the vote of the People
& the order of the Supervisors as first shown in relation
thereunto are void 11 B Monroe 147. = 27 Penn R 390

O. W. Rogers

Supervisors of Lawrence Co. Mo.

Printed for the State

Printed for the State

State of Minn. April Term 1858
Supreme Court } 3^d Grand Division

Bryant & ~~Smith~~ } Erastus M. Lee
Supervisors of Ramsey County,

Argument for Compt.

The complainant set up in his Bill that he is a resident taxpayer of the County, and interested in every thing that tends to promote its welfare or affect its prosperity, and that the County in 1853 had & took \$100,000. in Railroad stock & have actually \$75,000. dollar of that sum to the Capital stock of the Mississippi & North Western R.R. Co. & ordered them Bonds to issue for the same, and that they supervisors of the County in 1857, ordered Election for another \$100,000. subscription, to the Capital stock of the Tonico & Peterburg R.R. Co. and ordered the Bonds of the County to be prepared by the Clerk, to pay for the stock in the Tonico & Peterburg R.R. Co. and require them to be signed by the Chairman of the Board, & the sealed with the County seal,

and of to record the Board, received new Bonds to be prepared, and that they be signed by one of L. Morse & be made payable in ^{which would injure the County \$130,000} N. York, & the Bill charge that Bonds were required to be taken at the day they were issued, and to run 25 years from date, with interest semi annually - and that with out any legal subscription being made, to the Capital stock

of the Zenice & Peterburg R.R. Co. The Clerk supervisor
& company, ^{collecting} ~~combing~~, & proceed the issuing of \$10,000
bonds worth of the Bonds, and delivered them to the Z.P.
R.R. Co. not bearing date the day they were issued, not
running 25 years from that date, and not paying the interest
payable semi-annually from that date,

and the Bill further charges that the Constitution
of the State did not permit the Passage of any Law
to lend the aid or credit of the State in any manner to
any company, individual, or Corporation, and submits
that a County under the Constitution, could not
be authorized to do what the State was forbidden

And the Bill further charges that
there was not a majority of the Legal Voters
of the County who voted for the subscription to
the Zenice & Peterburg R.R. Co.

And charges that the Board of Supervisors
had no power or authority to order such Election
make such subscription, or issue Bonds of the
County for such purpose. And that said said
Clerk and Messrs an agent to sign and deliver all
the rest of the Bonds to the R.R. Co. acted and prepared as
those already advised, greatly to the prejudice of the
County and against its credit, and to the injury of all
the inhabitants thereof, and which will give endless
litigation. And that Complaint is unnecessary

Ex parte in a Court of Equity & a proper injunction
may issue to restrain the supervisors, Clerk,
Rathbone, & their agents & servants, & from
further preparing the Bonds, making the subscription
paying out the Bonds, or doing any other thing in the
Cause, until a hearing of the Matter -

On this an injunction issued as prayed -
and at the March Term of the McClean Circuit
Court, Defendants, answered so much of the Bill as charged
that no subscription had been made, by averring that
a subscription to the Capital Stock of the Town of
Petersburg N.H. Co. had been made by the Clerk as
ordered, and supported the answer by affidavits.
And as to so much, as charged that the Bonds were
made payable in N York - to the prejudice of the Cause
pleaded, that the Legislature at the session of 1857,
authorized the Circuit Court, ^{of County} ~~that~~ might sub-
- scribe to the Town of Petersburg N.H. Co. to make the
interest of the Bonds payable in the City of N York.
And as to all the rest of the Bill the
Defendants answered.

On this the Cause was heard. The injunction dissolved
and the Bill dismissed. ~~and~~ and complaint being
his Cause to this Court, and assigns for
Error, the dissolving the injunction and dismissing
the Bill, by the Court below.

That the complainant is entitled to the relief
prayed for in this form of action, is to well settled
& admit of a controversy, and in support of this
we refer to the decision of this Court in 13 Mo 611
and to 27 Penn State R. 390.

But the assumption of the complainant that
the act of the Legislature in passing a Law authorizing
the County to make a Railroad subscription, is void
by virtue of the 38th sec. of the 3rd article of the state of
Missis. which is, "The credit of the state shall not
in any manner, be given to, or in aid of, any individual
association or corporation," admits of more doubt
yet I have been unable to find any alleged
case in which a Court have decided that a subscription
made under a Law passed while the Constitution
of the state contained a like provision with ours
is held valid. But in each case, where the point is
decided it is based on the fact, that the Law authorizing
the subscription was passed, before the adoption
of the new Constitution containing the restriction. This
is the case in 2 Ohio State R. 647 — in Registry 13 B Mon
~~in Indiana~~.

Now by our Constitution the state is forbid to lend this credit
or aid to any individual or corporation. And can a state
authorize a county to do what the state cannot do itself.
Can a Mayor do by an agent, through a power of attorney,
what he could not do in person. Can he confer on

another what he does not show himself, when
a state has the power it can confer it on Counties
and the decision of the Court in 21 Min N 147
~~the decision~~ is made on the basis, that the state had the
power, & could therefore it ~~could~~ confer it on the
County. The substance of the aid and credit of the state
is the number ~~number~~ and property of its People, the
Means of reaching it is by the Power of Taxation. This
power can be conferred the Legislature alone, if the
Legislature cannot lay a Tax on the People & Property
of the state, ^{for an object} can they confer a power on another to lay
the Tax by virtue of its Power on the same persons &
property for that identical object.

But the Legislature of the state has not conferred on the
Supervisors. Expressly any power, to call an Election
for, make subscription for, a issue Bonds of the County for
stock in any R.R. Co. and Counties had no such right
by Common Law. If the County is but a political
Division of the state, the subscription manifestly cannot
be taken, and if they act as a Corporation, then
they can exercise ^{except what the Law expressly gives} no power whatever, and in no other
way or manner, than the Law conferring the Power
expressly lays down. See Pierce on N. H. p. 7. & 123.
~~Every~~ The only Law authorizing County subscriptions &c
made is the act of 1848 page 33. which provides, ²⁴³ that "no subscrip-
-tion shall be made a motion or Bond issued, by any County or City

whenever any debt shall be created by said judges of the
County Court of any County, or the common council of the City
to pay any subscription, unless a majority of the qualified
patrons of the County or City (to be determined, who exist at last
Gen. Elec. for Co. Officers) "shall vote for the same" and "the judges
of any County owning to the stock", are required to give
the notice of the Election for that purpose, and if the
election results for subscription, "such subscription" a
~~provision~~ "shall then be made by said judges or common
council" This then confers the Power on the judges
of the County Court, and on them alone, and when
Statute requires acts to be done in a particular way that
way alone can be pursued 3 Breard's Rep. 306, 610 Mass 44.
Dwarris 750, 752.

The Express mention of one mode implies the
exclusion of an other Co. Litt. 210. Broome's Maxims
545.

And the County Court of the County, by this act, Sec 1. Have
entire Control of the stock so subscribed. The deal of the
County is the deal of that County, ^{and is not under the control of the supervisors of the County} That deal must
necessarily represent the assent and Power of the Corporation
and is essential to its Bond.
And therefore the County Court, even in Counties where
the Township organization has been adopted, still
form an important, and the most important
part of the Corporation of the County, ^{all through means to exercise the Power} This Law
was designed to be general and uniform all over
the state, and as many Counties at the time of the

Passage of this Law, Had adopted the Township
organization. The Legislature designed that this
Power should be vested in the County Court
^{if at all.}
alone, and not in the Board of Supervisors, for
the act authorizing the formation of Township orga-
nization in Counties, expressly restricts, and forbids it.

Art. 15 Sec. 2. ~~and "Corporations, organized under the Township organization~~
~~from "Possessing~~ "No County, under this organization
"shall possess or exercise any Corporate Powers except
"such as are enumerated in this act, or shall be
"specially given by Law, or shall be necessary to the
"exercise of the Powers so enumerated or given"
And there is in this act no when any power ^{enumerated}
given to the Board of Supervisors to make a subscription
to Rail Road Stock, call an Election to vote
upon the question, or issue Bonds of the County
under its seal, to pay for any such subscription
nor is any such power "specially given to them by Law,
nor is this power "necessary to the exercise of the Powers
so enumerated or given" to the Board of Supervisors
who are not permitted to do any Act inconsistent with
that act, and all that a County can do under that act is
expressly enumerated in the act of 1851 page 50
And as to the Construction of the Power of the
Board of Supervisors under this Act we are not
entirely without authority. This Court in
13 Mo 616, decided that it is manifest that

the Board of supervisors, had no authority to
appropriate the County funds, & aid ~~the~~ private
individuals, or for any other purpose, unless it was
given by the general Law providing for Town-
ship organization, or laws passed for the
enclosure of some parcel therein enumerated
in the Township Law, ^{and all other statutes} will be deemed in vain
for any provision specially authorizing the Board of
Supervisors, to make a Railroad Subscription,
or issue Bonds & pay for the same,
and this act if construed, tending to effect the
revenue of the County should be strictly construed
against the Company - and this Statute is
also effecting a great Public interest, in all such
cases the Law must be construed strictly construed
1 Gill 188. 3 Term. 160.

~~And even the Legislature of the State cannot~~
~~do this~~

But in any event, it appears from
that the county can by no possibility
take a subscription for more than \$100,000 worth
of R. R. Stock, by any means, or any person
under the general Law - That Law
act 49 page 33, Sec. 1 - authorizes the county
to subscribe for stock to an amount not exceeding
\$100,000. allows stock of such cities & counties
There could not then by any possibility
be subscribed by any city or county exceeding
\$100,000. without a special act of the
Legislature. And no such act exists
can it be possible that a construction
can be put upon the act, the language
does not warrant, when that construction
is against the Public, and in favor of a
Corporation, when that construction
increases the burden of the citizen, and
confers an immovable power on a
Corporation. The construction should
be put most strictly against
the Corporation. But the language of the act
needs but a fair construction, and a
plain reading of it, to show that
total amount of power to subscribe
more than \$100,000. to each county

and we all say that there was not a
Majority of the Legal Voters of the County
who voted for the subscription, and this
is admitted by the record. Yet it is
said that this admission is coupled
with the fact, that the record otherwise
shows by the Exhibits, that the Clerk ^{intended}
of the Board of Supervisors by resolution ^{advised}
that a majority had so voted. Yet this
is but the allegation of the Defendants
made by way of showing their several
actions in the matter, and are not
shown as facts existing in the Bill
But the Bill expressly states that these
are facts, and by showing they acquiesce
in that claim.

But we show that these Bonds are not
purported in the form and manner required by the
Voters of the Election, and are dated on a day
different from that required by the Board of
Supervisors, and are about to be all
issued of that date. And that by being made
payable in New York the County will lose
\$13,000. Dollars and all this they admit
yet still say we are not entitled to relief
are 13,000 Dollars to be wrongfully imposed

The People of
Or ~~the~~ Conn. for the Benefit of a Railroad
Company. It cannot for a moment
be contended I think, even if they
were by the vote & sales, entitled to the \$100,000
they are not entitled to the \$13,000. Expense
which they admit they will obtain -
And if they can vote them back from
the Act they are paid out with out over
them they may charge them in any
form a wrong. Caprice may suggest
which cannot be done -

The Law Manifestly requires, on
the facts as admitted that the Defendants
should be restrained from further
proceeding in either issuing or paying out
the Bonds of the Company -

Wm. P. Feltman

B. D. Betty ma.
326 v 114
Supervisors of Ind.
Co. et al,

Argument for
Pth
No. 326.

Filed May 13, 1858
L. Deland
clerk

114