No. 14297

Supreme Court of Illinois

Pratt

vs.

People

71641 7

STATE OF ILLINOIS,

SUPREME COURT,

Third Grand Division.

14007

No. 275

Pratt

1862

Error

Reversed

Supreme Court April term A.D. 1862

John Platt. Supervisor
of the town of Weller appellant
vs
The People. ex rel the American
Central Rail Way Company
appellees.

} Appeal from Henry

May it please your honors

I have in this case printed a lengthy "Brief of points". I hope therein, to have made myself clearly understood. I do not know that I can add anything (but words) to the points made there.

I ask your honors carefull attention to that — and very Respectfully submit the case to your honors decision

H. N. Wells
for appellants

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John Pratt Supervisor &c

v.

The People &c

Appeal from Henry

Filed May 12, 1862

L Scholfield
Clk

Record

The People of the State of Illinois
Ex. rel. The American Central R.R. Co
vs
John Pratt Supervisor
of the town of Miller.

Application for Mandamus

Page 1

State of Illinois } ss
Henry County }

Henry County Circuit Court
October Term AD 1860

Pleas before the Honorable John H Howe Judge of the 6th Judicial Circuit of the State of Illinois At a regular term of the Circuit court begun and holden at the Court House in Cambridge in said county of Henry and State of Illinois on the Second Monday of October in the year of our Lord One thousand eight hundred and sixty it being the eighth day of said month

Present

Honorable John H Howe Judge
Thomas Wiley Clerk
Purnel H Swift Sheriff

Be it known that The People of the State of Illinois upon the relation of the "American Central Railway" did on the 26th day of September AD 1860 ~~did~~ by their attorneys file in the office of the Clerk of the Circuit court of Henry county and State of Illinois their Petition under oath for an alternative writ of mandamus which said Petition is in the words and figures following to wit:

State of Illinois } ss
County of Henry }

Henry County Circuit Court
October Term AD 1860

To the Hon, the Judge of the Sixth Judicial Circuit of the State of Illinois In Vacation after

(1)

the April Term AD 1860 of said court

In the name of the People of the State of Illinois "The American Central Railway" incorporated under and by virtue of the Legislature of said State Respectfully relates and Shows unto your Honor That by an act of the Legislature of said State "Approved February 9th 1853" "The Western Air Line Rail Road Company was duly Incorporated and that said Legislature afterwards by an act approved Feby 21st AD 1857 Entitled "An Act to amend an act entitled an Act to incorporate the Western Air Line Rail Road company provided that the name of the said Western Air Line Rail Road Company be changed to the name of the "American Central Rail way"

Your Relator further shows that said Amendatory act further provides that in addition to the powers and authority already conferred by the Act to which the last mentioned act is an amendment the several townships through which said Rail Road is or may be located and also all the Townships on each side of said Rail Road line any portion of which shall be within four miles of the same Now organized or which may hereafter be organized are severally authorized and empowered to subscribe in their corporate capacity to the capital Stock of said American Central Railway such an amount each as they may

Severally determine not to exceed Sixty cents
Page 3 per acre on the land embraced in said Township
at the time of voting on the propositions to subscribe
as hereinafter provided and shall have full power
and authority to issue their bonds to the amount
of such subscription bearing interest as provided
by said act which said act is hereto attached
marked ("Exhibit A") and made part of
this Petition

Your Relator further relates and shows
that said American Central Railway is located
and runs through the Township of Weller in the
said county of Henry and which is also known
and described as Township Numbered Fourteen
(14) North of Range Numbered Three (3) East of
the Fourth Principal Meridian in said State of
Illinois

Your Relator further relates and shows
that in pursuance of the said Amendatory act
of the said Legislature five legal voters of said
Township of Weller delivered to the Clerk of said
Township a Requisition in writing stating in
conformity with the provisions of Section 3 of said
Act the amount proposed to be subscribed to
the Capital Stock of said American Central Rail-
Way - the number of Bonds to be issued — the
respective amounts thereof, the time when
the said bonds and interest shall be made
Page 3 payable and requiring said Clerk to call

Page 4

an election for the purpose of approving or disapproving such proposed subscription A copy of which said Requisition is hereunto attached marked ("Exhibit B") and made part of this Petition and which said Requisition was filed by said clerk of said Township of Weller on or about the 12th day of May AD 1857

Your Relator further relates and shows that within ten days after the said requisition was delivered and filed with the Town clerk as aforesaid and in pursuance of said statute said clerk gave notice of such election by posting up written or printed notices in three public places in said Township of Weller that an election would be held at Bishop Hall in said Township on the 25th day of May AD 1857 for the purpose of voting for or against the subscription by said Township to the Capital Stock of said "American Central Rail way" as provided for by said statute a copy of which said notice is hereunto attached marked ("Exhibit C") and made a part of this Petition

Your Relator further Shows to your Honor that on said 25th day of May AD 1857 between the hours of Eight O'clock A.M and ten O'clock A.M of said day at Bishop Hall aforesaid the voters of said Township assembled in pursuance of said law and said notice and chose from amongst their number Eli P Manck

Page 4

Page 5

E P Condrey and Henry Emery as Judges of Election and Allen Husted and H J Rosenbom as clerks of said election according to said Statute and in all respects said election was conducted according to the law governing general election in the State of Illinois excepting when otherwise provided for by said Act

That said Judges and clerks closed said election at the hour of five Oclock P M of said day as your Relator is informed and believes and certified at the foot of the Poll Books of said election that there were cast at said election sixty nine votes of which said votes thirty nine were for said subscription and thirty against said subscription and that they delivered two of the said Poll Books to the town clerk of said Township. One of which the said town clerk filed in his office and the other in the office of the clerk of the county court of said Henry County within ten days after said election was held as aforesaid a copy of which said Poll Books is hereunto attached marked ("Exhibit D") and made part of this Petition

Page 5 is by mistake continued over the last

And Your Relator further states and shows unto your Honor that at said election held and conducted as hereinbefore stated a majority of the voters of said Township voting at said election voted in favor of Subscribing to said capital Stock and in

so voting decided as a corporate body to take capital Stock in said company by Subscription to the amount of twelve thousand three hundred dollars for which said Township was required by said election and under the law to issue its bonds bearing interest at the rate of ten per cent to be issued in the following manner and payable at the following times

1 Four hundred and thirty bonds of ten dollars each payable on or before the expiration of five years from the date of the issueing thereof

2 Two Hundred bonds of twenty dollars each payable on or before the expiration of ten years from the date of the issueing thereof

3) Eighty bonds of fifty dollars each payable on or before the expiration of fifteen years from the date of the issueing thereof

And your Relator avers that there are in said Township Twenty two thousand and five hundred acres of land and that said sum of money so voted to be subscribed as aforesaid does not exceed sixty cents per acre on the lands in said Keller Township

And Your Relator further relates and shows that after such election it became and was the duty of the Supervisor of the said Township of Keller to execute in the corporate name and under the corporate seal of said Township

if said Township has any corporate seal
the Bonds of said Township of the number
Page 6 amount tenor and effect as hereinbefore
described and to deliver the same when
made and executed in manner and form
as aforesaid to the President or Secretary
of said Railway Company in proportional in-
stallments as calls shall be made for payment
of the other subscriptions to the Stock of said Railway
Company and to sign said Bonds with Coupons
thereto attached according to said act of the
Legislature and the proceedings had under the
same when thereunto afterwards requested by the
President or secretary of said Company
Your Relator further shows that John Piatt
at the time of said election was and now
is the Supervisor of said Township of Weller
whom your Relator prays may be made a
party Defendant to this Petition
And your Relator further shows that one
Wheeler B. Sweet who was at the time of said
Election a Director of said Railway Company
and who then was and now is authorized by
the said Syracuse Central Railway to collect
subscriptions and by the President of said
Company to call for and receive of said
John Piatt said Township Bonds and to
deliver to him on the reception of said Bonds
receipts for the said Bonds in payment

for the amount of Stock so Subscribed by the said Township and paid in said Bonds by said Township

And Your Relator further relates and shows that the Board of Directors of said Company at a meeting of said Board held at Galva in said Henry County on the 24th of June 1857 passed a resolution that the Subscription of Stock by said Township of Weller made at said election and in pursuance of said act of the Legislature be required to be paid in the Bonds of said Township of Weller at par and in installments as follows One half thereof when the work of grading shall be recommenced on the line of said Road within the Township of Weller: One fourth thereof in thirty days thereafter and one fourth in sixty days after said grading shall be recommenced; And that the Secretary of said Company be instructed on receiving the Bonds of said Township in payment of said Stock to issue certificates of Stock to said Township of Weller to the amount of their said Subscription a copy of which said Resolutions is hereunto attached marked ("Exhibit E") and made part of this Petition

Your Relator further Shows that a copy of said Resolutions was served upon said John Pratt Supervisor as aforesaid

on the 25th day of July AD 1859 before which said time said Railway company had recommenced the work of grading upon said Railway within the township of Weller and upon the line of said Railroad and that the President of said Railway company caused a notice in writing to be served upon said John Pratt Supervisor as aforesaid on the 9th day of January AD 1860 a copy of which is hereto attached marked ("Exhibit A") and made a part of this Petition, in and by which said notice said President requested said John Pratt Supervisor as aforesaid to issue and deliver to said Wheeler B Sweet agent as aforesaid the Bonds of said Weller Township hereinbefore mentioned in manner following to wit; One half thereof being Six Thousand one hundred and fifty dollars on the service of said notice One fourth thereof being three thousand and seventy five dollars in thirty days thereafter And the remainder being three thousand and seventy five dollars in sixty days from said service of said notice And then and there on behalf of said company tendered to said John Pratt Supervisor as aforesaid a receipt for the said bonds to the amount of the said sum of Six Thousand one hundred and fifty dollars signed by the Treasurer of said American Central Railway Company

which were required to be issued at the time of the service of said notice upon the said Supervisor according to said Resolution of said Board of Directors and said notice a copy of which said Receipt is hereto attached marked ("Exhibit G") and made a part of this Petition

And your Relator further shows that at the said time last mentioned the said Wheeler B Sweet having full authority so to do offered to said John Piatt blank Subscriptions to the stock of said company which said Blank Subscription is hereto attached marked ("Exhibit H") and made a part of this Petition

And your Relator further shows that said amount by said Sweet then and there demanded was Six thousand one hundred and fifty dollars which said amount was no more than the proportional amounts of Subscription voted for as aforesaid as calls had been made prior to that time on other subscriptions to the stock of said company

Your Relator further shows that it was the duty of said John Piatt upon the request and demand made by said Wheeler B Sweet on behalf of your Relator as aforesaid to have Subscribed to said Stock and to have issued forthwith to your Relator the Bonds of said Township to the amount of Six thousand one hundred

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and fifty dollars payable as follows Two hundred and fifteen bonds of ten dollars each payable on or before the expiration of five years from the date thereof One hundred bonds of twenty dollars each payable on or before the expiration of ten years from the date thereof Forty bonds of Fifty dollars each payable on or before the expiration of fifteen years from the date thereof all of said Bonds with interest coupons attached at the rate of ten per cent per annum and payable annually at the county Treasurers office in Henry County But your Relator shows that said John Piatt then and there absolutely refused and still does refuse to issue and deliver to your Relator the Bonds of said Township as he was by law and the vote of said Township required to do And that your Relator has no adequate remedy at law against said John Piatt Supervisor as aforesaid of the said Township of Weller or against the said Township of Weller other than by application for a writ of Mandamus commanding and compelling said John Piatt as Supervisor of said Township to issue said Bonds pursuant to said election and to deliver the same to your Relator

Your Relator shows that the clerk of said Township Allen Husted is now and ever has been ready to perform his duty in the

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premises and does not refuse so to do
Your Relator in consideration of
the premises therefor prays your Honor to grant
that an alternative writ of Mandamus issue
directed to the said John Piatt Supervisor as afore-
said commanding and compelling him
under the penalties of the law to make execute
and deliver to the President or Secretary of said
Company or other person authorized by them
said Township bonds of the description number
tenor and effect and amount as hereinbefore
stated and set forth And that said John Piatt
Supervisor as aforesaid make Subscription to
the capital Stock of said Company for and on
behalf of said Township upon the Subscription
books of said Company of the said sum of Twelve
Thousand three hundred dollars in manner
as hereinbefore stated as having been voted
for at said election and commanding him
generally to do and perform all the duties
which said act and Amendatory act and the
said vote of said Township under the same
requires at his hands And Your Relator will
ever pray &c.

The People of the State of Illinois
Upon the Relation of "The American
Central Railway"
By Shallenberger Bennett & Henderson
their attorneys

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State of Illinois } ss
Henry County }

Circuit Court of Henry County
October ~~Township~~ Term A.D. 1860

The People of the State of Illinois
upon the Relation of the "American
Central Railway" Complainants } Petition for Mandamus

vs

John Piatt Supervisor of Weller
Township Henry County Illinois

Wheeler B Sweet one
of the Directors of the "American Central
Railway" and agent to receive the bonds
of Weller Township in Henry county and State
of Illinois duly authorized by the President
of said "American Central Railway as stated
in the foregoing Petition being first duly sworn
upon his oath says that the matters and things
in the above Petition or Relation stated and con-
tained are true in substance and in fact
so far as stated upon his knowledge and
that the matters and things therein stated and
contained so far as stated upon his information
and belief are true as he is informed and
believes

Subscribed and sworn to before
me this 22d day of September A.D. 1860 } Wheeler B Sweet

John S Bennett
Notary Public

Seal

Thos Wiley Jr clerk of Henry Co circuit court
Issue an alternative writ of Mandamus
as prayed for in the above foregoing petition
returnable on the 15th day of October 1860

Kewanee Ills
Sept 22d 1860

H. Howe
Judge 6th Circuit
of Illinois

(Exhibit "A")

An Act To amend an Act entitled "An act to
Incorporate the Western Air Line Railroad company"
Sec 1. Be it enacted by the people of the State of Illinois
represented in the General Assembly. That the
name of the Name of the said Western Air Line Rail
road company be and the same is hereby changed
to the name American Central Railway; and
the said corporation by its said new name shall
have all the powers privileges franchises and im-
munities and continue in the same rights and
relations as to others and be liable on its existing
contracts the same as it was or could be under its
charter and under the laws of Illinois before the name
was so changed
Sec 2 In addition to the powers and authority already
conferred by the act to which this is an amendment
the several Townships through which said Railroad
is or may be located and also all the townships on
each side of said Railroad line any portion of

which shall be within four miles of the same now organized or which may hereafter organized are severally authorized and empowered to subscribe in their corporate capacity to the capital Stock of said Railroad company such an amount each as they may severally determine; not to exceed Sixty cents per acre on the land embraced in such Township at the time of voting on the proposition as hereinafter provided and shall have full power and authority to issue their bonds to the amount of such subscription bearing interest at the rate of ten per cent per annum both principal and interest payable at such time and times as said Township may severally provide. Provided however that said subscription to the capital Stock of said Railroad company shall be approved by a majority of the votes polled at any election to be held for that purpose in such Townships respectively as hereinafter provided

Sec 3 Whenever any five or more of the voters of any such township shall deliver a requisition to the clerk thereof stating the amount proposed to be subscribed to said capital Stock; the number of bonds to be issued; the respective amount thereof; no bond exceeding in amount one hundred dollars; the time when such bonds and interest shall be made payable and requiring such clerk to call an election for the purpose of approving or disapproving such

Page 13 Thos Riley Jr clerk of Henry Co circuit court
Issue an alternative writ of Mandamus

Page 15 proposed subscription it shall be and is hereby made
his duty within ten days from the time such requisition
shall be delivered to him or left at his place of resi-
dence to give notice of such election by posting or causing
to be posted three notices thereof in three public places in
said Township at least ten days previous to such election
Said requisition may be in the following form:
To the clerk of the Township of — county of —
and state of Illinois
Pursuant to the Statute in such case made and
provided we the undersigned voters of said township
do hereby require to call an election to be held in
said township for the purpose of voting for or against
the subscription by said township to the capital Stock of
the — Railroad company to the amount of —
thousand dollars the bonds of said Township bear-
ing ten per cent interest per annum to be issued
therefor as the law directs in the following amounts
and payable at the following times:
— Bonds of $— each payable — years from
date (as the case may be) Dated this — day
of — AD 18— (names of Voters) The notice
of such election may be in the following form:

Election Notice.

Township of —
County of —
State of Illinois

Whereas a requisition has been delivered
to me signed by upwards of five legal voters

of said township requiring me to call an election for the purpose of voting for or against the subscription by the said Township to the capital stock of the —— Railroad company to the amount of —— thousand dollars the bonds of said township bearing interest at the rate of ten per cent per annum for that purpose to be issued in the following sums payable at the following times: (Here enumerate bond set forth in requisition.) Now therefore in compliance with such requisition and by virtue of the authority in me vested by law I do hereby give notice that an election will be held at —— in said Township on — the — day of —— A.D. 18— for the purpose of voting "In favor of subscription" or "Against subscription" to the capital stock of said Railroad company and the issuing of the bonds of said Township in manner and form set forth therein. Dated this — day of — A.D. 18—

(Name) Clerk of said township

Sec 4 On the day of such election between the hours of eight O'clock A.M. and ten O'clock A.M. the voters assembled shall proceed to organize by choosing from amongst their number three persons to act as judges of election and two to act as clerks of said election after the manner provided in general elections and who are hereby invested with equal power and authority as judges and clerks of general elections and shall conduct the same when not otherwise

provided by this act after the manner in which general elections are conducted in this State and shall be entitled to the same compensation as is allowed judges and clerks thereof

Sec 5 It shall be and is hereby made the duty of the judges and clerks of said township election, at the close thereof which shall be five Oclock in the evening of said day to certify at the foot of the poll-books of said election the result thereof and to deliver such poll-books and certificates to the clerk of such township whose duty it shall be to file one of the same in his office and the other in the office of the clerk of the county court of said county within ten days from the day of such election

Sec. 6 It shall be the duty of the county clerk annually thereafter to compute and assess upon all the taxable property returned by each of said townships which shall have voted to subscribe a sufficient amount to pay such portion of the principal and interest as may become due annually on all bonds issued by the respective towns as well as all the expenses attending the election levying collecting and disbursing said tax or incurred in any manner in carrying out the provisions of this act which tax shall by said clerk be extended upon the collection Books as other taxes are and shall be collected and its payment enforced in the same manner and at the same time as the taxes for State and county purposes are now or may be

collected and enforced for which services the clerk of said county and the collector shall be entitled to the same fees and percentage as are allowed in other cases for like services to be paid out of said township tax Provided that nothing

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herein contained shall be so construed as to prevent a further vote or votes being taken on the same subject matter by any township within the purview of this act and in the same manner

Sec 7 In all cases when such election shall result in favor of the subscription herein authorized it shall be the duty of the Supervisor of such township to make such subscription and receive from said company the proper certificates therefor; he shall also execute in the corporate name and under the corporate seal of said township bonds of said township and deliver the same to the President or Secretary of said company in proportional instalments as calls shall be made for payment of other subscriptions to the capital stock of said Railroad company Such bonds shall be signed by the Supervisor and countersigned by the clerk of the township in the name of which they shall be issued and shall have interest coupons thereunto attached & be signed by said clerk and it shall be his duty to make and preserve a record of the issueing and delivering thereof Provided that any dividend profits or proceeds that may from time to time be receivable on said certificates of Stock shall be applied to the payment of

allowed Judges and Clerks thereof

Page 19 the principal or interest of said township bonds as the same may become due together with all expenses connected with the same and to this end such proceeds shall be paid over by the township officer receiving the same to the county treasurer to be by him disbursed for the use of such township as hereinafter provided

Sec 8 It shall be the duty of the treasurer of the county in which such township or townships may be situated to pay out from time to time to the lawful holders of said bonds as the same shall be presented to him such amount or amounts as may be due thereon as well as all necessary costs and charges; making proper endorsement or taking proper vouchers therefor He shall also keep an account with each township making subscription as aforesaid of all monies received by him and paid out on account of such township which account shall at all times be opened to the inspection of all persons wishing to examine the same

He shall also file in the office of the clerk of such township on the first Monday in August of each year a full account and report of his doings under this act and shall be entitled to receive for his services herein a like compensation as allowed him in other cases to be paid from such township tax

Sec 9 Such Treasurer shall on the expiration of his term of office surrender and deliver

up to his successor all the books papers moneys or effects of whatever nature that may have come into his possession by virtue of this act and for any wilful misappropiation or conversion to his own use of any moneys that may come into his hands under the provisions of this act he shall be ~~adjudged~~ deemed guilty of and punishable for embezzlement

Sec 10 The taxes to be collected from said Railroad company for ~~the~~ county and township purposes by the several townships through which said Railroad runs shall be paid to and set apart by the county treasurer as a sinking fund to redeem the principal of the bonds issued by any township or townships in such county

Sec 11 At all elections for Officers or other questions voted upon by the Stockholders of said company the Supervisor of the town or towns that may subscribe to the stock of said company shall represent and cast the vote to which said stock shall be entitled

Sec 12 No neglect omission irregularity or want of technicality on the part of any person or persons authorized to carry out the provisions of this act shall inure to the loss defeat or disadvantage of said Railroad company or other holders of the bonds of said township nor to defeat or delay on the subscription to the capital stock of said Railroad company nor on the assessment levying and collecting of the taxes for the payment

of said bonds nor for any other matter or thing done under or by virtue of this act Provided the provisions of the same shall have been substantially complied with

Sec 13 This act shall take effect and be in force from and after its passage And any part or parts of the act to which this is an amendment inconsistent with the provisions hereof are hereby repealed

United States of America
State of Illinois } ss

I O M Hatch Secretary of the State of Illinois do hereby certify that the foregoing is a true copy of an enrolled law now on file in my office In witness whereof I have hereunto set my hand and affixed the great Seal of State at the city of Springfield this 15th day of March AD 1854

O M Hatch
Secretary of State

"Exhibit B"

To the clerk of the Township of Weller County of Henry and State of Illinois

Pursuant to the statute in such case made and provided we the undersigned voters of said Township do hereby require you to call an election to be held in said township for the

Page 22.

purpose of voting for or against the subscription by said Township to the Capital Stock of the American Central Railway company to the amount of Twelve thousand and three hundred ($12.300) Dollars

The Bonds of said Township bearing ten percent interest per annum to be issued therefor as the law directs in the following amounts and payable at the following times

Four hundred and thirty Bonds of ten ($10.) Dollars each payable on or before the expiration of five years from the date of the issuing thereof

Two Hundred Bonds of twenty ($20) Dollars each payable on or before the expiration of ten years from the date of the issuing thereof

Eighty bonds of fifty ($50) dollars each payable on or before the expiration of fifteen years from the date of the issuing thereof

The money arising from the sales of the Bonds to be expended in preparing the road-bed for the iron or so much thereof as necessary in the township

Dated this 12th day of May AD 1869

(Exhibit "C")

Election Notice

Township of Miller }
County of Henry } State of Illinois

Whereas a requisition has been delivered

to me signed by upwards of Five Legal Voters of said Township, requiring me to call an election for the purpose of voting for or against the Subscription by said Township to the capital Stock of the American Central Railroad Company to the amount of Twelve thousand three hundred (12.300) Dollars the Bonds of said Township bearing interest at the rate of Ten per cent per annum for that purpose to be issued in the following sums payable at the following times Four hundred and thirty (430) Bonds of ten ($10) Dollars each payable on or before the expiration of Five years from the date of the issuing thereof Two hundred (200) Bonds of Twenty ($20) dollars each payable on or before the expiration of ten years from the date of the issuing thereof Eighty (80) Bonds of ($50) dollars each payable on or before the expiration of fifteen years from the date of the issueing thereof. The money arising from the sale of the Bonds to be expended in preparing the roadbed for the iron or so much thereof as may be necessary in the township Now therefore in compliance with such requisition and by virtue of the authority in me vested by Law I do hereby give Notice that an election will be held at Bishop Hill in said Township on Wednesday the 25th day of May A.D 1859 for the purpose of voting "In favor of Subscription or against Subscription" to the capital Stock of said Railroad company and the issueing

of the Bonds of said Township in manner and form set forth herein

Dated this 12th day of May AD 1859

Copy attest } Allen Hassell
Town Clerk

I Daniel Bonar County Clerk in and for the county of Henry and state of Illinois do hereby certify that the foregoing is a true copy of the notice of an election held at Bishop Hill in the township of Weller on the 25 day of May AD 1859 for the purpose of voting in favor of subscription or against subscription to the Capital Stock of the American Central Railway Stock the original of which is filed in my office Witness my hand an official seal at my office in Cambridge this 17th day of Sept AD 1860

Seal

D Bonar Co Clerk
By John Masson Deputy

("Exhibit D")

At an Election held at Bishop Hill in the Town of Weller County of Henry and State of Illinois on the 25th day of May in the year of our Lord One thousand eight hundred and fifty nine (1859) for the purpose of voting for against the subscription by the said Township to the capital Stock of the American Central Railway Company the following is the names of voters

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Names of Voters		Names of Voters	
J W Edgerton	1	S. Swanson	36
J Ericson	2	Isaac Sprouse	37
J McComas	3	M Sprouse	38
J J Brown	4	T. M Sprouse	39
Wm M Leggett	5	Lowe Limbeck	40
A J Rosinburn	6	Asa Reeves	41
Ed P. Condrey	7	Jonas Westland	42
Eli K Munk	8	John Oslin	43
Henry Emery	9	Hans Norstrom	44
Ed Housted	10	P.O Blomberg	45
R. Fernan	11	Jacob Brubeu	46
P. M Victstrom	12	John Lusay	47
James M Rosinburn	13	Eric Olson	48
Isaac Booher	14	Wm Taggart	49
J. S Snyder	15	Michael Grant	50
Thomas Maxwell	16	David Sprouse	51
Abraham Bennett	17	John Bunquist	52
Ed. Fass	18	P J Blomberg	53
J J Friend	19	Jonas Unstrom	54
N K Atterberry	20	Benj Sprouse	55
Aaron Davis	21	John Nalin	56
Thos Brumley	22	Reuben Irons	57
Joseph Copeland	23	Andrew Stenberg	58
L D Pinckney	24	Olof Frendle	59
Hearvey Fry	25	Olof Olson	60
John Collins	26	Lawe Peterson	61
Jame Fernan	27	Ed Linstrom	62
D Evans	28	Johnson Odene	63

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.	John Bjork	29	Lowe Larson	64
.	Miles Green	30	~~Enoch Nordlund~~	
.	M Johnson	31	Swan Peterson	65
.	Andrew Nilsson	32	Eric Olins	66
.	Olof Broberg	33	J Jacobson	67
.	John Nelsonius	34	Eric Nordlund	68
.	Peter Peterson	35	A Sherstrom	69

Canvass of the votes taken at the Election at Bishop Hill in favor of Subscription. ||| ||| ||| ||| ||| ||| ||| ||| ||| ||| |||| = 39

Against Subscription ||| ||| ||| ||| ||| ||| = 30

Certified by us { Allen Hurlbut, A J Rosenbaum } Clerks of Election. { Ele K Manck, E P Condreay, Henry Emery } Judges of Election

State of Illinois } ss.
Henry County } I, Daniel Bonar clerk of the County Court in and for said county and state do hereby certify that the foregoing is a true and correct copy of an election held at the time and place and for the purposes therein specified. Witness my hand and official seal at my office in Cambridge this 17th day of September A D 1860

Seal

D Bonar Co Clk
By John Masson Depy

Ericson

(Exhibit "E")

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Whereas under the provisions of the act of the Legislature of this State approved February 21st 1859 entitled "An Act to amend an Act entitled an Act to incorporate the Western Air Line Railroad Company" certain townships in the counties of Henry and Mercer have severally voted to subscribe certain amounts to the capital Stock of this Company and to issue Bonds to pay therefor as follows The Township of Galva in Henry County voting to issue Twelve thousand six hundred dollars of bonds and the Township of Weller in Henry County voting to issue Twelve thousand three hundred dollars the money arising from the sale of the bonds in the said two townships of Henry County to be expended in preparing the road-bed for the iron or so much thereof as may be necessary in the said townships, the Township of Greene in Mercer county voting to issue Thirteen thousand dollars the township of Mercer in Mercer County voting to issue Thirteen thousand ~~dollars~~ three hundred dollars and the township of New Boston in Mercer county voting to issue Eighteen thousand dollars the three last mentioned townships by the terms of their votes making the issue of their respective bonds to depend upon certain other expressed conditions to be kept and performed by this company

1st Now therefore be it Resolved that this company accepts and agrees to receive the several subscriptions

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of the said several Townships for the above named several amounts respectively voted by them on the conditions respectively named and will receive the said bonds at their par value therefor from the townships subscribing

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2d Resolved further That the subscription of the Stock by the said Township of Galva in the County of Henry be and is hereby required to be paid in the bonds of said township at par as follows. One half thereof when the work of grading shall be resumed on the road within said township One fourth thereof in thirty days thereafter and the remaining fourth in sixty days after the work of grading has been recommenced

3d Resolved In like manner That the subscription of Stock by the said township of Weller in Henry County be and is hereby required to be paid in the bonds of said Township of Weller at par in instalments as follows. One half thereof when the work of grading shall be recommenced on the line of road within the Township of Weller One fourth thereof in thirty days thereafter And one fourth in sixty days after the said work of grading has been recommenced

4th Resolved That the Secretary of this Company be instructed on receiving the bonds of the above named two townships in payment of their stock as aforesaid to issue Stock certificates to the said Townships to the

amount of their Several Subscriptions

5th Resolved That inasmuch as the Subscription of the said three Townships in Mercer County accepted as aforesaid by this Company are made on this among other conditions that their bonds shall not be issued until the iron rails for said road are laid down thereon from Galva to Nekoma No call for payments on said Subscription shall at present be made but that such requirements of installments to be paid shall be made hereafter only in view of the performance by this Company of the said named condition and other conditions of the Subscriptions of said townships

Which said preamble and resolutions were unanimously adopted

I hereby certify that the foregoing is a true and correct copy of the preamble and resolutions adopted by the Board of Directors of the American Central Rail as entered of record at a meeting of said Board held at Galva in Henry County on the 24th day of June 1859

In Testimony whereof I have subscribed my name and affixed the Corporate seal of said Railway this first day of July Eighteen hundred and fifty nine

Edwd E Tobey
Secretary

Page 30

(Exhibit "F")

December 15th 1859

John Platt Esq

Supervisor of the Township of Wells

Henry County Illinois

Sir: The American Central Railway having recommenced & now continuing & being about to complete entirely the grading &c of its road within the township of Wells you are in pursuance of certain Resolutions of the Board of Directors of said Railway passed on the 29th day of June 1859 & of which a copy was furnished you on the 25th ~~day~~ of July thereafter, hereby requested to deliver to Wheeler B Sweet as agent appointed by me to receive the same, the Bonds of your said Township to the amount of Twelve thousand three hundred Dollars in payment of that amount of subscription voted by said Township to be made to the capital stock of the said American Central Railway & created & made in lieu & lieu in accordance with the conditions of said vote You will deliver the said bonds (as ordered by the Board of Directors of said Railway to be called for) as follows One half thereof being $6.150 on the service of this notice, One fourth thereof being $3.075 in thirty days thereafter & the remainder being $3.075 in sixty days from said service and on the receipt of the said respective proportions of your said Township

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subscription so voted as aforesaid the Secretary of the said Railway is instructed to issue the proper stock certificate therefor

Respectfully

Robt C Schenck

President of the American Central Railway

("Exhibit G")

American Central Railway

No 28 State of Illinois Shares $100. each

Received of Weller Township by John Piatt its Supervisor Six thousand and one hundred & fifty dollars being the first instalment on one hundred & twenty three shares in the capital stock of the American Central Railway

Dated at Galva Ills this 29th day of December 1859

$6.150 Ira I Tenn

Treasurer

("Exhibit "H")

I the undersigned Supervisor of the Township of Weller in Henry County and State of Illinois do by virtue of and in accordance with the provisions of an Act of the Legislature of said State entitled an act to amend an entitled an act to incorporate the Western Air line Railroad Company approved February 21st AD 1857 do hereby subscribe and agree to pay to the capital Stock of the American Central Railway Twelve thousand three hundred dollars payable in the Bonds of said

Township as follows to wit:

Four thousand three hundred

Page 82 (4300) Dollars in Bonds ten dollars each payable on or before the expiration of five years from the date of the issueing thereof

Four thousand (4000) Dollars in Bonds of Twenty dollars each payable on or before the expiration of Ten years from the date of the issueing thereof

Four thousand (4000) Dollars in Bonds of fifty Dollars each payable on or before the expiration of fifteen years from the date of the issueing thereof with interest Coupons thereunto attached at the rate of ten per cent per annum and payable annually, Interest and principal payable at the County Treasurers office of said county of Henry in the state of Illinois

Said amount of Twelve thousand three hundred dollars (12300) having been voted by a majority of the legal voters of said Township, to be subscribed at an election held in said Township on the twenty fifth day of May A D 1859 in accordance with the act above mentioned dated this the — day of A D 18

Supervisor of the Township of Weller

Notice

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To John Pratt Esq

Supervisor of Weller Township County of Henry and State of Illinois

Sir

You will take notice that the People of the State of Illinois upon the Relation of the "American Central Railway" will make application to the Judge of the Eighth Judicial Circuit in the State of Illinois for the issuance of an Alternative Mandamus against you as Supervisors of said Township commanding you to issue the Bonds of said Township in accordance with the vote of the People of said Township at an election held for that purpose on the 25th day of May AD 1859 and in accordance with the Prayer of the Petition of the said People of the State of Illinois upon the relation of the said "American Central railway to be presented to the said Judge or show cause why you should not do so. You are further notified that said Petition will be presented and an application made to the said Judge at Kewanee at his office in said Town of Kewanee on the 22nd day of September AD 1860 at One Oclock P M of said day and that you will be present if you chose to resist the said application

September 15th AD 1860

"The People of the State of Illinois

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upon the relation of the
American Central Railway"
Page 34 By Shallenberger Bennett & Henderson
their attorneys

State of Illinois }
County of Henry } ss

Being first duly Sworn upon his oath says that he served the within Notice by delivering a true and substantial copy thereof to said John Piatt this the seventeenth day of September A D 1860 Subscribed and Sworn to before me this eighteenth day of September A D 1860 } Wheeler B Sweet

Seal Wm Ayres. Notary Public.

And afterwards to wit on the 28th day of September A D 1860 an Alternative Writ of Mandamus issued out of said court in said cause which writ is in the words and figures following to wit.

State of Illinois }
County of Henry } ss

The People of the State of Illinois
Page 34 John Piatt Supervisor of Weller Township Henry County Illinois; Whereas the

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People of the State of Illinois upon the relation of the "American Central Railway" did on the 26th day of September AD 1860 file in the office of the clerk of the Circuit court of the county of Henry and State of Illinois their Petition under oath for an alternative writ of Mandamus which said Petition is in the words and figures following to wit:

State of Illinois }
County of Henry } ss

Henry County Circuit Court
October Term AD 1860

To the Hon. the Judge of the Sixth Judicial Circuit of the State of Illinois In Vacation after the April Term AD 1860 of said Court

In the Name of the People of the State of Illinois "The American Central Railway" incorporated under and by virtue of the Legislature of said State Respectfully relates and shows unto your Honor, That by an Act of the Legislature of said State "Approved February 9th 1853" The Western Air Line Railroad Company was duly incorporated and that said Legislature afterwards by an Act Approved February 21st AD 1859 Entitled "An Act to Amend an Act entitled an act to incorporate the Western Air Line Railroad Company, provided that the name of the said Western Air Line Railroad Company be changed to the name

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of the American Central Railway"

Page 36

Your Relator further Shows that said Amendatory act further provides that in addition to the powers and authority already conferred by the act to which the last mentioned act is an amendment the several Townships through which said Railroad is or may be located and also all the Townships on each side of said Railroad line any portion of which shall be within four miles of the same now organized or which may hereafter be organized are severally authorized and empowered to subscribe in their corporate capacity to the capital stock of said American Central Railway such an amount each as they may severally determine not to exceed Sixty cents per acre on the Land embraced in such Township at the time of voting on the proposition to subscribe as hereinafter provided and shall have full powers and authority to issue their bonds to the amount of such subscription bearing interest as provided by said act which said act is hereto attached marked ("Exhibit A") and made part of this petition

Your Relator further relates and Shows that said American Central Railway is located and runs through the Township of Weller in the said County of Henry and which is also known and described as Township

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numbered Fourteen (14) North of Range Numbered Three (3) East of the fourth Principal Meridian in said State of Illinois

Your Relator further relates and shows that in pursuance of the said Amendatory Act of the said Legislature five legal voters of said Township of Weller delivered to the Clerk of said Township a requisition in writing stating in conformity with the provisions of Section 3 of said Act the amount proposed to be subscribed to the capital stock of said American Central Railway the number of Bonds to be issued the respective amounts thereof the time when the said bonds and interest shall be made payable and requiring said Clerk to call an election for the purpose of approving or disapproving such proposed subscription a copy of which said requisition is hereunto attached marked ("Exhibit B") and made part of this Petition and which said Requisition was filed by said Clerk of said Township of Weller on or about the 12th day of May AD 1851

Your Relator further relates and shows that within ten days after the said requisition was delivered and filed with the Town Clerk as aforesaid and in pursuance of said Statute said Clerk gave notice of such election by posting up written or printed notices in three

37 public places in said Township of Weller that

an election would be held at Bishop Hill in said Township on the 25th day of May
Page 38 AD 1859 for the purpose of voting for or against the subscription by said Township to the Capital stock of "the American Central Railway" as provided for by said Statute a copy of which said notice is hereunto attached marked ("Exhibit C") and made a part of this petition

Your Relator further shows to your Honor that on said 25th day of May AD 1859 between the hours of eight Oclock A.M. and ten Oclock A.M. of said day at Bishop Hill aforesaid the voters of said Township assembled in pursuance of said Law and said notice and chose from amongst their number Eli K Manck E. P. Condray and Henry Emery as Judges of election and Allen Hewlett and H J Rosinbom as clerks of said election according to said statute and in all respects said election was conducted according to the Law governing general elections in the State of Illinois Excepting when otherwise provided for by said Act That said Judges and clerks closed said election at the hour of five Oclock P.M. of said day as your Relator is informed and believes and certified at the foot of the Poll Books of said election that there were cast at said election sixty nine votes of which said votes thirty nine
Page 38 were for said subscription and thirty against

Page 39

said subscription and that they delivered two of the said Poll Books to the town clerk of said Township. One of which the said town clerk filed in his office and the other in the office of the clerk of the county court of said Henry County within ten days after said election was held as aforesaid a copy of which said Poll book is hereunto attached marked ("Exhibit D") and made part of this Petition

And your Relator further relates and shows unto your Honor that at said election held and conducted as hereinbefore stated a majority of the voters of said Township voting at said election voted in favor of subscribing to said capital stock and in so voting decided as a corporate body to take capital stock in said Company by subscription to the amount of twelve thousand three hundred dollars for which said township was required by said election and under the law to issue its Bonds bearing interest at the rate of ten per cent to be issued in the following manner and payable at the following times

1 Four Hundred and thirty bonds of ten dollars each payable on or before the expiration of five years from the date of the issuing thereof

2 Two hundred bonds of twenty dollars each payable on or before the expiration of ten years from the date of the issuing thereof

3. Eighty bonds of fifty dollars each

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payable on or before the expiration of fifteen

years from the date of the issuing thereof

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And Your Relator avers that there are in said Township Twenty two thousand and five hundred acres of land and that said sum of money so voted to be raised as aforesaid does not exceed sixty cents per acre on the Lands in said Weller Township

And Your Relator further relates and shows that after such election it became and was the duty of the supervisor of the said Township of Weller to execute in the corporate name and under the corporate seal of said Township if said Township has any corporate seal the Bonds of said Township of the numbers amounts tenor and effect as hereinbefore described and to deliver the same when made and executed in manner and form as aforesaid to the President or Secretary of said Railroad Company in proportional installments as calls shall be made for payment of the other subscriptions to the stock of said Railway Company and to sign said Bonds with Coupons attached according to said act of the Legislature and the proceedings had under the same when thereunto afterwards requested by the President or Secretary of said Company

Your Relator further shows that John Ratt at the time of said Election was and now is the Supervisor of said Township

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of Weller whom Your Relator prays may be made a party defendant to this Petition

And Your Relator further shows that one Wheeler B Sweet who was at the time of said Election a Director of said Railway company and who then was and now is authorized by the said American Central Railway to collect Subscriptions and by the President of said Company to call for and receive of said John Pratt said Township Bonds and to deliver to him on the reception of said Bonds receipts for the said Bonds in payment for the amount of Stock so subscribed by the said township and paid in said Bonds by said Township

And Your Relator further relates and shows that the Board of Directors of said Company at a meeting of said Board held at Galva in said Henry County on the 24th of June 1859 passed a resolution that the Subscription of Stock by said Township of Weller made at said election and in pursuance of said act of the Legislature be required to be paid in the Bonds of said Township of Weller at par and in installments as follows, One half thereof when when the work of grading shall be recommenced on the line of said road within the Township of Weller One fourth thereof on thirty days thereafter and one fourth in sixty days after said grading shall be recommenced, and that the Secretary of said company be instructed

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on receiving the Bonds of said Township in payment of said Stock to issue certificates
Page 42 of Stock to said Township of Weller to the amount of their said Subscription a copy of which said resolutions is hereunto attached marked ("Exhibit E") and made part of this Petition

Your Relator further shows that a copy of said Resolutions was served upon said John Piatt Supervisor as aforesaid on the 25th day of July AD 1859 before which said time said Railway company had recommenced the work of grading upon said Railway within the Township of Weller and upon the line of said Railroad and that the President of said Railway Company caused a notice in writing to be served upon said John Piatt Supervisor as aforesaid on the 9th day of January AD 1860 a copy of which is hereto attached marked ("Exhibit F") and made a part of this Petition in and by which said notice said President requested said John Piatt Supervisor as aforesaid to issue and deliver to said Wheeler B Smith agent as aforesaid the bonds of said Weller Township hereinbefore mentioned in manner following to wit. One half thereof being Six thousand one hundred and fifty dollars on the service of said notice, One fourth thereof being three
Page 42 thousand and seventy five dollars in thirty

Page 42

days thereafter And the remainder being three thousand and seventy five dollars in sixty days from said service of said notice And then and there on behalf of said company tendered to said John Piatt Supervisor as aforesaid a receipt for the said bonds to the amount of the said sum of Six thousand one hundred and fifty dollars signed by the Treasurer of said American Central Railway Company which were required to be issued at the time of the service of said notice upon the said Supervisor according to said Resolution of said Board of Directors and said notice a copy of which said Receipt is hereunto attached marked ("Exhibit G") and made a part of this Petition

And Your Relator further Shows that at the said time last mentioned that said Wheeler B Sweet having full authority so to do offered to said John Piatt blank subscriptions to the Stock of said Company which said Blank subscription is hereto attached marked ("Exhibit H") and made a part of this Petition

And Your Relator further shows that said amount by said Sweet then and there demanded was Six thousand one hundred and fifty dollars which said amount was no more than the proportional amounts of subscriptions voted for as aforesaid as calls had been made prior to that time on other subscriptions to the stock

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of said Company

Your Relator further shows that it was
Page 44 the duty of said John Pratt upon the request and
demand made by said Wheeler B. Sumner on behalf
of Your Relator as aforesaid to have subscribed
to said stock and to have issued forthwith to your
Relator the Bonds of said Township to the amount
of Six thousand one hundred and fifty dollars
payable as follows: Two hundred and fifteen bonds
of ten dollars each payable on or before the expiration
of five years from the date thereof One hundred
bonds of twenty dollars each payable on or before
the expiration of ten years from the date thereof
Forty bonds of fifty dollars each payable on or
before the expiration of fifteen years from the
date thereof all of said Bonds with interest cou-
pons attached at the rate of ten per cent per
annum and payable annually at the
county Treasurers office in Henry County
But your Relator shows that said John Pratt
then and there absolutely refused and still
does refuse to issue and deliver to your Relator
the Bonds of said Township as he was by law
and the vote of said Township required to do
And that Your Relator has no adequate remedy
at Law against said John Pratt Supervisor
as aforesaid of the said Township of Wells
or against the said Township of Wells other
than by Application for a writ of Mandamus

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commanding and compelling said John Piatt as Supervisor of said Township to issue said Bonds pursuant to said Election and to deliver the same to Your Relator

Your Relator shews that the Clerk of said Township Allen Neuled is now and ever has been ready to perform his duty in the premises and does not refuse so to do

Your Relator in consideration of the premises therefore prays Your Honor to grant that an alternative writ of Mandamus issue directed to the said John Piatt Supervisor as aforesaid commanding and compelling him under the penalties of the law to make execute and deliver to the President or Secretary of said Company or other persons authorized by them said Township bonds of the description number tenor and effect and amount as hereinbefore stated and set forth And that said John Piatt Supervisor as aforesaid make subscription to the Capital Stock of said Company for and on behalf of said Township upon the subscription books of said Company of the said sum of Twelve thousand three hundred dollars in manner as hereinbefore stated as having been voted for at said election And commanding him generally to do and perform all the duties which said act and Amendatory act and the said vote of said Township under the

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same requries at his hands And Your Relator will ever pray &c

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The People of the State of Illinois
Upon the Relation of "The American
Central Railway"
By Shallenberger Bennett & Henderson
Their attorneys

State of Illinois } ss. Circuit Court of Henry County
Henry County } October Term AD 1860

The People of the State of Illinois
Upon the Relation of the American
Central Railway, Complainant } Petition for Mandamus

vs

John Pratt Supervisor of
Weller Township Henry County Illinois

Wheeler B Sweet one of the Directors of the "American Central Railway and agent to receive the Bonds of Weller Township in Henry county and State of Illinois duly authorized by the President of said American Central Railway as stated in the foregoing Petition being first duly sworn upon his Oath says that the matters and things in the above Petition or Relation stated and contained are true in substance and in fact so far as stated upon his knowledge and that the matters and things therein stated and contained so

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far as stated upon his information and belief are true as he is informed and believes

Subscribed and Sworn to before me
this 22d day of September AD 1860
(Seal) John I Bennett
Notary Public
} Wheeler B Sweet

Thomas Wiley Jr Clerk of Henry Co Circuit court
Issue an Alternative writ of Mandamus as
prayed for in the above & foregoing Petition returnable
on the 15th day of October 1860

J. M. Howe
Judge 6th Circuit of Illinois

Kewanee Ills Sept 22d 1860

("Exhibit A")

American Central Railway;

An Act To Amend Act entitled "An act
to Incorporate the "Western Air Line Railroad
Company"

Sec. 1 Be it enacted by the People of the State
of Illinois represented in the General Assembly
That the name of the said Western Air Line Rail-
road Company be and the same is hereby
changed to the name American Central
Railway and the said corporation by its said
new name shall have all the powers privileges
franchises and immunities and continue in
the same rights and relations as to others

and be liable on its existing contracts the same as it was or could be under its charter and under the laws of Illinois before the name was so changed

Sec 2 In addition to the powers and authority already conferred by the act to which this is an amendment the Several Townships through which said Railroad is or may be located and also all the Townships on each side of said Railroad line any portion of which shall be within four miles of the same now organized or which may hereafter be organized are severally authorized and empowered to subscribe in their corporate capacity to the Capital Stock of said Railroad company such an amount each as they may severally determine; not to exceed sixty cents per acre on the land embraced in such township at the time of voting on the proposition to subscribe as hereinafter provided and shall have full power and authority to issue their bonds to the amount of such subscription bearing interest at the rate of ten per cent per annum both principal and interest payable at such time and times as said township may severally provide Provided however that said subscription to the capital stock of said Railroad company shall be approved by a majority of the votes polled at any election to be held for that purpose

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in such townships respectfully as hereinafter provided

Sec 3 Whenever any five or more of the voters of any such township, shall deliver a requisition to the clerk thereof stating the amount proposed to be subscribed to said capital Stock the number of bonds to be issued, the respective amounts thereof; no bond exceeding in amount one hundred dollars; the time when such bonds and interest shall be made payable and requiring such clerk to call an election for the purpose of approving or disapproving such proposed subscription it shall be and is hereby made his duty within ten days from the time such requisition shall be delivered to him or left at his place of residence to give notice of such election by posting or causing to be posted three notices thereof in three public places in said township at least ten days previous to such election said requisition may be in the following form

To the clerk of the Township of county of and state of Illinois

Pursuant to the statute in such case made and provided we the undersigned voters of said township do hereby require you to call an election to be held in said township for the purpose of voting for or against the subscription by said township to the capital stock of the

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Railroad Company to the amount of
thousand dollars the bonds of said
Page 50 township bearing ten per cent interest per
annum to be issued therefor as the Law directs
in the following amounts and payable at the
following times

Bonds of $ each payable
years from date (as the case may be) dated
this day of A.D 18
(Names of Voters) The notice of such election
may be in the following form

Election Notice

Township of
County of
State of Illinois } Whereas a requisition has been
delivered to me signed by upwards of five legal
voters of said township requiring me to call an
election for the purpose of voting for or against
the subscription by the said township to the
Capital Stock of the Railroad Company
to the amount of thousand dollars the
bonds of said township bearing interest at
the rate of ten per cent per annum for that
to be issued in the following sums payable
at the following times (Here enumerate bonds
set forth in the requisition) Now therefore
in compliance with such requisition and
by virtue of the authority in me vested by law
Page 50 I do hereby give notice that an election

will be held at ni said township on
the day of AD 18 for the purpose of
voting in favor of subscription or against sub
scription to the capital Stock of said Railroad
company and the issueing of the bonds of
said township in manner and form set
forth herein Dated this — day of AD 18

.....

Clerk of said township

Sec. 4 On the day of such election between the
hours of eight O'clock A.M. and ten Oclock A.M
the voters assembled shall proceed to organize by
choosing from amongst their number three persons
to act as Judges of election and two to act as
clerks of said election after the manner pro-
vided in general elections and who are hereby
invested with equal powers and authority as judges
and clerks of general elections and shall conduct
the same when not otherwise provided by this act
after the manner in which general election
are conducted in this State and shall be entitled
to the same compensation as is allowed judges
and clerks thereof

Sec 5 It shall be and is hereby made the duty
of the judges and clerks of said township respec
at the close thereof which shall be five Oclock in
the evening of said day to certify at the foot of
the Poll books of said election the result thereof
and to deliver such poll books and certificates

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to the clerk of such township whose duty it shall be to file one of the same in his office and the other in the office of the clerk of the county court of said county within ten days from the day of such election sec. 6 or such as may be any of the county clerk annually thereafter to compute and assess upon all the taxable property returned by each of said townships which shall have voted to subscribe a sufficient amount to pay such portion of the principal and interest as may become due annually on all bonds issued by the respective towns as well as all the expenses attending the election levying collecting and disbursing said tax or incurred in any manner in carrying out the provisions of this act which tax shall by said clerk be extended upon the collection books as other taxes are and shall be collected and its payment enforced in the same manner and at the same time as the taxes for state and county purposes are now or may be collected and enforced for which services the clerk of said county and the collector shall be entitled to the same fees and percentage as are allowed in other cases for like services to be paid out of said Township tax Provided that nothing herein contained shall be so construed as to prevent a further vote or votes being taken on the same subject matter by any township within the provisions of this act and in the same manner

Page 53 Sec 7. In all cases when such election shall result in favor of the subscription herein authorized it shall be the duty of the Supervisor of such township to make such subscription and receive from said company the proper certificates therefor he shall also execute in the corporate name and under the corporate seal of said township the bonds of said township and deliver the same to the President or secretary of said company in proportional installments as calls shall be made for payment of other subscriptions to the capital stock of said Railroad company such bonds shall be signed by the Supervisor and countersigned by the clerk of the township in the name of which they shall be issued and shall have interest coupons thereunto attached to be signed by said clerk and it shall be his duty to make and preserve a record of the issuing and delivering thereof Provided that any dividend profits or proceeds that may from time to time be receivable on said certificates of stock shall be applied to the payment of the principal or interest of said township bonds as the same may become due together with all expenses connected with the same and to this end such proceeds shall be paid over by the township officer receiving the same to the county treasurer to be by him disbursed for the use of such township as here-

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after provided

Page 54 Sec 8. It shall be the duty of the treasurer of the county in which such township or townships may be situated to pay out from time to time to the legal holders of said bonds as the same shall be presented to him such amount or amounts as may be due thereon as well as all necessary costs and charges; making proper indorsement or taking proper vouchers therefor He shall also keep an account with each township making subscription as aforesaid of all monies received by him and paid out on account of such township which account shall at all times be opened to the inspection of all persons wishing to examine the same He shall also file in the clerk of such township on the first Monday in August in each year a full account and report of his doings under this act and shall be entitled to receive for his services herein a like compensation as allowed him in other cases to be paid from such township tax

Sec. 9 Such treasurer shall on the expiration of his term of office surrender and deliver up to his successor all the books papers moneys or effects of whatever nature that may have come into his possession by virtue of this act and for any wilful misappropriation or conversion to his own use

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of any money that may come into his hands under the provisions of this act he shall be deemed guilty of and punishable for embezzlement

Sec 10. The taxes to be collected from said Railroad company for county and township purposes by the several counties and townships through which said Railroad runs shall be paid to and set apart by the county treasurer as a sinking fund to redeem the principal of the bonds issued by any township or townships in such county

Sec 11 At all elections for officers or other questions voted upon by the Stockholders of said Company the supervisor of the town or towns that may subscribe to the stock of said company shall represent and cast the vote to which said stock shall be entitled

Sec 12 No neglect omission irregularity informality or want of technicality on the part of any person or persons authorized to carry out the provisions of this act shall ~~issue~~ insure to the loss defeat or disadvantage of said Railroad company or other holders of the bonds of said township nor to defeat or delay on the subscription to the capital stock of said Railroad company nor on the assessment levying and collecting of the taxes for the payment of said bonds nor for any other

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matter or thing done under or by virtue of this act Provided the provisions of the same shall have been substantially complied with

Sec 13 This act shall take effect and be in force from and after its passage and any part or parts of the act to which this is an amendment inconsistent with the provisions hereof are hereby repealed.

Approved February 21st 1857.

By the Governor

William H Bissell

United States of America }
State of Illinois } ss

I, O M Hatch Secretary of State of the state of Illinois do hereby certify that the foregoing is a true copy of an enrolled law now on file in my office In witness whereof I have hereunto set my hand and affixed the Great seal of State at the city of Springfield this 6th day of March A D 1857

O M Hatch
Secretary of State

("Exhibit B")

To the Clerk of the Township of Weller County of Henry and State of Illinois

Pursuant to the Statute in such case made and provided we the undersigned Voters of said Township do hereby require

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you to call an election to be held in said township for the purpose of voting for or against the subscription by said Township to the Capital Stock of the Amencain Central Railway company to the amount of Twelve thousand and three hundred ($12.300) dollars
The Bonds of said Township bearing ten per cent interest per annum to be issued therefor as the law directs in the following amounts and payable at the following times
Four hundred and thirty bonds of ten ($10.) dollars each payable on or before the expiration of five years from the date of the issuing thereof Two hundred Bonds of twenty ($20.) dollars each payable on or before the expiration of ten years from the date of the issuing thereof Eighty bonds of Fifty ($50) dollars each payable on or before the expiration of fifteen years from the date of the issuing thereof The money arising from the sale of the Bonds to be expended in preparing the road bed for the iron or so much thereof as necessary in the township
Dated this 12th day of May A.D 1859

"Exhibit 6"

Election Notice

Township of Millers
County of Henry } State of Illinois

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Whereas a requisition has been delivered to me signed by upwards of five legal voters of said Township requesting me to call an election for the purpose of voting for or against the subscription by said Township to the Capital Stock of the American Central Railroad Company to the amount of twelve thousand three hundred ($12.300) dollars the bonds of said Township bearing interest at the rate of ten per cent per annum for that purpose to be issued in the following sums payable at the following times Four Hundred and thirty (430) Bonds of ten ($10) dollars each payable on or before the expiration of five years from the date of the issueing thereof Two hundred (200) Bonds of twenty ($20) dollars each payable on or before the expiration of ten years from the date of the issueing thereof. Eeighty (80) Bonds of ($50) dollars each payable on or before the expiration of fifteen years from the date of the issuing thereof The money arising from the sale of the Bonds to be expended in preparing the road-bed for the iron or so much thereof as may be necessary in the township Now therefore in compliance with such requisition and by virtue of the authority in me vested by law I do hereby give notice that an election will be held at Bishop Hall in said Township on

Page 58 Wednesday the 25th day of May A.D 1869.

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for the purpose of voting in favor of Subscription or against Subscription to the capital Stock of said Railroad Company and the issuing of the Bonds of said Township in manner and form set forth herein

Dated this 12th day of May AD 1859

Copy attest Allen Hurlbut Town Clerk

I Daniel Bonar County Clerk in and for the County of Henry and State of Illinois do hereby certify that the foregoing is a true copy of the notice of an election held at Bishop Hill in the township of Weller on the 28th day of May AD 1859 for the purpose of voting in favor of Subscription or against subscription to the capital stock of the American Central Railway Stock the original of which is filed in my office

Witness my hand and official seal at my office in Cambridge this 17 day of Sept AD 1860

D Bonar Co Clk
By John Wasson Depy

("Exhibit D")

At an election held at Bishop Hill in the town of Weller County of Henry and State of Illinois on the 28th day of May in the year of our Lord one thousand eight hundred and fifty

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nnie (1859) for the purpose of voting for or against the subscription by the said Township to the Capital Stock of the American Central Railway Company the following is the names of voters

Names of voters		Names of Voters	
J W Edgerton	1	S Swenson	36
J Ericson	2	Isaac Sprouse	37
J McComas	3	M Sprouse	38
J J Brown	4	I. M Sprouse	39
Wm McLeggett	5	Lewis Lenbeck	40
A J Rosenbaum	6	Asa Reeves	41
E P Condrey	7	Jonas Westerlund	42
Eli K Mann	8	John Olson	43
Henry Emery	9	Hans Nordstrom	44
E Hensley	10	P O Blomberg	45
R Fennem	11	Jacob Bucken	46
P M Kistner	12	John Linsey	47
James McRosenbaum	13	Eric Olson	48
Isaac Booher	14	Wm Taggart	49
J S Snyder	15	Michael Grant	50
Thomas Maxwell	16	David Sprouse	51
Abraham Bennett	17	John Bungaard	52
E Fass	18	S J Blomberg	53
J J Friend	19	Jonas Vinstrom	54
W K Canterbery	20	Benj Sprouse	55
Aaron Davis	21	John Malone	56
Thos Brownlee	22	Reuben Irwin	57
Joseph Copeland	23	Andrew Stenberg	58
L D Pinckney	24	Olof Frenell	59

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Henry Fry	25	Olof Olson	60
John Collins	26	Lave Peterson	61
~~Isaac Seeman~~	27	E Lundstrom	62
D Evans	28	Johnson Odem	63
John Bjork	29	Love Larson	64
Miles Green	30	Swan Peterson	65
M Johnson	31	Eric Olmie	66
Andrew Walstrom	32	J Jacobson	67
Olof Brolin	33	Erick Hedlund	68
John Nelson	34	A Shustrom	69
Peter Peterson	35		

Canvass of the votes taken at the election at Bishop Hill in favor of Subscription ||||| ||||| ||||| ||||| ||||| ||||| ~~||||~~ |||| = 37

Against Subscription ||||| ||||| ||||| ||||| ||||| ||||| = 30

Certified by us

Allen Hurlbut, A J Rosinbum } Clerks of Election

Eli K Hauck, E P Lendrum, Henry Emery } Judges of Election

State of Illinois, Henry County } ss. I Daniel Bonar Clerk of the County Court in and for said County and State do hereby certify that the foregoing is a true and correct copy of an election held at the time and place and for the purpose therein specified Witness my hand and official seal at my office in Cambridge this 17 day of September A.D. 1860

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D Bonar Co Clerk
By John Wasson Dep'y

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("Exhibit E")

Whereas under the provisions of the act of the Legislature of this State approved February 21st 1857 entitled "An act to amend an act entitled an act to incorporate the Western Air Line Railroad Company" certain townships in the counties of Henry and Mercer have severally voted to subscribe certain amounts to the Capital Stock of this Company and to issue Bonds to pay therefor as follows The township of Galva in Henry county voting to issue Twelve thousand six hundred dollars of bonds and the township of Weller in Henry County voting to issue twelve thousand three hundred dollars the money arising from the sale of the bonds in the said two townships of Henry county to be expended in preparing the road bed for the iron or so much thereof as may be necessary in said townships the township of Green in Mercer county voting to issue thirteen thousand dollars The township of Mercer in Mercer county voting to issue thirteen thousand three hundred dollars and the township of New Boston in Mercer county voting to issue Eighteen thousand dollars, the three last mentioned townships by the terms of their votes making

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the issue of their respective bonds to depend upon certain their expressed conditions to be kept and performed by this company

1st Now therefore be it Resolved that this company accepts and agrees to receive the several subscriptions of the said several townships for the above named several amounts respectfully voted by them on the conditions respectfully named and will receive the said bonds at their par value therefor from the township subscribing

2d Resolved further that the subscription of Stock by the said township of Galva in the county of Henry be and is hereby required to be paid in the bonds of said township at par as follows One half thereof when the work of grading shall be resumed on the road within said township One fourth thereof in thirty days thereafter and the remaining fourth in sixty days after the work of grading has been recommenced

3d Resolved In like manner that the subscription of Stock by the said township of Weller in Henry County be and is hereby required to be paid in the bonds of said Township of Weller at par in instalments as follows One half thereof when the work of grading shall be recommenced on the line of road within the township of Weller One fourth thereof in thirty days thereafter and one fourth in sixty days after the same work of grading has been recommenced

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4th. Resolved That the Secretary of this Company be instructed on receiving the bonds of the above named two townships in payment of their stock as aforesaid to issue stock certificates to the subscriptions

5th Resolved That inasmuch as the Subscriptions of the said three townships in Mercer county accepted as aforesaid by this company are made on this among other conditions that their bonds shall not be issued until the iron rails for said road are laid down thereon from Galva to Aledona No call for payments on said subscriptions shall at present be made but that such requirements of installments to be paid shall be made hereafter only in view of the performance by this company of the said named condition and other conditions of the subscription of said townships, which said preamble and resolutions were unanimously adopted

I hereby certify that the foregoing is a true and correct copy of the preamble and resolutions adopted by the Board of Directors of the American Central Rail as entered of record at a meeting of said Board held at Galva in Henry County on the 24th day of June 1859

64 In testimony whereof I have subscribed my name and affixed the corporate seal of said Railway this first day of July Eighteen

hundred and fifty nine

Edwd E Tobey
Secretary

("Exhibit F")

December 15th 1859

John Pratt Esq
Supervisor of the township of Weller
Henry County Illinois

Sir: The American Central Railway having recommenced & now continuing & being about to complete entirely the grading &c of its road within the township of Weller, you are in pursuance of certain Resolutions of the Board of directors of said Railway passed on the 24th day of June 1859 & of which a copy was furnished you on the 25th of July thereafter hereby requested to deliver to Wheeler B Sweet as agent appointed by me to receive the same the Bonds of your said township to the amount of twelve thousand three hundred dollars in payment of that amount of Subscription voted by said township to be made to the capital Stock of the said American Central Railway created & made in sums and terms in accordance with the conditions of said vote You will deliver the said bonds as (ordered by the board of Directors of said Railway to be called for) as follows

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One half thereof being $6.150 on the service of this notice One fourth thereof being $3.075 six thirty days thereafter & the remainder being $3.075 six sixty days from said service and on the default of the said respective proprietors of your said township subscriptions so voted as aforesaid the Secretary of the said Railway is instructed to issue the proper stock certificates therefor

Respectfully

Robt L Schenck

President of the American Central Railway

("Exhibit G")

American Central Railway

No 28 State of Illinois Shares $100 each

Received of Weller Township by John Platt its Supervisor Six thousand and one hundred & fifty dollars being the first instalment on one hundred and twenty three shares in the capital stock of the American Central Railway Dated at Galena Ills this 29th day of December 1857,

$6.15.0

Ira I Penn

Treasurer

"Exhibit H"

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I the undersigned Supervisor of the Township of Weller in Henry County and State of Illinois do by vertue of and in accordance with the provisions of an act of the Legislature of said State entitled an act to amend an act Entitled an act to Incorporate the Western Air Line Rail Road Company approved February 21st A.D. 1857 do hereby subscribe and agree to pay to the Capital Stock of the American Central Railway Twelve Thousand three hundred dollars payable in the Bonds of said Township as follows to wit:

Four thousand three hundred ($4.300) Dollars in Bonds of twenty dollars each payable on or before the expiration of ten years from the date of the issuing thereof

Four thousand ($4000) Dollars in Bonds of fifty Dollars each payable on or before the expiration of fifteen years from the date of the issuing thereof with interest coupons thereunto attached at the rate of ten per cent per annum and payable annually Interest and principal payable at the county Treasurers office of said county of Henry in the State of Illinois

said bonds of twelve thousand Three hundred Dollars ($12.300) having been voted by a majority of the legal voters of said township to be subscribed at an election held in said Township on the twenty fifth day of May

A.D. 1859 in accordance with the act above

Page 68. mentioned dated the day of

A.D. 18

{ Supervisor of the
Township of Peoria

Notice

To John Platt Esqr

Supervisor of Weller Township

County of Henry and State of Illinois

Sir.

You will take notice that the People of the State of Illinois upon the relation of the "American Central Railway" will make application to the judge of the 16th Judicial circuit in the State of Illinois for the issuance of an alternative Mandamus against you as supervisor of said Township commanding you to issue the Bonds of said Township in accordance with the vote of the People of said Township at an election held for that purpose on the 25th day of May A.D. 1859 and in accordance with the Prayer of the petition of the said People of the State of Illinois upon the relation of the said American Central Railway to be presented to the said Judge or show cause why you should not do so You are further notified that said Petition will be presented and an application made to the said Judge at Kewanee

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at his office in said Town of Kewanee on the 22d day of September A D 1860 at One Oclock P.M. of said day and that you will be present if you chose to resist the said application

September 14th A D 1860

The People of the State of Illinois upon the relation of the "American Central Railway"

By Shallenberger Bennett & Henderson their attorneys

State of Illinois
County of Henry } ss

Being first duly sworn upon his oath says that he served the within notice by delivering a true and substantial copy thereof to said John Platt this the seventeenth day of September A D 1860

Subscribed and Sworn to before me this eighteenth day of September A D 1860
E & S Wm Ayres Notary Public

} Wheeler B Sweet

Now Therefore we being willing and desirous that justice may be done in premises aforesaid command you John Platt Supervisor of Weller Township Henry County Illinois to issue the Bonds of said Township in accordance with the votes of the People of said Township at an

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an election held for that purpose on the 25th day of May AD 1859 and in accordance with the prayer and petition of the people of the State of Illinois upon the relation of the American Central Railway or that you be and appear before our circuit court at the next term thereof to be holden at the court house in Lawrenceville in the County of Henry and State of Illinois on the 2d Monday of October next and on the 7th day of said term being the 15th day of said Month and show good lawful and sufficient cause for not issuing said Bonds as you are herein before commanded, and to obey any and all orders of said court which may be made and entered of and concerning the said premises and herein fail not under the penalty of the law in such case made and provided And of this writ the Sheriff of said County will make due service and return to said court as herein required

Witness Thomas Wiley Clerk of said circuit court and the seal thereof at Lawrenceville this 28th day of September AD 1860

Thomas Wiley Clerk

Seal

By W L Dalrymple Dep

And afterwards to wit on the 5th day of October A.D 1860 the Sheriff of Henry County did returned into Court said writ of Mandamus, indorsed thereon in words and figures following to wit

"I have served the within writ by delivering a copy of the same to the within named John Piatt Supervisor of the town of Weller this 4th day of October A.D 1860

P. McDuff Sheriff Henry Co
By N Pierce Deputy Sheriff"

And afterwards to wit on the 1st day of November A.D 1860 the said John Piatt Supervisor &c filed in said court by his atty his answer and Return to the Alternative writ of Mandamus issued in this cause. in the words and figures following to wit

State of Illinois } ss. Of the October Term A.D 1860
County of Henry } of the circuit court for.
said county

The People &c Ex rel
The American Central Railway
vs
John Piatt Supervisor of
the Town of Weller } Mandamus

The answer and Return of John Piatt Supervisor of the town of Weller in said county to the Alternative writ of Mandamus issued to him herein on the

Relation of the American Central Railway

Page 72 The said John Platt Supervisor as aforesaid humbly certifies to the court in said alternative writ named;

A. M.

called for the purpose of voting upon the question of subscribing to the Capital Stock of said American Central Railway was not conducted according to law as in said writ alleged but on the contrary thereof was conducted in violation of law in this to wit: that the polls were kept & continued open by the judges & clerks of said election after the hour of five Oclock P.M and after demand made to close the same at said hour unlawfully knowingly and wilfully for the purpose of changing the result of said election from a vote against said Subscription to a vote in favor of said Subscription

And this respondent further certifies to the said court that up to and at the said hour of five Oclock P.M. a majority of all the votes cast at said election were in fact cast against said subscription and that after said hour and after demand then made upon said Judge to close said election fifteen votes were unlawfully cast and received & counted by said judges all of which were in favor of said subscription. the rejection & exclusion of which said last mentioned votes or of any nine of

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them would have defeated said Subscription
And this the said Respondent is ready to verify
Wherefore he returns that he did not issue the
bonds of said town of Weller as commanded
in said Alternative writ of Mandamus

John Peale Supervisor of
the town of Weller
by H N Wells his atty

And afterwards to wit at the term of court
aforesaid and on the 8th day of Nov. 1860
the following proceedings were had in said
cause to wit;

The People of the State of Illinois
upon the Relation of the
Cincinnati Central Railway
vs
John Peale Supervisor of
Weller Township Henry County Ills.
} Mandamus

And now at this day
come the said plaintiffs by Henderson and
Bennett & Bates their attorneys and the said
defendant by Wilkinson & Pleasants his attorneys
and this cause now coming on to be heard
And the said plaintiffs by their attorneys afore-
said enter their demurrer to the Return of
the said defendant filed herein. And the court
having heard the demurrer and the reasons
therefor and being now fully advised in the

premises the said demurrer is by the court over-
Page 74 ruled, And on motion of defendant by his
atty. leave is given to amend the said return
by January 1st A.D 1861 and this cause stands
continued to the next term of this court
And it is further Ordered by the court that
the Mandamus herein be made peremptory
unless the said return be amended by
January 1st 1861

And afterwards to wit on the 29th day of
November A.D 1860 the said defendant John
Piatt Supervisor &c as aforesaid, filed in
said court his amended answer & return to the
alternative writ of Mandamus issued
herein in words and figures following to wit:-

State of Illinois }
Henry County } ss Of the March Term A.D 1861
of the circuit court for said county

The answer of John Piatt Supervisor of the town
of Weller in said county to the alternative writ
of Mandamus issued to him on the relation
of the American Central Railway

The said John Piatt Supervisor as aforesaid
humbly respects to the court in said writ
named ~~That it~~

1 That a majority of the legal votes cast at
74 the election in said writ mentioned was

not in favor of the subscription thereon referred to as in said writ is alleged but was against said subscription

2 That said election was not conducted according to law as in said writ is alleged but on the contrary thereof was conducted in violation of law in this to wit; that the polls were not closed at the hour of five O'clock P.M. as required by law but were kept and continued open after said hour on the said day of election by the judges thereof and after notice of the arrival of said hour and demand that said polls be closed by divers electors of said town then & there present and this respondent further certifies to said court that after said hour on said day and after notice thereof and demand as aforesaid the said judges with the knowledge and at the request of divers servants and agents of the said relator and against the protest and remonstrance of divers electors of said town unlawfully knowingly and with intent to change the result of said election from a vote against said subscription to a vote in favor thereof received counted and returned twelve votes all of which said twelve votes were in favor of said subscription and the exclusion and rejection of which said twelve votes or any part thereof would have defeated said subscription

3d

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And this respondent further exhibits that said election was further fraudulent and imperative to oblige him to issue the bonds of said town for said subscription in this behalf. That the members of the Vestry that were known entitled to vote at said election were about equally divided upon the question to be determined thereby and being so divided for the purpose of avoiding loss of time & labor and other inconveniences it had been and was agreed by and on behalf of said several parties members of said colony as aforesaid that none of said ~~members~~ members would vote at said election but would submit the said question to the vote of other electors of said town voting at said election of which said agreement the said judges before the opening of said polls on said day had notice that before and at the time for closing said polls as fixed by law it became and was apparent that a majority of the votes cast at said election were against said subscription and thereupon the agents of said relator and the judges of said election combining together and contriving and intending to prevent such result fraudulently procured ten members of said colony of those who were in favor of said Subscription to attend and cast their several votes for said subscription in violation of said agreement and although all the members of said

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colony who were opposed to said subscription were induced by the means aforesaid to withhold and did withhold their votes at said election and which said ten votes so cast counted & returned by said judges were necessary with the other votes cast in favor of said subscription to constitute and did so constitute a majority thereof of all the votes cast received counted & returned at said election And the said Respondent is ready to verify Wherefore he pray judgment &

McMurrin & Pleasants
Wells & Lehmizer } Sols

John Piatt

State of Illinois
Henry County } John Piatt ~~having~~ being first duly sworn on oath says that the matters of the foregoing return and answer so far as the same are stated on the knowledge of this affiant are true in substance fact and the matters therein stated on the knowledg information and belief of this affiant are true as this affiant is informed and believes

John Piatt

Sworn to and subscribed before me this 9th day of November A.D. 1860

J Mercy & Clerk
By McDonnymple Dep.

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State of Illinois } ss
Henry County } ss

Henry County Circuit Court
March Term A D 1861

Pleas before the Honorable John McKeever Judge of the 6th Judicial circuit of the State of Illinois begun and holden at the court house in Cambridge in said County of Henry and State of Illinois on the first Monday of March in the year of our Lord one thousand eight hundred and sixty one it being the fourth day of said month

Present

Honorable John McKeever Judge
Amos Gould clerk
Adam K Kenney Sheriff

And afterwards to wit on the 5th day of March A D 1861 it being the second day of said term last aforesaid the following proceedings were had in said cause to wit

The People of the State of Illinois upon the Relation of the American Central Railway vs John Pratt Supervisor of Weller Township Henry County Ills } Mandamus

At this day comes the plaintiffs by Henderson & Bennett & Bowes their attys and the defendant by Williamson & Pleasants his attys and this cause

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being called for the hearing of motions demurrers &c and then came the ~~def~~ Plaintiffs by their attys and fil their demurrer to amended return:

Which demurrer is in the words and figures following to wit

State of Illinois
County of Henry } Henry County Circuit Court
March Term AD 1861

The People &c
Ex Relatione the
American Central Railway
vs
John Pitt } Mandamus

And now comes the said Relator by their attorneys and say that they ought not to be precluded from having their peremptory writ of Mandamus as prayed for in said petition by reason of any matter or thing alleged or set forth by said defendant in his amended return to the alternative writ of Mandamus because they say that the said amended return and the matters and things therein contained and each and every count thereof are insufficient in law for these relators to make answer thereto Wherefore they pray that said return and the several counts thereof may be quashed and said peremptory writ of Mandamus

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issued as prayed for in said Bill

Henderson Bonnell & Shallenberger

their attys

A.D. 1861 and at the term of the court last aforesaid

the following proceedings were had in said cause

to wit

The People of the State of Illinois
upon the Relation of the
Rock Island Central Railway
vs
John Pratt Supervisor
of Weller Township Henry County Ills

} Mandamus

At this day this cause

being again called and the court having

considered the demurrer & amended return

and the reasons therefor and being now

fully advised in the premises It is considered

by the court that the demurrer to 2d count

in return be overruled and sustained as to

the 3d count in the return, On motion

leave is given to reply

and afterwards to wit on the 28th day of

March A.D. 1861 of the term of the court last

aforesaid. the said parties joined issue in

said cause in words following to wit

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State of Illinois }
County of Henry } Henry County Circuit Court
March Term AD 1861

The People of the State of
Illinois Ex relatione
The American Central Railway } Mandamus

vs

John Piatt

And the said plaintiffs by
their attorneys come and as to the first count
of said defendants amended return say that
they ought not to be precluded from having
their said writ of peremptory mandamus
because they say that a majority of the legal
votes cast at said election were cast in favor
of said subscription and not against said
subscription as said defendant hath in his
said first count of said amended return
alleged and of this they put themselves upon
the country &c

Wm. Henderson & Shallenberger
Pltffs attys

And the said respondent doth
the like by

Wells McBrunson & Pleasants
his attys

And the said plaintiffs as to the said second
count of said defendants amended
return say they ought not to be barred

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or precluded from having their peremptory writ of Mandamus because they say that said election was not conducted in relation of law in manner and form as said [illegible] of said amended return alleged and of this they put themselves upon the country &c.

Frost. Henderson & Shallenberger
Attys for Relts

And this respondent doth the like by

Wells Wilkinson & Pleasants his attys

And afterwards to wit on the day and year last aforesaid and at the term of the court last aforesaid the following proceedings were had in said cause to wit

Bill of Exceptions

The People of the State of Illinois
Upon the Relation of the
American Central Railway
vs
John Pratt Supervisor of the
Township of Weller Henry County Ills

} Mandamus

At this day this cause coming on to be heard and issues being joined by the parties herein It is ordered by the court that a jury be called and thereupon came the jurors of a jury of good and lawful

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were to wit. Wm B Dunkle R Baldwin Milo Jones C. L. Brown Moses Resser Michael Taylor Geo M Reed Peter Shuckle David Waterman J. S. Williamson John Blackburn & A Dillenbeck who were duly elected chosen and sworn to well and truly try the issues joined by the parties herein and a true verdict render according to the evidence. And thereupon on the trial of this cause before the court and a jury at this term the said plaintiffs to maintain and prove the issues joined therein on their part offered the following evidence

1 A Law of the State of Illinois entitled "an act to incorporate the Western Air Line Railroad company approved February 9. 1853 in the session Laws (Private) 1853 commencing at page 95

2 A Law of the State of Illinois entitled "an act to amend an act entitled An act to incorporate the Western Air Line rail road company" approved February 21. 1857 in the Session Laws (Private) of 18 commencing at page 526

3. The plaintiff then called as a witness Allen Hewitt who being sworn testified as follows I was town clerk of Keller Township in the Spring of 1857 was present at an election held at Bishop Hill in said township on the 26th day of May 1857 and was one of the clerks thereof the paper now shown me (and hereinafter copied) is a poll book of said election and correctly which were

sent by me to the county clerks office of Henry county
I retained a copy thereof in the town clerks office
Page 84 The signatures thereto are the signatures of the
judges of said election The election was held in
the town at Birch Hoff I was present when
the election closed I think it was a little
after five Oclock P.M. when the election closed
probably fifteen minutes or half an hour
after five Oclock

On cross examination said witness testified I sent this paper to the county clerk
a day or two after the election I think it may
have been three or four days after Think the
paper was in its present shape when I sent it
I sent it by mail dont know whether it
reached the county clerks office or when I
would not say that the heading to the poll
book and the notice was attached when sent
but they were in the letter together cannot
say that the tally list in memorandum
of the canvass was attached at that time
but it was sent along I think I cannot
tell at what time the election was opened
nor within an hour of the time Think it was
opened late in the forenoon but would not
be positive that it was opened before dinner
No votes were taken till after dinner, so ill
not swear that the polls were opened before
Page 84 twelve Oclock It was after five Oclock

when the polls closed I cannot state precisely how long after think it was about half past five when they closed I did not have a watch There was a town clock Heard it strike five We then talked about closing pretty soon The more I think of it I think it was about half past five when the polls closed . We dined at Bishop Hill about half past twelve Oclock Opened the polls right away after dinner fifteen to thirty minutes after one Oclock perhaps Think Mr Maxwell called attention to the fact that it was five Oclock and was time to close the polls Mr Ericson and Mr Maxwell were there at that time and at the time the polls closed dont remember as to others There were some votes taken after five Oclock Dont recollect how many

Henry Emery was next called by the plff and sworn as a witness and testified as follows I was one of the judges at the election in question my name is signed to the poll book now shown me in my hand writing at the foot of the poll book I think I recognize Mr Landreys signature also . This looks like the poll book we kept I think we signed two that were alike I think the polls closed about fifteen or twenty minutes after five Oclock PM by the town clock When the town clock struck five I think I made proclamation that the polls

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would be closed in fifteen minutes Some persons voted after that time Cannot tell how many Hurled and Rosenbaum were clerks of the election No person who was agent of the Rail road company was present in the room when about five o'clock None of them had any conversation with us upon that subject that I know of One reason why they were kept open was that there was a difference in watches Another reason was I thought that in law it was five unless six There was no purpose on my part to affect the result of the election I dont know whether the town clock was right or not It was a new thing then Some of the watches were slower than the clock One watch I think showed it to be not after five when the polls closed

On cross examination witness testified That was the watch of a stranger which showed it to be only five Oclock Dont know who he was nor where he lived There were other watches then faster than the town clock In my judgment it was after five Oclock when the polls closed There might have been some seven eight or ten votes cast after five Oclock

The plaintiffs then offered in evidence the paper purporting to be the poll book of said election and the notice and papers attached to the same

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Election Notice

Township of Weller
County of Henry
State of Illinois

Whereas a requesition has been delivered to me signed by upwards of five legal voters of said township requiring me to call an election for the purpose of voting for or against the subscription by said township to the capital stock of the American Central Railroad company to the amount of Twelve thousand three hundred ($12,300) dollars the Bonds of said township bearing interest at the rate of ten per cent per annum for that purpose to be issued in the following sums payable at the following times: four hundred & thirty (430) Bonds of ten (10) dollars each payable on or before the expiration of five years from the date of the issuing thereof

Two hundred (200) Bonds twenty (20) dollars each payable on or before the expiration of ten years from the date of the issuing thereof

Eighty (80) Bonds of (50) dollars each payable on or before the expiration of fifteen years from the date of the issuing thereof The money arising from the sale of the Bonds to be expended in preparing the road-bed for the iron or so much thereof as may be necessary in the township Now therefore in compliance with such requisition and by virtue of the authority

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in me vested by law I do hereby give notice that an election will be held at Bishop Hill in said township on Wednesday the 26th day of May AD 1859 for the purpose of voting "in favor of subscription" or "against subscription" to the capital Stock of said Railroad Company and the issuing of the Bonds of said township in manner and form set forth herein

Dated this 12th day of May AD 1859

Copy attest Allen Hewlett Town Clerk

At an election held at Bishop Hill in the Town of Weller County of Henry and State of Illinois on the 26th day of May in the year of our Lord one thousand eight hundred and fifty nine (1859) for the purpose of voting for or against the subscription by the said township to the capital stock of the American Central Railway company the following is the names of voters

Names of voters		Names of voters	
J N Edgerton	1	Isaac Spruse	37
J Erickson	2	M Spruse	38
J M McInnes	3	J. M Spruse	39
J J Brown	4	Lovel Lambeth	40
W M Legget	5	Asa Reeves	41
A J Rosenbaum	6	Jonas Nielland	42
E P Hennessey	7	John Olsen	43
Eli K Mauck	8	Hans Nordtvedt	44

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Henry Emery	9	P O Bloomberg	48
E Hansen	10	Jacob Bruken	46
R Fermann	11	John Insley	47
P M Robstrom	12	Erick Olson	48
James H Rosenbaum	13	Wm Jaggart	49
Isaac Booker	14	Michael Grant	50
J S Snyder	15	David Sprouse	51
Thomas Maxwell	16	John Rungnet	52
Abraham Bennett	17	P J Bloomberg	53
E Foss	18	Jonas Ugestrom	54
J J Friend	19	Peggy Sprouse	55
W K Arterbury	20	John Walline	56
Aaron Davis	21	Reuben Erwin	57
Thomas Brownlee	22	Andrew Stenberg	58
Joseph Copeland	23	Olof Frendle	59
L D Pinkney	24	Olof Olson	60
Heavey Fry	25	Larve Peterson	61
John Collins	26	E Justinus	62
James Fermann	27	Johnson Odell	63
D Evans	28	Larve Larson	64
John Burk	29	Swan Peterson	65
Miles Green	30	Erick Olin	66
W Johnson	31	I Jacobson	67
Andrew Walson	32	Erick Heedlund	68
W S R. .	33	A Shunstrom	69

Canvass of the votes taken at the election at Bishop Hill

In favor of subscription ||||| ||||| ||||| ||||| ||||| ||||| ||||| |||| = 39

Against subscription ||||| ||||| ||||| ||||| ||||| ||||| = 30

Allen Houstis } Clerks
A J Rosenbaum } of Election

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Edit K Mauck }
E P Vondreau } Judges of Election
Henry Emery }

Poll List for the Town of Keller at a Special election May 25th 1869 in favor of subscription to the Capital Stock of the Ameneau Railway Co for $12.300

Allen Houstis Town Clerk

Which were then and there objected to by the defendants counsel because (1) it appeared that the said election and the return thereof were irregular and illegal (2) The said papers purporting to be a poll book & notice did not appear to be a record or file of the county court as a record of which it was offered (3) no certificate appeared thereon of the result of the election, but the court overruled the defendants objections thereto and permitted the said poll book and certificate & notice to be read in evidence and the same were then read to the jury as evidence to which said rulings and decisions of the court in permitting the same to be read in evidence as aforesaid the defendant by his counsel then and then

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at the time of the making of said decisions and rulings excepted

The Plaintiff next called Peter Nickstrom as a witness who testified that he was not present when the polls at said election were closed was there when the polls were opened think they were opened in the forenoon between 9 and 10 o'clock

Jacob Jacobson was next called by the pltff as a witness and testified as follows I was not present when the polls closed I voted about five O'clock cannot say whether the clock had struck five or not It might have been after five when I voted "for" subscription

Daniel Bonar called by plaintiff & testifies. I am county clerk of Henry county I receives the paper now shown me (being the poll book above copied) just as it now appears & it has been in my office ever since except when taken out by persons to examine It was received by me by mail or from Mr Hurlbut I dont remember which cannot say at what time I receives it. as it is not marked filed. I think it was soon after the election thought on cross examination witness further stated I have no distinct recollection as to the time when or manner in which I received it It was less than thirty days after the election. I think not more than

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a week or so after.

This was all the evidence that offered
Page 92 by the plaintiffs and they here rested their case

The Defendant then called as a witness
Thomas Maxwell who being sworn testified as
follows. I was present at the election in question
Mr Emery Mr Condrey and some other one were
Judges, Allen Haslet was a clerk of the election
Dont know precisely when the polls closed, It was
twenty five minutes after five O'clock when proc
mation was made for closing and the polls
continued open for some time after that
Votes were polled after five O'clock When the town
clock struck five demand was made of the
Judges to close the polls, One of the judges remarked
in reply that they had a right as in general elections
to hold open the polls until twelve O'clock at night
The act for the holding of this election was then read
and a good deal of controversy was had about
it. After the proclamation was made the polls
continued open ten fifteen or twenty five minutes
I should think I did not mark the time after the
proclamation was made and cannot say precisely
cannot tell the names of those who voted
after five O'clock Mr Isaacson was among
them and cast his vote after that I think
92 On cross examination this witness further
testified "It was twenty five minutes past

five Oclock by the town clock when the proclamation was made the clock had no minute hand but had a dot on the face for every fifteen minutes the hour hand was about two thirds of the distance past the second dot after five Oclock when the proclamation was made I went out to see it About five persons were present when the controversy arose and after that others came in groups and voted the were about Think twelve or fourteen voted after five Oclock but cannot swear precisely to the number nor to the names. Can swear positively that the number exceeded five I did not keep a watch and not look at any other than the town clock that I remember, understood that to be right

The above was all the evidence offered by the defendant

The foregoing is all the evidence that was introduced upon the trial of said cause and the testimony being all submitted The court at the request of the attorneys of said relator The American Central Railway Company gave and read to the jury the following instructions

The question under the pleadings and issues in this case for the consideration of the jury

is the following viz:

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1st Whether a majority of the legal votes polled at the election in question held at Bishop Hall in the town of Weller were cast in favor of subscription to the capital stock of said Railroad company in question or not.

Evidence

2d Whether the judges of said election knowingly & with the wilful and unlawful intention of changing the result of said election from a vote against to a vote in favor of subscription and thus violating their duty kept open the polls of said election after the hour of five O'clock PM at the instigation and request of the duly authorized agents or servants of said Rail road company

Evidence

3 The certificate of the Judges and clerks of said election of the result thereof on the poll books of said election is proper and competent evidence of said result for the consideration of the jury and to enable them to determine in connection with the other proof what was in fact the result of such election

Evidence

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4 If the jury are satisfied from the evidence that a majority of the legal votes cast at said election were cast in favor of said

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Rail road subscription they should render a verdict in favor of the Plaintiff or Relator unless they also believe from the evidence that the polls of said election were by the judges of said election corruptly kept open after the hour of five Oclock P M on the day of said election wilfully and with the intent and purpose of disregarding the law and violating their duty And that said Polls were so kept open at the instigation and request of the said Rail Road company or their duly authorized agents

5 If the jury should believe from the evidence that the judges of said election kept the polls of said election open until after 5 Oclock P M on the day of said election this alone will not defeat or affect the validity of said election or establish the Defendants defense unless the jury shall also find from competent and satisfactory evidence that this was done at the instigation and request of the said Rail Road company or its agents duly authorized to act in the premises And the fact that the said Railroad company was interested in the result of said election alone is no legal evidence whatever to establish any improper act or interference on the part of said Rail road company or their agents

Refused

6 The presumption of law is that Judges of election and all other officers acting under the authority of law have done their duty and acted legally and it is incumbent on the party asserting the contrary to prove satisfactorily that said Judges and officers have violated their duty and disregarded the law

7 It is the duty of the court and jury under the provisions of law applicable to this case to give to the acts conduct and certificate of the judges and clerks of election and all other officers acting under the authority of the provisions of the act incorporating said Road company and the act amendatory thereof in reference to said election or otherwise a liberal construction, and to disregard every mere neglect omission irregularity informality or want of technicality on the part of any person or persons authorized to carry out the provisions of said act Provided only that they are satisfied "that the provisions of the same shall have been substantially complied with" And if the jury are satisfied in this case notwithstanding the irregularities informalities &c attending said election if any exist or pertaining to the acts and certificates of said judges and officers that the

substance of the law has been complied with and its substantial object and purpose attained they will find in favor and not against the validity of said acts and proceedings

8 It is not incumbent on the plaintiff or relator to prove a compliance on the part of said Railroad Company with all the pre requisites and conditions provided by law preliminary to said election but only such as are denied by the defendants return. All other facts stated in the Petition and writ and not denied in the return are in law to be deemed and taken as true

Given

9 In this case it is necessary for the defendant to prove to the satisfaction of the jury that after the hour of five Oclock P M enough votes were cast at said election in favor of said subscription to change the result from a vote in favor of to a vote against said subscription in order to establish his defence

Given

To the giving of which said instructions and each of them the counsel for the defendant then and there at the time of the giving thereof respectively excepted

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And the court then also gave to the jury the following instructions asked for by the defendants counsel

Given

1st The issue submitted to the jury is whether a majority of the legal votes cast at the election in the town of Weller was in favor of subscription as alleged and the burden is upon the relator to prove said issue to the satisfaction of the jury and unless the same has been so proved the jury will find a verdict for the defendant

Given

2d Although the jury should believe that sixty nine or any other number of persons voted at the election in question and that such persons ~~prefer~~ possessed the requisite qualifications of voters yet these alone do not prove that the votes were legal votes If the election were an illegal one the votes cast thereat were also illegal

Given

3d A legal vote is the vote of a person possessing the qualifications of an elector cast at an election legally held

Given

4 The Poll book in this case is prima facia evidence of the facts stated on its face and that the persons whose names are therein returned as having voted possessed the requisite qualifications of voters but said poll book

Given

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is not evidence that said election was legal by authorized and held

5 If the persons whose names appear on the poll book list met together and voted at an election for the holding of which no requisition was made nor notice given such votes would not be legal votes

Refused

The counsel for the defendant also asked the following instructions which the court refused to give

The burden in this case is upon the Relator to prove that the election in the town of Weller on the 25th day of May 1869 was a legal valid election by proving a substantial compliance with each and all of the provisions of the act of the Legislature of this state authorizing it and unless the jury believe from the evidence in this case that said act was so complied with they should find a verdict for the defendant

Refused

Unless the relator has proved to the satisfaction of the jury by the evidence in this case that the town of Weller or some portion of it is within four miles of the located line of the Railroad in question they should find for the defendant

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Refused

Unless the Relator has proved to the satisfaction of the Jury by the evidence in this case that the sum of $12 300.00 does not exceed sixty cents per acre on the land embraced in the town of Weller on the 25th day of May 1869 they should find for the defendant

Refused

Unless the Relator has proved to the satisfaction of the Jury by competent evidence in this case that previous to the alleged election five or more of the voters of said town delivered to the town clerk thereof or left at his place of residence a requisition as required by the 3d section of the act aforesaid they should find for the Deft. And the printed election notice attached to the Poll Book in evidence is not of itself competent evidence of such requisition

Refused

Unless the plaintiff has proved to the satisfaction of the Jury by competent evidence in the case that the town clerk of said town at least ten days before said election gave notice of said election by posting or causing to be posted three notices thereof in three public places in said town they should find a verdict for the Defendant And the printed notice referred to in the the last preceding instruction is not of itself competent evidence that such notice was so given

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Refused

Where, as in this case the issue presents the question whether the votes cast at an election were legally cast and consequently whether the election was legally authorized there is no presumption of the law that the officers of such election or those calling the same performed their duty

To the refusal of which and each of them the counsel for the defendant then and there at the time thereof excepted

And the jury thereupon retired to consider of their verdict;

And afterwards to wit on the 29th day of April of the term last aforesaid come the jury aforesaid and return into court their verdict which verdict is in the words and figures following to wit:

"We the jury find the issue for the plaintiff

"A. Dillenback Foreman"

which is received by the court and ordered to be entered on the record

And thereupon the said defendant by his attorney entered his motion in arrest of judgment herein for the following reasons

1st The petition and writ herein and each of them are severally defective in substance and insufficient to support the said verdict

2 The court erred in admitting improper evidence and giving improper instructions

Page 102 on behalf of the said relator

And the said defendant also at the same time interposed his motion for a new trial in said cause for the reasons following viz

1 The court admitted improper evidence on the part of said plaintiff

2 The court rejected and refused to admit proper evidence on the part of said defendant

3 The court gave improper instructions to the jury on the part of the relator and therein erred

4 The court refused proper and legal instructions asked by the defendant and therein erred

5. The verdict is contrary to the evidence the law and the instructions of the court

6 The verdict is erroneously for the relator and should have been for the defendant

And the court having heard the said motions and each of them overruled the same and each of them to which said decisions of the court in overruling said motions in arrest of judgment and for a new trial & each of them the said defendant by his counsel then and there at the time of said

112 decisions respectively severally excepted And thereupon the court ordered judgment to be entered and judgment was entered

upon the said verdict as follows

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It is considered by the court that judgment be entered on the verdict, and that the said plaintiffs have and recover of the defendant the amount of their costs in this behalf expended and that they have execution therefor against the said defendant, And it is further ordered by the court that a peremptory writ of Mandamus be awarded to the ~~plaintiffs~~ against the said defendant ~~as prayed for in the declaration~~

To the entry of which said judgments the said defendant by his counsel then and there at the time of the entry thereof excepted, And pray and appeal to the supreme court of the State of Illinois and have given the defendant to file bill of exceptions and Appeal Bond in the sum of $500, by the first day of May 1861 with sureties to be approved by the clerk

And inasmuch as none of the said matters appear of record herein the said defendant prays that the same and his exceptions thereto as aforesaid may be signed sealed and made a part of the record in said cause which is done

J. H. Howe (Seal)
Judge 6th Circuit
Illinois

upon the said verdict as follows

Page 163

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J. H. Howe (Seal)
Judge 6th Circuit
Illinois

And afterwards to wit on the 1st day of May
1861 the said defendant filed in said court his
appeal Bond in said cause, which said bond is in the words and
Page 104 figures following to wit

Know all men by these presents that the Township
of Weller by John Pratt her Supervisor as principal
and John Pratt Supervisor of the township of
Weller as principal and Jacob Bicher Elisha
let Chichester James P Chichester Stephen Collins
John Davis Thomas Maxwell Aaron Davis jr.
Snyder J H Robinson H Frye William G Smith
William Price John Hayden Robert Ferman
Eli K Munk J W Edgerton Abraham Bennett
Reston K Attebury Henry H Brooks John Grannan
Fred Stepsill Philip Laub Henry Laub
Gerrett Keir as securities are held and
firmly bound unto the People of the state of
Illinois in the penal sum of five hundred
dollars lawful money &c for the payment
of which we bind ourselves our heirs execu
and administrators jointly severally and
firmly by these presents signed and sealed
this 22 day of April AD 1861

Now the conditions of this obligation are
such that whereas at the March Term AD
1861 of the Henry county circuit court
in a certain cause there pending wherein
The People of the State of Illinois on the Relation

And afterwards to wit on the 1st day of May
1861 the said defendant filed in said court his
appeal Bond in said cause, which said bond is in the words and
Page 104 figures following to wit

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of Weller by John Pratt her Supervisor as principal
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William Price John Hayden Robert Ferman
Eli K Munk J W Edgerton Abraham Bennett
Reston K Attebury Henry H Brooks John Grannan
Fred Stepsill Philip Laub Henry Laub
Gerrett Keir as securities are held and
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firmly by these presents signed and sealed
this 22 day of April AD 1861

Now the conditions of this obligation are
such that whereas at the March Term AD
1861 of the Henry county circuit court
in a certain cause there pending wherein
The People of the State of Illinois on the Relation

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of the American central Railway company were plaintiffs and John Piatt Supervisor of the township of Weller was defendant in an application for a mandamus against the said Supervisor The said court at the said time did render judgment and order that a peremptory writ of Mandamus be awarded against the said John Piatt Supervisor as aforesaid from which said judgment the said John Piatt the supervisor of the township of Weller prayed and obtained an appeal to the supreme court Now if the said John Piatt Supervisor of the township of Weller shall prosecute his said appeal with effect or in case of failure therein shall abide the order of the supreme court and faithfully observe the same then and in that case these presents and all things herein shall be forever null and void Otherwise to remain in full force and effect

John Piatt Supervisor of the Township of Weller	(SEAL)	Township of Weller By John Piatt Supervisor	(SEAL)
Jacob Bricker	(SEAL)	William C Smith	(SEAL)
Elephalet Chichester	(SEAL)	P Mullee	(SEAL)
James P Chichester	(SEAL)	Wm Price	(SEAL)
Stephen Collins	(SEAL)	James Fermoni	(SEAL)
John Davis	(SEAL)	Daniel Evans	(SEAL)
Thomas Maxwell	(SEAL)	Isaac Hayden	(SEAL)

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Aaron Davis	Robert Forman
J S Snyder	Eli K Mauk
J H Rosenbaum	J W Edgerton
H Fry	Abraham Bennell
Nelson K Attebery	L D Pinkney
Henry H Brooks	Peter Weaver
John Grammer	A J Rosenbaum
William Grammer	J J Friend
Frederick Stefal	Jacob M Payton
Philip Lamb	George H Cramer
Henry Lamb	Benj Sprouse
H Garet Hier	John F Emery
Richard Smith	Ernst Brauner
Wiaff Pratt	E P Caudery
William Poppy	Thomas Sprouse
J Henry Poppy	Isaac Sprouse
John H Poppy	A Nordstrom
Henry J Price	A Mahngren
Jonas Mahngren	Nells Florin
Lars Nordin	Lars Dalquist
Jones Lindbeck	Peter Hellstrom
P Mattell	A Strand
Jonas Stoneberg	Peter Johnson
Andrew Stoneberg	Lars Forsberg
Anders Back	A Burgland
E Tinstrom	Olof Stoneberg
E Sabin	A Nordberg
E U Norberg	M Johnson
Hans Dahlgren	Hans Hellstrom

Het
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John Ericksen	∞	John Johnson	∞
O Nordstrom	∞	P O. Blomberg	∞
A Gostman	∞	A Anderson	∞
Olof Johnson	∞	E. Erickson	∞
Olof Olson	∞	Jacob Piatt	∞

Which said Bond is endorsed in the words and figures following to wit

Filed & approved by me this day 1st day of May 1861

Amos Gould Clerk

State of Illinois
County of Henry } I Amos Gould Clerk of the Circuit Court in and for the County of Henry in the State aforesaid do certify that the above and foregoing is a full true and perfect copy of the Record and all the proceedings had in the above entitled cause as appears of Record in my Office — Witness Amos Gould Clerk of said Court and the seal thereof at Cambridge in said County this 2d day of June 1861

Amos Gould Clerk
By E. B. Bird Dep.

State of Illinois

Supreme Court Third Grand Division

Ottawa term A.D. 1862

Now come the said John Potts Supervisor of the township of Miller the appellant by his attorneys and says that in the said record and proceedings aforesaid and in the rendition of judgments as aforesaid there is manifest error is this "to wit"

1st The Court erred in sustaining the demurrer to any part of the defendants return the demurrer should have been overruled

2nd The Court erred in admitting improper evidence for the relator

3rd The Court erred in giving the instructions asked for by the relator, they were not the law and should have been refused

4th The Court erred in refusing to give the instructions asked for by the defendant they were the law and should have been given

5th The act is unconstitutional and the petition is insufficient to sustain the verdict

6 The verdict of the jury was contrary to the law and was wholly unsupported by the

evidence. It should have been for the respondent.

7 The defendants return put in issue the legality of all the proceedings under the Election law. and the relator did not offer proof to sustain the legality of the same. The verdict and judgment for the relator were erroneous and contrary to the law of the land

8th The Court erred in not granting a new trial asked for by the defendants

9th The order for a peremptory writ of mandamus was an error and the judgment should have been for the defendant,

10th to 11 It was a matter of discretion with the supervisors whether he issue the bond of the Township. or make any Subscription to the stock of said Rail way. and it was error in the Court to award a writ of Mandamus. to compell him to subscribe against his discretion

11 The vote of the citizens of said town was merely advisory. to the Supervisors and not compulsory. and no writ of mandamus will lie. and the order for the writ was erroneous.

Wherefore and for divers other manifest

Errors and illegalities in the said record and proceeding and in the rendition of judgment aforesaid the said John Pratt the Superintendent appellant prays that the said judgment may be reversed annulled and wholly for naught held,

Wm Kerr Pleasants & Wells
attys for appellant

And now came the said The People of the State of Illinois upon the relation of the American Central Railway Co by their attorney & say that there is no Error either in the Record and proceedings aforesaid or in the rendition of the judgment aforesaid & pray that the said Superintendent may proceed to examine & consider as well the record & proceedings aforesaid, as the matters aforesaid above assigned for Errors and that the judgment aforesaid in form aforesaid given may be in all things affirmed &c

Thomas G. Frost
atty for appellee.

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John Pratt

vs

People ex. rel &c

Record

Filed Sept. 24. 1862

L. Leland

Clk.