

No. 12985

Supreme Court of Illinois

C.B.& Q.R.R.Co.

vs.

Pratt et al

71641  7

STATE OF ILLINOIS,

SUPREME COURT.

Third Grand Division.

No. 167.

1860

C. B. & R. P.
vs

Pett

12985

State of Illinois
Superior Court

The Chicago Burlington & Quincy
Rail Road Company

vs

J A Pratt Treasurer
of Henry County

It is hereby stipulated
and agreed that the above entitled
cause be and the same is hereby
dismissed at the costs of the appellant

J M Walker
Atty for appellant

167
Chicago & Burlington
& Quincy R.R. Co

3

Henry County
& Pratt

Slip to Dismiss

Filed Jan. 7, 1820
L. Leland
Clerk

STATE OF ILLINOIS, 88.

{ IN THE SUPREME COURT AT OTTAWA,
{ OF THE APRIL TERM, A. D. 1860.

CHICAGO, BURLINGTON AND QUINCY
RAILROAD COMPANY,
vs
HENRY COUNTY,
JULIUS A. PRATT.

Appeal from Henry.

ABSTRACT OF THE RECORD.

Page of Record

1 STATE OF ILLINOIS, }
HENRY COUNTY. }

Henry Circuit Court, October Term, A. D. 1859.

Before the Hon. J. Wilson Drury, Judge of the Sixth Judicial Circuit, in the State of Illinois, at a regular term of the Circuit Court, begun and held at the Court-house in Cambridge, in the said County of Henry, on the second Monday in the month of October, in the year of our Lord one thousand eight hundred and fifty-nine, in Chancery sitting, it being the tenth day of said month. Present, J. Wilson Drury, *Judge*; Thomas Wiley, Jr. *Clerk*; Purnel H. Sniff, *Sheriff*.

Bill in Chancery to enjoin collection of Taxes, filed on the 24th day of June, 1859, to the October Term, A. D. 1859 of said Court, Chicago, Burlington and Quincy Rail Road Company against Henry County and Julius A. Pratt.

The Bill may be resolved into the following points, viz:

(1) The complainants, the Chicago, Burlington and Quincy Railroad Company, duly incorporated and recognized by the laws of Illinois as duly incorporated for Railroad purposes, and have a Railroad known as the Chicago, Burlington and Quincy Railroad Company,

2 equipped and in operation from Chicago in said State to Galesburg, in said State. That the said Railroad passes through Henry County, in said State, that said Henry County has been and is under Township Organization.

(2) That the complainants were taxable for the year A. D. 1858 upon their Real Estate and stationary property, and *pro rata* upon the movable property, and that a list of said property with the valuation was reported and filed in the office of the County Court of Henry County, on the first day of May A. D. 1859, that a copy of list and valuation is hereunto attached, marked exhibit "A".

(3) That at a meeting of the Board of Supervisors of Henry County, in September A. D. 1858, the matter of assessments of several Railroads were referred to a committee of said

3 Board. That said committee reported recommending that the assessment of the complainant's Railroad be raised to \$1,00 per foot, which is an increase of 40 cents per foot, also recommending that the assessment on stationary property at Kewanee be raised \$3000, and at Galva, be raised \$2500.

(4) That at a meeting of the Board in December A. D. 1858, the report of said committee was read and adopted. The report and all orders relating to this matter, are made a part of this bill.

(5) The aggregate value of the complainant's property, subject to taxation in Henry 4 County was \$106,242,30, that the same was filed in the County Clerk's office on the first day of May A. D. 1860, that said list is a full and fair statement of all their property subject to taxation. That the list was made out and filed according to law.

(6) That the raising the assessment as aforesaid, increased the sum valuation of the complainant's property to \$144,923,65, an increase of \$38,681,35 over the valuation by them reported.

(7) The action of the Board of Supervisors in raising said assessment, was illegal and arbitrary, and done without the knowledge of the complainants.

5 (8) That the assessment as illegally advanced, is disproportionate to the value of other property in the same county, and much above the real value of said property, and that in consequence of such illegal advancement, the complainant's taxes are increased to the sum of \$3,365,42 illegally charged against the complainants.

[9] The complainants aver that under the laws of this State regulating revenue, a list of their property with the valuation, should be filed in the office of the County Clerk, on or before the first of May each year, and that thereupon it is the duty of the Board of Supervisors to determine if the value in said list is correct, and if incorrect, then to assess it accordingly.

6 [10] That the action of the Board being in September and December, was illegal and void.

[11] That the Board of Supervisors never determined that the list and schedule filed by the complainants was an unfair statement of their property that until such determination was made, no action could be taken—that the raising the assessment was an arbitrary addition of \$38,681, 35 upon the valuation of said property, and was illegal.

7 [12] That had the Board of Supervisors determined that the schedule filed by the complainants, did not contain a fair statement and valuation of their property, it would have been necessary for them to have assessed said property according to the law for assessing Real Estate, and that the law for assessing Real Estate requires that each piece be separately assessed and that a responsible judgment be exercised in reference to each item of property.

(13) That by law, the School Tax in each county should be certified to the County Clerk on or before the first Monday of July of each year. That there was assessed against the complainants \$1562,89 school tax in said county, which was not certified until after the first Monday in July, and is therefore illegal and void.

8 (14) The complainants have not paid the said tax—that Julius A. Pratt is Treasurer and Collector of taxes for said county—that lawful taxes are payable to him. That said Pratt has now in his hands a statement of the taxes against the complainants property, and that unless enjoined and restricted, will levy and collect the whole of said tax,—has refused to receive that portion of the tax justly due and payable, but demands payment of the whole amount, the legal as well as the illegally assessed taxes.

9 (15) That the complainants have no personal property out of which to make the said taxes, except their cars and engines necessary to public travel.

(16) Prayer for answer without oath, and summons and injunction against J. A. Pratt and against Henry County, restraining them, &c.

10 Oath of John Van Nortwick, President of said Railroad, to the truth of the bill, before P. Daggy, Notary Public, Chicago.

11 Exhibit "A."

12 Continuation of exhibit "A."

13 Continuation of exhibit "A." Schedule "A."

14 Continuation of exhibit "A." Schedule "B." Schedule "C." Schedule "D."

15 "Recapitulation of exhibit A."

16 Exhibit "B." Order for injunction signed J. D. Caton, Chief Justice, Illinois.

17 Writ of Injunction.

18 Continuation of writ and return.

19 Bond of complainants.

20 Continuation of Bond with John Van Nortwick, security. Summons.

21 Continuation of summons and return.

22 Answer of Julius A. Pratt, filed August 25th, 1859.

The answer may be resolved into the following points, viz:

(1) Claims advantage of error in bill. Admits that the complainants are an incorporation for Railroad purposes, and that complainants filed in the office of the County Clerk of Henry County a list of their taxable property, but denies that the list and valuation as filed was true.

23 (2) Admits that the Board of Supervisors in September 1858 ordered a committee to investigate the assessment of complainant's and other road, and that, or at the next special term, they adopted the report of the committee raising the assessment.

24 (3) Admits that the law requires the complainants to file a schedule of property and valuation with the County Clerk on the first of May each year. But avers that the Board of Supervisors at some *convenient time*, are to determine whether the return be correct or incorrect, and denies that such determination must be in the month of May.

25 (4) Avers that the Board did determine that the list of property as filed by complainants, was untrue and unfair.

26 (5) Avers that the time for certifying school tax is immaterial, and that the school tax for the year 1858 was legally levied and due.

27 Avers that the law authorizes the Board of Supervisors to raise the assessment of personal property, and avers that the increase of the assessment of the complainant's property at Galva and Kewanee, was legal and in conformity to law.

(6) Avers that there is no just cause for refusal to pay the tax, and admits he was about to proceed to collect it.

(7) That defendant refused to receive any portion of said tax in full payment thereof, but offered to receive so much as the complainants were willing to pay, and to receipt to them for that amount, but that the complainants refused to pay any part of said tax.

28 (8) Prayer for dissolution of Injunction, judgment &c. signed Julius A. Pratt, sworn to before J. H. Howe, Notary Public.

29 And on same day defendant, Henry County, files answer, which may be resolved in substance the same as the answer of Julius A. Pratt.

30 Continuation of the answer of Henry County.

31 Continuation of answer of Henry County.

32 Continuation of answer of Henry County.

33 Continuation of answer of Henry County.

34 Continuation of answer of Henry County.

35 Continuation of answer of Henry County.

36 Afterwards, at the said term, on the 19th day of October, the defendants by their solicitation, moved to dissolve the Injunction and dismiss the bill. Motion heard.

37 Motion sustained. Injunction dissolved and bill dismissed.

Complainants pray and obtain an appeal, with leave to file bond in the sum of \$4000, within thirty days, with John Van Nortwick and C. G. Hammond securities.

Afterwards, on the 9th day of December, 1859, bond filed in compliance with the leave of Court.

38 Bond with John Van Nortwick and C. G. Hammond securities in sum of \$4000.

39 Certificate, signature and seal of Clerk.

STATE OF ILLINOIS, ss.

{ IN THE SUPREME COURT AT OTTAWA,
APRIL TERM, A. D. 1860.

CHICAGO, BURLINGTON AND QUINCY }
RAILROAD COMPANY, }
vs }
HENRY COUNTY, }
JULIUS A. PRATT. }

Appeal from Henry.

Bill in Chancery to enjoin collection of taxes.

BRIEF OF AUTHORITIES RELIED ON BY THE APPELLANTS.

WALKER, VAN ARMAN & DEXTER and H. W. WELLS, for Appellants.

The Statutes of Illinois may, on the levy and collection of taxes, against Railroad Companies, be resolved into the following points, viz:

(1) The act requires the President, Secretary or principal accounting clerk of every Railroad Company, to make out a list of taxable property belonging to said Company, and shall be filed on or before the first day of May of each year. See Sec. 2 Act approved 14th Feb. 1855 Page 1105, Scates, Treat, and Blackwell Statutes.

(2) The list shall contain a description of the Real Estate owned and occupied by said Company, in each County or Town, and the value of the same. The length of main and side tracks and the value, with the total value of the rolling stock, which shall be listed and taxed *pro rata* in proportion the whole road bears to the length of road in the County. Stations and Depot Grounds shall be taxed in the County. Sec. 4, same Act, Page 1106 S. T. and B. Statutes.

(3) It is the duty of the Board of Supervisors, to examine this report when they meet, to equalize the assessment of property, when, if a majority of the Board determine that the list is correct, they shall assess it accordingly. If not, they shall assess, or cause it to be assessed in accordance with the rules for assessing such property. Sec. 2, same Act.

(4) The annual meeting of the Board shall be in September of each year. Article 16 Sec. 2, Act authorizing Township Organization, page 337, Scates, Treat, and Blackwell Statutes.

(5) It was the duty of the Board of Supervisors, in case they did not deem the schedule filed by the complainants correct, to so determine, and then it became their duty to appoint some suitable person to make a new assessment, and to make a return thereof at some day to be fixed by the Board. Act of Feb. 27th, 1854, Sec. 5, page 361, Scates, Treat, and Blackwell Statutes.

(6) The person so appointed should take oath, and should be governed by the same laws that Town assessors are, and should also give notice [ten days], of the time and place of revising said assessment. Sec. 7 same Act, page 361, Scates, Treat and Blackwell Statutes.

From the Statute already cited, it appears that the assessment was not made according to law, and consequently the taxes levied ~~on them~~ ^{thereon} was invalid. The assessment must be made according to law or the tax is invalid. *Tucker vs Aiken*, N. H. Rep. 131, *Middletown vs Berlin* 18 Conn. R. 189, 8, *Blackford R.* 350.

The assessment of tax against property is in the nature of a judgment against the property for the amount of the tax, and is a lien on the property until it is paid. It is a judgment made by a special authority of the Statutes. *Tucker vs Aiken*, 7 N. H. Rep. 131.

Special power must strictly comply with the law creating it. 1 Scam. R. 323.

When the Legislature has made it the duty of the Supervisors to assess property at a particular time, and in a particular manner, they cannot depart from the strict meaning of the law, without rendering all their acts invalid. This point is clearly established. *Marsh vs Chestnut*, 14 Illinois Rep. 223, *Billings vs Detten*, 15 Ill. Rep. 219, see also *Hough vs Hastings*, 18 Ill. 312.

The assessment in this case was manifestly illegal and in direct violation of the rights of the complainants, and the tax levied, if allowed to be collected, will be in direct violation of the law which provides that private property shall not be taken but by the judgment of a man's Peers, or the law of the land.

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C.B. & D.R.R. Co appellants

vs

Henny County Jailors & Prater

Appeal from Henny

Abstract & Brief

Filed April 25 1880
L. Leland
Clerk

STATE OF ILLINOIS, 38.

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1 STATE OF ILLINOIS, }
HENRY COUNTY. } Henry Circuit Court, October Term, A. D. 1859.

Before the Hon. J. Wilson Drury, Judge of the Sixth Judicial Circuit, in the State of Illinois, at a regular term of the Circuit Court, begun and held at the Court-house in Cambridge, in the said County of Henry, on the second Monday in the month of October, in the year of our Lord one thousand eight hundred and fifty-nine, in Chancery sitting, it being the tenth day of said month. Present, J. Wilson Drury, *Judge*; Thomas Wiley, Jr. *Clerk*; Purnel H. Sniff, *Sheriff*.

Bill in Chancery to enjoin collection of Taxes, filed on the 24th day of June, 1859, to the October Term, A. D. 1859 of said Court, Chicago, Burlington and Quincy Rail Road Company against Henry County and Julius A. Pratt.

The Bill may be resolved into the following points, viz:

(1) The complainants, the Chicago, Burlington and Quincy Railroad Company, duly incorporated and recognized by the laws of Illinois as duly incorporated for Railroad purposes, and have a Railroad known as the Chicago, Burlington and Quincy Railroad Company,

2 equipped and in operation from Chicago in said State to Galesburg, in said State. That the said Railroad passes through Henry County, in said State, that said Henry County has been and is under Township Organization.

(2) That the complainants were taxable for the year A. D. 1858 upon their Real Estate and stationary property, and *pro rata* upon the movable property, and that a list of said property with the valuation was reported and filed in the office of the County Court of Henry County, on the first day of May A. D. 1859, that a copy of list and valuation is hereunto attached, marked exhibit "A".

(3) That at a meeting of the Board of Supervisors of Henry County, in September A. D. 1858, the matter of assessments of several Railroads were referred to a committee of said

3 Board. That said committee reported recommending that the assessment of the complainant's Railroad be raised to \$1,00 per foot, which is an increase of 40 cents per foot, also recommending that the assessment on stationary property at Kewanee be raised \$3000, and at Galva, be raised \$2500.

(4) That at a meeting of the Board in December A. D. 1858, the report of said committee was read and adopted. The report and all orders relating to this matter, are made a part of this bill.

(5) The aggregate value of the complainant's property, subject to taxation in Henry
4 County was \$106,242,30, that the same was filed in the County Clerk's office on the first day of May A. D. 1860, that said list is a full and fair statement of all their property subject to taxation. That the list was made out and filed according to law.

(6) That the raising the assessment as aforesaid, increased the sum valuation of the complainant's property to \$144,923,65, an increase of \$38,681,35 over the valuation by them reported.

(7) The action of the Board of Supervisors in raising said assessment, was illegal and arbitrary, and done without the knowledge of the complainants.

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[9] The complainants aver that under the laws of this State regulating revenue, a list of their property with the valuation, should be filed in the office of the County Clerk, on or before the first of May each year, and that thereupon it is the duty of the Board of Supervisors to determine if the value in said list is correct, and if uncorrect, then to assess it accordingly.

6 [10] That the action of the Board being in September and December, was illegal and void.

[11] That the Board of Supervisors never determined that the list and schedule filed by the complainants was an unfair statement of their property that until such determination was made, no action could be taken—that the raising the assessment was an arbitrary addition of \$38,681, 35 upon the valuation of said property, and was illegal.

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(13) That by law, the School Tax in each county should be certified to the County Clerk on or before the first Monday of July of each year. That there was assessed against the complainants \$1562,89 school tax in said county, which was not certified until after the first Monday in July, and is therefore illegal and void.

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(16) Prayer for answer without oath, and summons and injunction against J. A. Pratt and against Henry County, restraining them, &c.

10 Oath of John Van Nortwick, President of said Railroad, to the truth of the bill, before P. Daggy, Notary Public, Chicago.

11 Exhibit "A."

12 Continuation of exhibit "A."

13 Continuation of exhibit "A." Schedule "A."

14 Continuation of exhibit "A." Schedule "B." Schedule "C." Schedule "D."

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(7) That defendant refused to receive any portion of said tax in full payment thereof, but offered to receive so much as the complainants were willing to pay, and to receipt to them for that amount, but that the complainants refused to pay any part of said tax.

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36 Afterwards, at the said term, on the 19th day of October, the defendants by their solicitation, moved to dissolve the Injunction and dismiss the bill. Motion heard.

37 Motion sustained. Injunction dissolved and bill dismissed.

Complainants pray and obtain an appeal, with leave to file bond in the sum of \$4000, within thirty days, with John Van Nortwick and C. G. Hammond securities.

Afterwards, on the 9th day of December, 1859, bond filed in compliance with the leave of Court.

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(2) The list shall contain a description of the Real Estate owned and occupied by said Company, in each County or Town, and the value of the same. The length of main and side tracks and the value, with the total value of the rolling stock, which shall be listed and taxed *pro rata* in proportion the whole road bears to the length of road in the County. Stations and Depot Grounds shall be taxed in the County. Sec. 4, same Act, Page 1106 S. T. and B. Statutes.

(3) It is the duty of the Board of Supervisors, to examine this report when they meet, to equalize the assessment of property, when, if a majority of the Board determine that the list is correct, they shall assess it accordingly. If not, they shall assess, or cause it to be assessed in accordance with the rules for assessing such property. Sec. 2, same Act.

(4) The annual meeting of the Board shall be in September of each year. Article 16 Sec. 2, Act authorizing Township Organization, page 337, Scates, Treat, and Blackwell Statutes.

(5) It was the duty of the Board of Supervisors, in case they did not deem the schedule filed by the complainants correct, to so determine, and then it became their duty to appoint some suitable person to make a new assessment, and to make a return thereof at some day to be fixed by the Board. Act of Feb. 27th, 1854, Sec. 5, page 361, Scates, Treat, and Blackwell Statutes.

(6) The person so appointed should take oath, and should be governed by the same laws that Town assessors are, and should also give notice [ten days], of the time and place of revising said assessment. Sec. 7 same Act, page 361, Scates, Treat and Blackwell Statutes.

From the Statute already cited, it appears that the assessment was not made according to law, and consequently the taxes levied ^{thereon} ~~on them~~ was invalid. The assessment must be made according to law or the tax is invalid. Tucker vs Aiken, N. H. Rep. 131, Middletown vs Berlin 18 Conn. R. 189, 8, Blackford R. 350.

The assessment of tax against property is in the nature of a judgment against the property for the amount of the tax, and is a lien on the property until it is paid. It is a judgment made by a special authority of the Statutes. Tucker vs Aiken, 7 N. H. Rep. 131.

Special power must strictly comply with the law creating it. 1 Scam. R. 323.

When the Legislature has made it the duty of the Supervisors to assess property at a particular time, and in a particular manner, they cannot depart from the strict meaning of the law, without rendering all their acts invalid. This point is clearly established. Marsh vs Chestnut, 14 Illinois Rep. 223, Billings vs Detten, 15 Ill. Rep. 219, see also Hough vs Hastings, 18 Ill. 312.

The assessment in this case was manifestly illegal and in direct violation of the rights of the complainants, and the tax levied, if allowed to be collected, will be in direct violation of the law which provides that private property shall not be taken but by the judgment of a man's Peers, or the law of the land.

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C.B. & 2 R.R.C. appellants

Haney County I.A. Pratto
Appeal from Haney
Abstract & brief

Filed Apr 25, 1860

A. Delmon

Clerk

State of Illinois } Henry Circuit Court
 Henry County } October Term 1859

Before the Hon J. Wilson Drury Judge
 of the Sixth Judicial Circuit in the state of Illinois at a
 regular term of the Circuit Court begun and held at the
 Court House in Cambridge in the County of Henry on the
 second Monday in the Month of October in the year
 of our Lord one Thousand eight hundred and fifty
 nine in Chancery sitting. it being the tenth day
 of said month

Present Hon J. Wilson Drury Judge
 Thomas Wiley Jr Clerk
 Parnel H Sniff Sheriff

Know Ye that on the 24th day of June AD 1839
 The Chicago Burlington & Quincy Rail Road Co
 filed in this court their certain Bill of complaint
 in words and figures following to wit:

To the Honorable The Circuit Judge of the Henry County
 Judicial Circuit of the State of Illinois in Chancery
 sitting:

Your Oorators the Chicago Burlington and
 Quincy Rail Road Company respectfully show unto
 your Honor that they are an incorporation for railway
 purposes duly incorporated authorized & recognized
 as such by the laws of the State of Illinois that they
 have a Rail Road known and called the Chicago
 Burlington & Quincy Rail Road fully equipped

Page 2 And in operation from the city of Chicago in said State to Galesburg in said State and that their said railroad passes through the county of Henry in said State of Illinois which county has been and is now under Township organization

Your orators further show that they were by their incorporated name as aforesaid taxable for the year of our Lord one thousand eight hundred and fifty eight on their said Rail Road in said county in the manner and to the extent hereinafter more fully set forth. That a list of Your Orators taxable property and the valuation thereof to wit of their Real Estate fixed and Stationary personal property other personal property and pro rata moveable property subject to assessment for taxation in said county for the year 1858 was by your Orators reported and filed in the office of the Clerk of the County Court of said Henry County on the first day of May 1858 a copy of which list marked A is herewith annexed and made a part of this Bill

Your Orators further show that at a meeting of the Supervisors Court of Henry County held in September AD 1858 such proceedings were had at that time that the matter of Rail Road assessments of the several Rail Roads of Henry County were referred to the Committee on Finance of said Board with instructions to raise the assessment of the same if deemed necessary which said Committee at the said September Term of said Supervisors Court reported upon Your Orators Road as fol-

Page 3

lows to wit: "We also recommend that the assessment on the C B & Q Rail Road be raised to one dollar per foot making it the same as the Rock Island & Chicago R. R. which is an increase on the assessment of the C B & Q R.R. of about 40 cts per foot we also increase the assessment on Fixed and Stationary personal property at Keokuk belonging to this Road ————— \$3000.00

And an increase on the same kind of property at Galva ————— 2500.00"

which said report was at the December Term of said Supervisors court for the year 1858 read accepted & adopted by said Board which said report and order of adoption together with all the records and Proceedings of said Board pertaining or relating to the same is hereby made a part of this Bill reference being thereto had for greater certainty in this behalf

Your Orators further show that by their report and assessment list the aggregate listed value of all the taxable property of your Orators in said Keokuk County is the sum of One hundred and six thousand two hundred and forty two dollars & thirty cents (\$106,242.30) as by reference to the Exhibit marked "A" hereto attached and made a part of this Bill more fully appears

Your Orators further show that the assessment and valuation of their property for purposes of taxation in said county for the year AD 1858 is as above stated and that their said list thereof filed by them on the

first day of May AD 1888 in the office of the Clerk of the County Court of said County is a full and fair Statement of all their said property subject to taxation in said County and that the same was made out and valued in accordance with the requirements of the law and that by running the same in pursuance of the report of the Committee as aforesaid the said property of your Orators in said County stands assessed upon the books of said County at the sum of One hundred forty four thousand nine hundred and twenty three dollars & sixty five cents (\$144,923.65) while the real value thereof listed by your Orators as aforesaid is One hundred and six thousand two hundred and forty two dollars and thirty cents (\$106,242.30) an increase of thirty eight thousand six hundred and eighty one dollars and thirty five cents (\$38,681.35) over and above the amount at which the said property was reported and filed by your Orators as aforesaid for the year 1858

Your Orators further show that their said property was by the said Board illegally increased in amount and the taxes levied thereon upon the basis of the afore said arbitrary addition, without the knowledge of your orators

And Your Orators further show that the said arbitrary alteration and enhancement of the amount of said taxable property is illegal unjust and inequitable, as the amount when thus enhanced is entirely disproportionate to and much above the real value of said property and the valuations of other property in said County

Page 5

and that Your Orators are advised and believe and therefore allege and insist that the alteration of said list as reported by your orators and the increase in amount of the same and the assessment and levy of taxes against your orators in said county for AD 1858 are in consideration thereof unlawfully enhanced and increased from the sum at which they would have been at the first just & fair valuation so as aforesaid made to the sum of three thousand three hundred & sixty five dollars and forty two cents (\$3365.42) illegally charged against your orators for the year 1858 in said county all of which will more fully appear by the certified statement of taxes and property made by the county clerk of said Henry county and the tax books assessments lists & other evidence records and papers to be produced and exhibited on the trial of this cause reference thereto being had for greater certainty in this behalf

And Your Orators further show unto your Honor that they are advised and believe and therefore charge that by the law of this state regulating the revenue the list of taxable property is required to be made to the county clerk and should be delivered at his office on or before the first day of May in each year and that thereupon it becomes the duty of the Board of Supervisors to determine by the decision of a majority of said Board whether said return is correct and if correct to assess it accordingly

These complainants are advised and therefore

insist that the law requires this determination and action to be in the month of May and inasmuch as the action of the Board of Supervisors of Henry County was in the months of September & December they submit that their action was on that account illegal and void.

And your orators further show unto your Honor that they are advised and believe and therefore charge that the said Board of Supervisors of said Henry County never did make any determination that the list of property so returned to said county clerk by your Orators as hereinbefore stated was or was not correct nor did they ever determine that such schedule did or did not contain a full and fair statement of the property of your Orators subject to taxation in said County made out and valued in accordance with the requirements of law and your Orators insist that until such decision and determination was made no action could be legally taken by said Board in relation to said return. And your Orators submit that the said Arbitrary addition of thirty eight thousand six hundred & eighty one dollars & thirty five cents (\$38,681.35) as aforesaid made upon your Orators valuation is illegal and void. And your Orators further show unto your Honor that they are advised and believe and therefore charge that in case said Board had determined that said schedule and list did not contain a full & fair statement of the property of your Orators subject to taxation in said County made out and valued in accordance with the requirements of law then it would have been nec-

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necessary for said Board to have assessed such property
or cause it to be assessed in accordance with the rules
prescribed for assessing such property And your
Orators insist that the rules prescribed for assessing
such property require each piece and parcel to be
assessed and valued separately and that a reasonable
judgment and determination should be exercised
with reference to each item of property And your Orators
insist that the said arbitrary addition so as hereinbefore
stated to have been made by said Supervisor's Court is a
gross perversion and evasion of the requirements of the law
and ought not to be tolerated and that in this case there never
has been any legal assessment of your Orators property and
that the proceedings of said Board are illegal and void

And your Orators further show unto your Honor that by
the law of this state they are advised that the law requires
the amount of school tax of each year to be certified to
the County Clerk on or before the first day of July
And your Orators show that there was assessed against
your Orators property in said County the sum of one
thousand five hundred & sixty two dollars & eighty nine
cents (\$1562.89) School tax in said County (as by reference
to the exhibit of the Clerk of said County more fully appears)
and which said sum was not (as they are informed &
believe & therefore allege) was not certified nor filed
with the County Clerk until after the said first Monday
in July and is therefore void and illegal.

And your Orators further see Substant that there is
no law authorizing said Supervisors to raise or

increase the valuation of assessment of personal property fixed or stationary And that the increase by said Board on the "Fixed and Stationary personal property" of your orators at Kewanee and Galva in said county on your orators valuation is for this reason illegal and void

And your Orators further show that they have not paid said taxes that J A Pratt is Treasurer and ex officio collector of taxes in said County that all lawful taxes due from your orators in said county are payable to said Treasurer that such lawful taxes are now due from your orators to said Pratt in his official capacity that said Pratt has now in his hands the certified statement of taxes against your Orators property and threatens that unless restrained and enjoined from collecting said illegal taxes he shall proceed to levy upon the property of your orators and sell the same to make the full amount of the aforesaid taxes now charged against your orators in said County that your Orators are ready and willing to pay such portion of said taxes as may be legal and just that said Treasurer and collector demands the whole of the taxes so illegally assessed and refuses to receive of your Orators that portion of the said taxes which is legal and just in full payment of the taxes charged against your Orators on said certified statement of taxes that the collection of such illegal taxes by levy or distress and sale of the property of your Orators would work great and irreparable loss and injury to your Orators inasmuch as they have no personal property in said county out of which said

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taxes could be collected excepting their cars engines
machinery fuel and furniture of said Rail Road
all of which is necessary to the successful operation
of the same and the interests of public travel

In consideration of the premises your Orators therefore
pray that the said J A Pratt Treasurer and ex officio
collector of said county and also said Henry county
may be made parties defendants to this Bill;
that they may be summoned to answer all and singu-
lar the allegations herein contained but without oath
which is hereby waived that in the meantime upon this
Bill an injunction writ in due form of law be
awarded and directed to be issued against said
Pratt in his official capacity as aforesaid and against
said Henry county enjoining him and them from buying
selling or distraining the property of your Orators for
such illegal taxes and from collecting or proceeding
in any manner to collect from your Orators more than
the sum of the legal taxes according to the valuation & list so
as aforesaid furnished by your Orators; parcel of taxes
levied as aforesaid and acknowledged by this Bill to be
justly due from your Orators - until the further order
of said court and that upon final hearing of this
cause there be made a just and correct estimate
of the true amount of taxes lawfully due in said county
from your Orators for the year AD 1858. and that the
aforesaid illegal assessments and taxes be
annulled and set aside and if at ~~any~~^{the} time
of making said decree in this cause your Orators have

not grant said lawful taxes that then an order of this court be entered in this cause in substance and to the effect that your Orators be allowed to pay said lawful taxes in full satisfaction and discharge of all of said taxes now charged against your orators as aforesaid and that a perpetual injunction be awarded barring & prohibiting forever the collection of so much of said taxes as shall be adjudged and found illegal and that your Honor will award such other and further relief as shall in the premises seem meet

Isaac Arnold } The Chicago Burlington & Quincy Rail Road Co.
Compl^t Defendant } By John Van Nortwick President

In Chancery

Henry Co Circuit Court

The Chicago Burlington & Quincy
Rail Road Company - Compl^t
vs

Bill

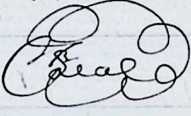
J A Pratt Treasurer &
Ex Officio Collector of Henry Co
and the County of Henry - Def^t

State of Illinois Cook Co
City of Chicago,

John Van Nortwick being duly sworn says that he is President of the above named complainant & that by means of his said office he has acquired particular knowledge of the matters stated in said Bill that he has read the above bill subscribed by him & knows the contents thereof and that the same is true of his own knowledge except as to the matters therein stated to be on information & belief & that as to those matters he has been so informed & believes it to be true

John Van Nortwick

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Subscribed and sworn to before me Peter Daggy a
Notary Public within and for the city of Chicago Cook County
Illinois Witness my hand and Notarial Seal this 8th day
of June AD 1859  P Daggy Notary Public

Office of the Chicago Burlington & Quincy R R, Co
Chicago April 28, 1858

To the County Clerk of the County of Henry State of Illinois
In accordance with the 22^d sections of the "Act in relation
to the assessment of property" approved Feb 12th 1853 and
the 2nd 3^d 4th and 12th sections of "An act to amend the
assessments and revenue laws" approved Feb 14th 1855
the Chicago Burlington & Quincy Rail Road Company make
the following return:

For value and description of the "Real Estate" owned by the
Company in the County of Henry see annexed Schedule
marked A

For value and description of the "Fixed and Stationary
Personal Property" in the County of Henry see annexed
schedule marked B

For value of all other Personal Property owned by the
Company in the County of Henry see annexed
schedule marked C.

For value and inventory of all the "Movable Property"
of the Company on their whole road see annexed
Schedule marked D.

The total length of the main track of the Company
in this State is 728.640 feet or 138 miles The total

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value of all the Rolling Stock of said company is \$521,155
Now if 728,640 feet (the whole length of the main track)
give \$521,155 (the total value of all the Rolling Stock)
how much will 77,166 feet of main track which is the
length in the county of Meerny give? The answer is
\$55,189.12 which is the share or proportion that you are
entitled to assess

The county of Meerny is therefore entitled to assess
as follows:

1 st Real Estate	Schedule A,	\$ 1590.16
2 ^d Fixed & Stationary Personal property	" B	\$ 49213.02
3 ^d Other Personal Property	" C	\$ 250.00
4 th Pro rata Movable Property		\$ 35189.12
Total in the County of Meerny		\$ 106242.30

This valuation is made on the first of April 1838
Should any change be made in the same by you, you
are required to give notice of the same at this office
See section 9 of the first act referred to in this report
all of which is respectfully submitted

Schedule A

Part of Section	Section	Town	Range	Length of Strip,	Width of Strip,	No. of Acres	Valuation	
NE 1/4 & S 1/2	24	15	5	5971	100	13.71	109	68
Page 13 SE	23	"	"	1388	"	5.18	25	44
N 1/2	26	"	"	4485	"	10.29	82	32
NE 1/4 & S 1/2	27	"	"	5919	"	13.57	108	72
SE 1/4	28	"	"	1404	"	3.20	25	60
N 1/2	33	"	"	4504	"	10.33	82	64
Kewanee Depot Ground		"	"			9.18	73	44
NE 1/4 & S 1/2	32	"	"	5558	"	12.74	101	92
N 1/2 & SW 1/4	5	14	"	5590	"	12.83	102	64
NW 1/4	8	"	"	848	"	7.94	15	52
NE 1/4 & S 1/2	7	"	"	5736	"	13.15	105	20
NW 1/4	18	"	"	2975	"	6.82	54	56
SE 1/4	13	"	4	3726	"	8.56	68	48
N 1/2 & SW 1/4	24	"	"	4496	"	10.31	82	48
S 1/2	23	"	"	3884	"	8.91	71	28
NW 1/4	26	"	"	2203	"	5.06	40	48
NE 1/4 & S 1/2	27	"	"	6148	"	14.02	112	72
SE	28	"	"	1808	"	4.20	34	60
Galva Depot Ground						10.00	80	00
N 1/2	33	"	"	4214	"	9.54	76	32
NE 1/2 & S 1/2	32	"	"	6074	"	13.95	111	60
SE 1/4	31	"	"	135	"	3.09	24	72
				77.166		198.77	1,590	16

The above parcels of land embrace a strip or tract of land extending on each side of the Rail Road track and embracing the same commencing at the point where the line of said Rail Road crosses the east boundary line of Henry county and extending to the point where the said Rail Road track crosses the south boundary line of said county containing in all $198\frac{77}{100}$ acres which is valued @ \$8 per acre = \$ 1,590.16

Schedule B

	Feet	Value of	
Length of Main Track in the County of Henry	77,166	43,984	62
" Side Tracks " "	5,071	2,028	40
Station at Keenawee	2,000	2,000	00
Station at Galva		1,200	00

Total value of Fixed and Stationary Personal Property \$49,213, 02

Schedule C

Personal Property	Value
Tools and fixtures for repairs of road	200 00
All other Personal Property	50 00
Total of Personal Property	\$ 250.

Schedule D

Movable Property

Description	No	Average value	Total Value
Locomotives	58	4000. 00	23 20 00.
Passenger cars	27	1000 00	270 00.
Emigrant cars	4	500 00	20 00.
Baggage cars	10	400. 00	40 00.
House cars	778	300. 00	233400.
Platform cars	84	200 00	16800.
Coal cars	87	150 00	3550.
Hand cars	27	15 00	405

Total of Movable Property \$521,155.

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Recapitulation
Valuation of the Chicago Burlington & Quincy R.R. Co
(by Towns in Henry Co

Town	Items of Property	Valuation	
No 15 NR No. 5 East	Real Estate	609	76
	Fixed & Stationary Personal Property	17428	85
	Other Personal Property	125	00
	Pro-rata Movable Property	20904	58
		39068	19
No 14 NR No 5 East	Real Estate	277	92
	Fixed & Stationary Personal Property	11083	15
	Other Personal Property	0	00
	Pro-rata Movable Property	10834	56
		22145	63
No 14 NR No 4 East	Real Estate	702	48
	Fixed & Stationary Personal Property	20751	02
	Other Personal Property	125	00
	Pro-rata Movable Property	23449	48
		45028	48

State of Illinois
 Henry County Cambridge B

Received of R J Hall Esq
 Treasurer of the Chicago Burlington and Quincy
 Rail Road Company Three thousand three hundred
 and Sixty Two $\frac{42}{100}$ Dollars in full for Taxes
 due from said Company to the County of Henry
 and State of Illinois for the Year 1838 on their real Estate
 and Personal Property as per the following Statement

Valuation	State Tax	County tax	School tax	Corporation	Drawn & Bridge	Total
\$144,923.65	\$ 970.98	\$ 478.14	\$1562.89	\$194.84	\$ 158.66	\$3365.42

County Treasurer

Upon filing the foregoing bill with a bond conditioned as
 the law directs with John Van Orwick or C G Hammond
 as surety in the penal sum of two thousand dollars
 with the Clerk of the Circuit court of Henry county
 said clerk will issue an injunction according
 to the prayer of said bill to restrain the collection of the
 school tax in said bill mentioned till the further
 order of said court

June 21 1839

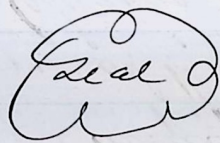
J D Catron
 Ch Just Ill

And afterwards to wit on the day and year aforesaid on the filing of said Bill. a writ of injunction issued herein in words and figures following to wit;

State of Illinois }
County of Henry } The People of the State of Illinois
To the Sheriff of said county Greeting;

Whereas it has been represented unto the Honorable J D Caton Chief Justice of the Supreme Court of the State of Illinois on the part The Chicago Burlington and Quincy Rail Road company complainants in their certain bill of complaint exhibited before said Chief Justice and filed in the Circuit Court of the county of Henry of said state against Julius A Pratt Treasurer of said county and The County of Henry to be relieved touching certain matters therein complained of in which said bill it is stated among other things that the said Julius A Pratt Treasures as aforesaid and the said county of Henry are combining and confederating with others to injure the complainants touching the matters in said bill set forth and that your actions and doings in the premises are contrary to good conscience and equity and the said judge having under his hand endorsed upon said bill that a writ of Injunction issue out of this court according to the prayer of said Bill We therefore in consideration of the premises

And of the particular matters set forth in said bill do command you that you do strictly enjoin the said Julius A Pratt Treasurer as aforesaid and The County of Henry their attorneys solicitors agents and servants each and every of them that they do absolutely desist and refrain from buying selling or distraining the property of the said complainants for the collection of so much of the school tax assessed upon the property of the said complainants as is in said bill of complaint complained of until the further order of this Honorable Court to the contrary Hereof fail not and make due return into this Court endorsed hereon of your doings herein Witness Thomas Wiley & clerk of said Court and the Seal thereof this 24th of June AD 1859



Thomas Wiley &
Clerk

And on which writ appears the following endorsement by the Sheriff to wit:

" I have served the within by delivering a copy of the
" within to Julius A Pratt County Treasurer of the
" County of Henry and one also to Daniel Bonar
" Clerk of the County of Henry this 25 of June 1859
" served on J A Pratt and 6th day of July on
" Bonar

P H Sniff, Sheriff

" By A R Mock Deputy

And afterwards to wit on the day and year aforesaid
the said complainants file their Bond in said
case in words and figures following to wit:

"Know all men by these presents that
we the Chicago Burlington and Quincy Rail road
Company and John Van Nortwick are held and
firmly bound unto Julius A Pratt Treasurer of
Henry County & his successors in office in the
sum of Two thousand Dollars (\$2000) For which
payt well and truly to be made we bind ourselves
our successors & assigns and heirs & executors
respectively firmly by these presents Sealed
and dated the twenty third day of June AD 1839

The condition of this obligation is such that
whereas the Chicago Burlington & Quincy Rail
Road co has applied to the Hon Jno D Eaton
Chief Justice for an injunction enjoining amongst
other things the said Julius A Pratt Treasurer of
said County and the County of Henry from collect-
ing the school tax of Henry co. assessed upon the
property of said Company for the year AD 1838 ac-
cording to the prayer of their Bill in that behalf
and whereas said Chief Justice has endorsed on said
bill an order granting said injunction upon the filing
of said Bill with a bond conditioned as the law
directs with John Van Nortwick as surety in the
penal sum of two thousand dollars

Now if the above bounden Chicago Burlington &
Quincy Rail Road co and John Van Nortwick

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their successors & assigns and heirs & executors respectively or any of them shall well and truly pay unto the said Julius A Pratt as Treasurer aforesaid or his successors in office all such costs and damages as shall be awarded against said complainant in case the said injunction shall be dissolved then the above obligation to be void otherwise to be and remain in full force and virtue In witness whereof the said Chicago Burlington & Quincy Rail Road Company has caused to be hereto attached their corporate seal and there presents to be signed by their President and John Van Nortwich surety has hereto affixed his hand and seal the day & year above written

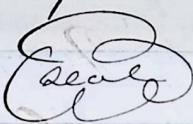
attest A T Keall Secy C, B & Q R.R. Co
John Van Nortwich President
C, B & Q R.R. Co

And afterwards to wit on the day and year aforesaid a summons in chancery issued out of said court in said cause in words and figures following

State of Illinois }
Henry County } ss The People of the State of Illinois
To the Sheriff of Henry County Greeting:
We Command you to Summon Julius A Pratt Treasurer of the County of Henry and The County of Henry if to be found in your

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County personally to be and appear before the Circuit court of said county on the first day of the next term thereof to be holden at the Court House in Cambridge on the 2^d Monday in the month of October to answer to a bill of complaint filed in our said circuit court on the chancery side thereof against them by The Chicago Burlington & Quincy Rail Road Company And have you then and there this writ and make return thereon in what manner you execute the same
Witness J. Wiley & Clerk of our said circuit court and the seal thereof at Cambridge this 24th day of June in the year of our Lord one thousand eight hundred and fifty 9

 Thomas Wiley & Clerk
Upon which summons appears the following endorsement by the sheriff, to wit

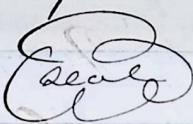
"I have served the within summons by delivering a copy of the same to the within named Julius A Pratt this 25th day of June AD 1859 Also to Daniel Bonar clerk Keeney county this 6th day of July 1859

P H Snuff Sheriff Keeney county
By Anthony R Brock Deputy Sheriff

And afterwards to wit on the 25th day of August 1859. comes the said Julius A Pratt as Treasurer as aforesaid and files his answer to said complainants Bill of complaint in words and figures following to wit

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County personally to be and appear before the Circuit court of said county on the first day of the next term thereof to be holden at the Court House in Cambridge on the 2^d Monday in the month of October to answer to a bill of complaint filed in our said circuit court on the chancery side thereof against them by The Chicago Burlington & Quincy Rail Road Company And have you then and there this writ and make return thereon in what manner you execute the same
Witness J. Wiley & Clerk of our said circuit court and the seal thereof at Cambridge this 24th day of June in the year of our Lord one thousand eight hundred and fifty 9

 Thomas Wiley & Clerk
Upon which summons appears the following endorsement by the sheriff, to wit

"I have served the within summons by delivering a copy of the same to the within named Julius A Pratt this 25th day of June AD 1859 Also to Daniel Bonar clerk Keeny county this 6th day of July 1859

P H Snuff Sheriff Keeny county
By Anthony R Brock Deputy Sheriff

And afterwards to wit on the 25th day of August 1859. comes the said Julius A Pratt as Treasurer as aforesaid and files his answer to said complainants Bill of complaint in words and figures following to wit

The State of Illinois } Circuit Court
Kecun County ss } In Chancery

The separate answer of Julius
A Pratt Treasurer of said county to the Bill
of complaint of the Chicago Burlington &
Quincy Rail Road company complainant

This defendant now and at all times
hereafter saving to himself all & all manner of
benefit or advantage of exception or otherwise that
can or may be taken to the manifold errors un-
certainties & imperfections in the said Bill con-
tained for answer thereto or to so much thereof as
this defendant is advised that it is necessary
or material for him to make answer answering
says that it is true & therefore he admits that the com-
plainants are an Incorporation for Rail way
purposes duly incorporated authorized & recognised
as such by the laws of the state of Illinois & that they
have the Rail Road named in said Bill & that the
same passes through the county of Kecun in said
state & that said county has been & now is under
township organization

And further answering this defendant says
that it is also true & therefore he admits that said
complainants by their corporate name aforesaid
were taxable for the year 1858 on their said Rail road
in said county of Kecun & that said company
(complainants) reported & filed in the office of

Page 23.

The clerk of the county court of said county a list of their taxable property & their valuation thereof at the time as stated in said Bill but this defendant avers that it is not true & therefore he denies that the complainants valuation thereof was correct on the contrary he avers that the same was too low & in that respect entirely incorrect in amount thirty eight thousand six hundred eighty one & $\frac{35}{100}$ dollars or thereabouts

And further answering this defendant says that it is true & therefore he admits that at the annual meeting of the Board of Supervisors of said Henry county Illinois held on the 2^d Monday of September AD 1858 as provided & required by law such proceedings were then & there had by & before such Board that the matter of Rail Road assessments of the several Rail Roads passing through said county was taken under consideration by said Board of Supervisors & was in due & legal form referred to the committee on finance of said Board with instructions to raise the assessments of the same if they should deem it necessary legal & proper & that said committee at the same session of said Board viz the September term thereof AD 1858 reported upon the complainants Rail road as stated in said Bill & that said report at that or a special term of said Board immediately afterwards was accepted & adopted by said Board But this defendant says that it is not true & therefore he denies that the list made out & filed by the

Complainants in May 1854 of their taxable property in said county was a full & fair statement & valuation thereof made out & valued according to law as in said Bill alleged but he says that the same as increased by said Board of Supervisors is correct & according to law & that the same was in all respects legally done by said Board of Supervisors so far as this defendant is informed & advised & that said complainants had legal notice thereof & were bound to take notice of the same so far as notice to them was necessary.

This defendant further answering says that it is not true & therefore he denies that the valuation of complainants taxable property in said county as increased & fixed by said Board of Supervisors is illegal unjust & inequitable & disproportionate to the valuation of other property in said county but he avers the same to be legal just equitable & proportionate to other property in said county.

Further answering this defendant says that he is advised & believes the law to be that the list of taxable property must be made out to the clerk or delivered by the complainants at the clerks office on or before May 1 of each year as stated in said Bill & that it becomes the duty of the Board of Supervisors thereupon at some suitable fit & convenient time to be fixed by said Board or if at no other time then at their next regular annual meeting to determine by their decision of the majority of said Board whether such

Page 25- return is correct & if correct to assess it accordingly or correct it as the case may be but this defendant is not advised & does not believe the law to be that such determination & action must be in the month of May as stated & claimed in said Bill but that the statute in such case made & provided is merely directory & another time will do as well & that the time is not material & that no assessment of property or charge for taxes thereon can be considered illegal on account of any informality in making the assessment or in the tax lists or on account of the assessment not being made amended or completed within the time required by law

And further answering this defendant says that it is true & therefore he denies the allegations of complainants Bill to the contrary that said Board of Supervisors did legally pass upon and determine the question whether the list of property so returned by complainants to said County Clerk was correct or not & that on such examination & determination they found said list contained a correct list & statement of complainants taxable property in said County so far as that is concerned but that its valuation by said complainants was too low in amount as before stated & therefore it was not necessary that said Board should cause a new assessment list to be made as claimed in said Bill but all that was necessary to be done in that behalf was for said Board to assess said list of property at a fair value & as required by law in other cases by increasing

Page 26 the valuation to such an amount as in their judgment & by their responsible judgment and determination one of each item & parcel of such property would be just & equitable which this defendant submits said Board did do & that the action of said Board in the premises was in all respects legal & proper & that the same was not arbitrary nor was it a perversion and evasion of the law as stated in said Bill but so far as this defendant is advised & to the best of his knowledge & belief was in all respects legal just & proper

(School Tax)

And further answering this defendant says & so much of said complainants Bill as relates to the school tax of Complainants in said county that he is so advised & believes the law to direct that the amount of school tax of each year shall be certified by the directors of the several school districts in the county to the county clerk on or before the first Monday of July in each year & not on the first day of July as in said Bill alleged And this defendant says that he is advised & believes that the same was done for the year 1858 in the county of Henry & State of Illinois in the manner and at the time required or directed by law, though this defendant is advised & believes the law to be that the precise time when this duty shall be performed is immaterial, so that it be done in time to enable the clerk aforesaid to perform his duty in the premises as required by law which this defendant avers was in this case done

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Further answering this defendant says that he submits that the law of this State does authorize the Board of Supervisors to increase the valuation of assessment of personal property & fixed & stationary personal property as returned by a Rail Road company to the county clerk at the time & in the manner before herein stated & set forth & therefore he denies that the increase by said Board of Supervisors of Henry County of the valuation of fixed & stationary personal property of the complainants at Galva & Newance in said county was & is illegal & void but he avers the same to be legal & valid and in conformity to the statute in such case made and provided. This defendant therefore submits that there is no just or legal reason why said complainant should not pay the taxes mentioned & set forth in their said Bill according to the certified statement now in the hands of this defendant for collection as stated in said complainants Bill that it is true this defendant has refused to receive a portion of said tax in full payment & discharge of complainants because he has no right to do so but that he has offered to receive so much thereof as complainants were willing to pay & receipt to them for the same but not in full but said complainants have refused & now refuse to pay any portion of said tax. It is true & therefore he admits that under these circumstances he was about to proceed to collect said tax against complainants according to law as it was his

and to do when complainants filed their said Bill & obtained the allowance of an Injunction restraining him from the collection of School Tax & no more mentioned & set forth in said Bill which injunction has been duly served upon your respondent

This defendant states & shows to the court that said school tax is greatly needed in said county, & that great injury & embarrassment will result from the injunction restraining the collection of the same if the same be not speedily dissolved which he prays may be done by the court at the next term thereof in manner & form as the law directs & provides

And this defendant knows of no other or thing in said Bill contained material or necessary for him to answer & not herein and hereby well & sufficiently answered confessed traversed and avoided or denied All which matters & things this defendant is ready & willing to aver maintain & prove as this Honorable court shall direct And having fully answered he prays to be here dismissed with his reasonable costs & charges in this behalf most wrongfully sustained &

Julius A Pratt Treasurer & c
By J H Home his solicitor

State of Illinois

Henry County ss } Julius A Pratt defendant
being duly sworn according to law says that the

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foregoing answer, the several matters & things
therein stated & set forth are true in substance &
fact according to his information knowledge &
belief

Julius A Pratt

Treasurer of Henry Co Illinois

Sworn to & subscribed before me this 4th day
of August A.D. 1889.

J H Horne

(Seal)

Notary Public

in & for said county &c

And afterwards ^{to wit} on the day and year last aforesaid
comes the said "Henry County" and files her separate
answer to said complainants Bill of complaint
in words and figures following to wit

The State of Illinois } Circuit Court
Henry County } In Chancery

The separate Answer of Henry County
to the Bill of Complaint of the Chicago Burlington &
Quincy Rail Road Company complainants

This defendant now and at all times
hereafter saving to herself all & all manner of benefit
or advantage of exception or otherwise that can or may
be taken to the manifold errors uncertainties or im-
perfections in the said Bill contained for answer thereto
or so much thereof as this defendant is advised that
it is necessary or material for her to make answer
answering says that it is true & therefore she admits
that the complainants are an incorporation for Railway

purposes duly incorporated authorized & recognized as such by the laws of the state of Illinois & that they have the Rail Road named in said Bill & that the same passes through the county of Henry in said state & that said county has been & is now under township organization

And further answering this defendant says that it is also true and therefore she admits that said complainants by their corporate name aforesaid were taxable for the year 1858 on their said Rail Road in said County of Henry & that said company (complainants) reported & filed in the office of the Clerk of the county court of said county a list of their taxable property & their valuation thereof at the time as stated in said bill but this defendant avers that it is not true & therefore she denies that the complainants valuation thereof was correct: on the contrary she avers that the same was too low & in that respect entirely incorrect in amount thirty eight thousand six hundred eighty one & 85/100 dollars or thereabouts

And further answering this defendant says that it is true and therefore she admits that at the usual meeting of the Board of Supervisors of said Henry county Illinois held on the 2nd Monday of September A.D. 1858 as provided and required by law such proceedings were then and there had by and before said Board that the matter of Rail Road assessments of the several Rail Roads passing thro said county was taken under consideration by said board of supervisors & was in due and

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legal form referred to the committee on finance of said Board with instructions to raise the assessment of the same if they should deem it necessary legal & proper & that said committee at the same session of said Board viz: the September term thereof AD 1858 reported upon the complainants Rail Road as stated in said Bill & that said report at that or a special term of said Board immediately afterwards was accepted & adopted by said Board

But this defendant says that it is not true and therefore she denies that the list made out and filed by the complainants, in May AD 1838 of their taxable property in said county was a full and fair statement and valuation thereof made out and valued according to law as in said Bill alleged but she says that the same as increased by said Board of Supervisors is correct & according to law and that the same was in all respects legally done by said Board of Supervisors so far as this defendant is informed and advised & that said complainants had legal notice thereof & were bound to take notice of the same so far as notice to them was necessary

This defendant further answering says that it is not true and therefore she denies that the valuation of the complainants taxable property in said county as increased & fixed by said board of Supervisors is illegal unjust & inequitable & disproportionate to the valuation of other property in said county but she avers the same to be legal just and equitable and proportionate

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to the other property in said county

Further answering this defendant says that she is advised and believes the law to be that the list of taxable property must be made out to the clerk & delivered by the complainants at the clerk's office on or before May 1st of each year as stated in said Bill & that it becomes the duty of the Board of Supervisors thereupon at some suitable fit and convenient time to be fixed by said Board & if not no other time then at their next regular annual meeting to determine by the decision of the majority of said Board whether such return is correct or if correct to assess it accordingly or correct it as the case may be, but this defendant is not advised and does not believe the law to be that such determination & action must be in the month of May as stated and claimed in said Bill but that the statute in such case made & provided is merely directory & another time will do as well & that the time is not material & that no assessment of property or charge for taxes thereon can be considered illegal on account of any informality in making the assessment or in the tax lists or on account of the assessment not being made amended or completed within the time required by law.

And further answering this defendant says that it is true & therefore she denies the allegations of complainants Bill to the contrary that said Board of Supervisors did legally pass upon & determine the question whether the list of property so returned by complainants to said

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county clerk was correct or not and that on such determination & examination they found said list contained a correct list & statement of complainers taxable property in said county so far as that is concerned but that its valuation by said complainers was too low in amount as before stated & therefore it was not necessary that said Board should cause a new assessment list to be made as claimed in said Bill but all that was necessary to be done in that behalf was for said Board to assess said list of property at a fair value & as required by law in other cases by increasing the valuation to such an amount as in their judgment & by their responsible judgment and determination would be just & equitable which this defendant submits said Board did do & that the action of said Board in the premises was in all respects legal & proper & that the same was not arbitrary nor was it a perversion & evasion of the law as stated in said Bill but so far as this defendant is advised & to the best of her knowledge & belief was in all respects legal just and proper

(School Tax)

And further answering this defendant says to so much of said complainers Bill as relates to the school tax of complainers in said county that she is advised and believes the law to direct that the amount of School tax of each year shall be certified by the Directors of the several school districts in the county to the county clerk on or before the first Monday of July in each year & not on the first day of July as in said Bill alleged And this

defendant says that she is advised & believes that the same was done for the year 1858 in the county of Henry & State of Illinois in the manner & at the time required or directed by law though this defendant is advised & believes the law to be that the precise time when this duty shall be performed is immaterial so that it be done in time to enable the clerk aforesaid to perform his duty in the premises as required by law which this defendant avers was in this case done.

Further answering this defendant says that she submits that the law of this state does authorize the Board of Supervisors to increase the valuation of assessment of personal property & fixed and stationary personal property as returned by a Rail Road company to the county clerk at the time and in the manner before herein stated & set forth & therefore she denies that the increase by said Board of Supervisors of Henry county of the valuation of fixed & stationary personal property of the complainants at Galva & Keokuk in said county was & is illegal & void; but she avers the same to be legal and valid and in conformity to the statute in such case made & provided. This defendant therefore submits that there is no just or legal reason why said complainants should not pay the taxes mentioned & set forth in their said Bill according to the certified statements now in the hands of the Treasurer of said county for collection as stated in said complainants Bill. That it is true that said Treasurer has refused to receive a portion of said tax in full.

Page 35 Payment & discharge of complainants because
he has no right so to do but that he has offered
to receive so much thereof as complainants were
willing to pay & receipt to them for the same
but not in full but said complainants have
refused & now refuse to pay any portion of
said tax. It is true & therefore she admits that
under these circumstances said Treasurer was
about to proceed to collect said tax against
complainants according to law as it was his duty
to do when complainants filed their said Bill &
obtained the allowance of an injunction restraining
said Treasurer from the collection of the school tax
& no more mentioned & set forth in said Bill which
injunction has been duly duly served upon your
respondent.

This defendant states & shows to the court that said
school tax 'is greatly needed in said county & that great
injury and embarrassment will result from the in-
junction restraining the collection of the same if
the same be not speedily dissolved which she prays
may be done by the court at the next ~~term~~^{term}, thereof
in manner & form & the law directs & provides

And this defendant knows of no other
matter or thing in said Bill contained material
or necessary for her to answer & not herein & hereby
well & sufficiently answered confessed traversed
& avoided or denied All which matters
and things this defendant is ready & willing

to over maintain & prove as this Honorable Court shall direct and having fully answered the prayer to be dismissed with her reasonable costs & charges in this behalf most wrongfully sustained

The County of Keokuk
by J A Howe her Solicitor &c

And afterwards to wit at the term aforesaid and on the 19th day of October the following proceedings were had in said cause

The Chicago Burlington & Quincy Rail Road Company	} Injunction
vs Julius A Pratt Treasurer &c & The County of Keokuk	

And now at this day comes the said complainants by their Solicitor J A Arnold and the defendants by John Mc Howe their Solicitor and this cause being now called for the hearing of motions &c The said defendants by their Solicitor enters motion to dissolve the injunction and dismiss the Bill filed herein by the said complainants

And afterwards to wit at the term aforesaid and on the 19th day of November A.D 1859 this cause coming on to be heard upon the motion aforesaid, And the Court being fully advised in the premises, Orders that said motions

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be and the same are hereby sustained, that the injunction be and the same is hereby dissolved and the bill of said complainant filed herein be and the same is hereby dismissed, that the said complainants pay the costs herein to be taxed and that execution issue therefor

And thereupon comes the said complainants by their solicitor and pray an appeal from the judgment of this court to the supreme court of the state of Illinois which said prayer is granted by the court and an appeal allowed, Whereupon it is ordered by the court that the said complainants give bond in the sum of four thousand dollars (\$4000) with John Van Nortwick & C. S. McCommend as sureties and that said bond be filed in this court within thirty days from the entry of this order

And after wards to wit on the 9th day of Dec 1859 the said complainants file their appeal bond as required by order of this court in words and figures following to wit:

State of Illinois }
Hearing County } Circuit Court of said County

Know all men by these presents
That we The Chicago Burlington and Quincy
Rail Road Company as principal and

Charles G Hammond and John Van Nortwick as securities are held and firmly bound unto Henry County in the penal sum of Four thousand (\$4000^{00/100}) dollars for the payment of which well and truly to be made we bind ourselves our heirs executors legal representatives and administrators jointly and severally and firmly by these presents In witness whereof the Secretary of said Rail Road company hath hereunto affixed the name of said company and the common seal thereof and the said Charles G Hammond and John Van Nortwick have affixed their names and seals on this seventh day of December AD 1839

Now the conditions of this obligation are such that whereas on the 19th day of November AD 1839 in the Circuit Court of Henry County in a certain cause on the Chancery side thereof of said court then and there pending wherein the said Chicago Burlington and Quincy Rail Road company were complainants and the said Henry County was defendants in a bill and injunction The said Circuit Court of Henry County did order adjudge and decree that the said injunction be dissolved and the said bill of complaint be dismissed for want of jurisdiction from which order and decree the said Chicago Burlington and Quincy Rail Road company

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by their attorney. prayed and then and there obtained an appeal to the supreme court of the state of Illinois

Now therefore if the said Chicago Burlington and Quincy Rail Road company shall well and truly prosecute their appeal in said Supreme court or in case of a failure thereon shall pay all costs and damages awarded against them and in all things conform to and obey the order of the said supreme court then and that case then presents and every thing herein shall be void and of none effect otherwise to remain in full force and effect

Lee

Chicago Burlington & Quincy Rail Road company by Amos J. Hall Secretary

C. C. Hammond
John Van Nostwick

State of Illinois Henry County

I Thomas Wiley clerk of the circuit court do certify that the foregoing is a true copy of the record and proceedings had in the foregoing cause in this court, and of the appeal bond filed herein, as appears from the record in my office

Witness my hand and official seal of said court at Cambridge in said County this 10th day of March A.D. 1860

Thomas Wiley clerk
By W. L. Dalrymple depy

The Chicago Burlington & Quincy
Rail Road Company - appellant
vs

Julius A Pratt & Henry County
appellees

The said "The Chicago Burlington & Quincy Rail Road company
appellant by Walter Vanaman & Dexter ~~How~~^W attys comes
and says that there is manifest error in the writ
in record in said cause & that the decree & order
of the court below ~~ought~~ dissolving the injunction
& dismissing the bill in said cause ought to
be reversed and for apportioning of costs the said
appellant says that the said court below
erred in dissolving the said injunction & in
dismissing the bill in said cause

Walter Vanaman & Dexter
attys for appellees

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Chicago Burlington &
Quincy R.R. Co

Julius A Pratt & Henry County

vs

Copy of Record

Filed Oct. 17. 1860
A. Deland Clk.