

13169

No. _____

Supreme Court of Illinois

Moorehouse

vs.

Phelps

71641  7

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Merriam B. Morehouse

Wm. L. Phelps

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13169

1859

Merriam B. Morehouse

Phelps

SUPREME COURT U. S. *December* Term, 1858.

Costs of *Lickinson vs. Morehouse* in No. 63.

1857; ent. ac. 56; fil. wr. 40; allow. 40; cit. 40; ser. 40; bond and app. 68; ass. of er. 40; pray. 40; rec. 100; cert. 40; doc. 40; fee bond and ent. sec. 152; in. tr. 84;

December term ap. 21; in. 28; mo. 28; arg. ; fil. 40; ord. 28; fil. 40;

fil. pa. ; ord. 28; con. 14. 18 , T. ap. 21; in. 28;

mo. 28; fil. 40; arg. ; ord. 28; fil. 40; fil. pa. ;

ord. 28; con. 14. 18 , T. ap. 21; in. 28; mo. 28; fil. 40; arg. ; ord. 28; fil. 40; fil.

pa. ; ord. 28; con. 14. 1858,

Sec: T. ap. 21; in. 28; tr. 40, arg. 56; sub. 28; mo. 28; jud. 164½; fil. 40; rec. pr. 50 ;

paid 1.60

mo. and aw. 56; mand. 98½; fil. pa. 4. 40; record 77. - ; co. and co. 56. \$103.15

\$103.15 Fee book 7 , pa. 308. Test: *Wm H. Carroll* C. J. C. U. S.

1859/march 28 Rec'd pay't, per *Hon. E. B. Washburn*

Wm H. Carroll

States

And the Counsel of the appellants
moves the Court here for such
judgments and mandate to the
Court below as may be in
conformity with the said Opinion
& mandate of the said Supreme
Court of the United States &
consistent with the practice of
this Court in similar cases.

And ^{the} Counsel aforesaid further
prays 1. For a judgment of costs
in this Court.

2 Also the costs taxed in the
said Supreme Court of the
U.S. as appear upon the files
of this Court.

Wm. W. Miller

Points

1. On the cost question. No execution ever issues
from the Supreme Court of the U.S., nor does a
fee bill. And the costs of the record
from this Court are not taxed there. No
doubt that ~~that~~ this Court must allow
the costs taxed by the Federal Court & also
the costs of the plaintiff in error's transcript

2. It is claimed that as the judgment
of the Supreme Court of the U.S. settles
conclusively the rights of the parties
to this record, that the order of this
Court to the Circuit Court shall be
an order to dismiss the case. &
not remand the same for a
new trial.

E. B. Washburne

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L. B. Morehouse

vs. { Motion

William A. Phelps

Filed May 9/59
L. Leland
Clerk

Richardson B. Mowhouse.
vs.
William A. Phelps.

In the Supreme Court
of the State of Illinois
Of the Term of April
1859.

And Grand Jurors

And now on this day comes the
said appellant by E. B. Washburne
his attorney and files a mandate from
and the opinion of the Supreme Court
of the United States, wherein it appears
that the judgments ~~of affirmance~~
~~of this Court~~ affirming the judgments of the Circuit
Court of Cook County Illinois ~~and~~
rendered by this Court on the day
of ~~the~~ 1857. was upon writ
of error to said Federal Court
reversed and the cause remanded
to this Court with instructions to
this Court to proceed in this cause
in conformity with the decision of
the said Federal Court.

The appellant therefore moves
this Court

1. To re-instate this cause
upon the docket of this Court &
2. For a judgment in conformity
with said decision & opinion of the
said Supreme Court of the United

UNITED STATES OF AMERICA, SS.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the Supreme
Court of the State of Illinois

greeting:

Whereas, lately, in the Supreme Court of the State of Illinois

before you, or some of you, in a cause between Dickinson B. Morehouse,
appellant and William A. Phelps, appellee,
the judgment of the said Supreme Court was in
the following words, viz: -

It appears to the Court now here
that neither in the record and proceedings aforesaid,
nor in the rendition of the judgment aforesaid is
there any thing erroneous, vicious, or defective, and
that that record is no error; therefore it is considered
by the Court that judgment aforesaid be affirmed
in all things and stand in full force and effect
notwithstanding the said matters and things
therein assigned for error. And it is further
considered by the Court that the said appellee
recover of and from the said appellant his costs
by him in this behalf expended, and that he
have execution therefor! -

as by the inspection of the transcript of the record of the said *Supreme Court*_____

_____ which was brought into the Supreme Court of the
United States, by virtue of a writ of error, _____

agreeably to the act of Congress, _____

_____ in such case made and provided, fully and at large appears.

And whereas, in the present term of *December*, in the year of our Lord one thousand eight hundred and *fifty eight* the said cause came on to be heard before the said Supreme Court of the United States, on the said transcript of the record, and was argued by counsel: On consideration whereof, it is now here ordered and adjudged by this court that the judgment of the said Supreme Court in this cause be and the same is hereby reversed with costs, and that the said appellant, *Lickinson B. Morehouse*, recover against the said appellee, *William A. Phelps*, one hundred and twenty three dollars and fifteen cents for his costs herein expended and have execution therefor. And it is further ordered that this cause be and the same is hereby remanded to the said Supreme Court for further proceedings to be had therein in conformity to the opinion of this court.

Mari^gth

And the same is hereby remanded to you, the said Judges of the said *Supreme Court*
_____ in order that such

_____ proceedings may be had in the said

cause, in conformity to the judgment and decree of this Court above stated, as according to right and justice, and the Constitution and laws of the United States, ought to be had therein, the said writ of error notwithstanding:

Witness the Honorable *Roger B. Taney* Chief Justice of said Supreme Court, the
first Monday of December in the year of our Lord one thousand eight hundred
and *fifty eight.* ~

COSTS of appellant. ~

Clerk,.....\$103.15
Attorney,....\$ 20.00
\$123.15

Taxed by

Wm. H. Carroll

Clerk of the Supreme Court of the United States.

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No. 63. 1st December Term, 1858.
MANDATE
SUPREME COURT UNITED STATES.

Morehouse vs. Shepley.

*Filed May 9 1859
at St Louis.
Clark*