

No. **8684**

Supreme Court of Illinois

Illinois Central R.R.Co.

vs.

Alexander Graham

71641  7

No 2.

November 1858.

Illinois Central Rail
Road Company -
Plaintiff in Error

vs

Alexander Graham
Defendant in Error

Error to Union -

Reversed for Maryland
in Error -

8684

Page 1 Pleas before the Circuit Court within and for the
County of Union and State of Illinois on the twenty
third day of April in the year of our Lord one
thousand eight hundred and fifty six.

Be it remembered that heretofore
to wit, on the thirtieth day of July in the year of our
Lord one thousand eight hundred and fifty five Alexan-
der Graham sued out of the Clerk's Office of the
Court aforesaid, the following summons against the
Illinois Central Railroad Company, to wit,

State of Illinois  The people of the State of Illinois
County of Union  To the Sheriff of said County
Greeting

We Command you that you summon the Illinois
Central Railroad Company of to be found in your
County 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
Janesboro on the second Monday in the month
of October next, to answer Alexander Graham
of plea of Trespass on the Case on promises to the
damage of him the said Alexander Graham two
thousand dollars as he saith. And have you there
and there this writ, and make return thereon in
what manner you execute the same.

Witness Thomas McManis clerk and the
 seal of said Court hereto affixed at Office in
Janesboro this 30th day of July A.D. 1855.
Thomas McManis Clk

Which Summons was afterwards, to wit, on the first day of
October A.D. 1855 returned to the Court aforesaid by the
said Sheriff endorsed as follows, to wit,

Page 2 Served the within by leaving a copy with John
 Cochran Station agent of the Illinois Central Rail
 Road Company on the 18th day of August 1855.
 See 50 Alex J. Sumner Shiff
 mileage 1 + 5 = 5-
 Ret $\frac{10}{65-}$

And afterwards on the same day of leaving out the
 foregoing summons, to wit, on the 30th day of July AD 1855
 the said Alexander Graham filed in the Clerk's Office
 aforesaid the following declaration, to wit,

State of Illinois Of the October Term of the
 Union County Union County Circuit Court
 AD 1855

Alexander Graham by J. Dougherty & Son his attorneys
 Complains - the Illinois Central Rail Road Company
 Summoned vs of a plea of trespass on the case on
 promises, for that whereas the said Illinois Central
 Rail Road Company defendant in this cause undertook
 to wit, on the twenty fourth day of October AD 1855
 at the County of Union and State of Illinois aforesaid
 said was indebted to the said plaintiff in the
 sum of fifty nine dollars and fifty two cents
 for the wages or salary of the said plaintiff
 before that time and then due and payable
 from the said defendants to the said plaintiff
 for the service of the said plaintiff by him
 before then done and performed as the hired
 servant of and for the said defendants and
 on their retention and being so indebted
 they the said defendants in consideration
 thereof afterwards, to wit, on the day and

year last aforesaid at the County of Union State of Illinois aforesaid undertook and then and there faithfully promised the the said plaintiff to pay him the said sum of money when they the said defendants should be thereunto afterwards requested.

And for that whereas the said defendants heretofore, to wit, on the day and year last aforesaid at the County of Union and State of Illinois aforesaid was indebted to the said plaintiff in the sum of Ninety two dollars and fifty two Cents for so much money by the said plaintiff before that time paid laid out and expended to and for the use of the said defendants at their special instance and request and being so indebted they the said defendants, afterwards to wit, on the year last aforesaid at the County of Union and State of Illinois undertook and faithfully promised the said plaintiff to pay him the said last mentioned sum of money when they should be thereunto afterwards requested.

And whereas also the said defendants afterwards, to wit, on the day and year last aforesaid at the aforesaid accounted with the said plaintiff of and concerning divers other sums of money from the said defendants to the said plaintiff before that time due and owing and then in arrear and unpaid and upon such accounting the said defendants were then and there found to be in arrear and indebted to the said plaintiff in the further sum of fifty nine dollars and fifty two cents of like lawful money and being so found in arrear and indebted they the said defendants

Page 4 Undertook and faithfully promised the said plaintiff to pay him the said sum of money when they the said defendants should be thereunto afterwards requested - Nevertheless the said defendants not regarding their said several promises and undertakings have not as yet paid the said several sums of money or any or either of them or any part thereof to the said plaintiff although often requested so to do, but the said defendants to pay him the same have hitherto wholly neglected and refused and still do the neglect and refuse to the damage of the said plaintiff of \$2000. and therefore he brings his Suit.

J. Dougherty & Son
Atty for plaintiff

Copy of account sued on

Illinois Central Rail Road Company
for Jan 1851 -

To Alexander Graham Dr.

1851 July 18 th Traveling expenses from 15 th June to the 18 th	
August to Caladonia from Camp	11.32
" Horse hire	1.00
Oct 1 st Traveling expenses & pay from 1 st to the 4 th	
Oct inclusive from Foresters to Caladonia & neighborhood	19.00
8 th do to the 12 th	17.00
	59.52
note I certify the account because Sent paid medical fees	14.00
Error on pay roll	18.68
	92.20

And afterwards, to wit, on the day and year last aforesaid to wit on the 30th day of July A.D. 1851 the said Alexander

page 5 Graham filed in the clerk's office aforesaid, the following
accounts, to wit,

Illinois Central Railroad Company
Voucher No. 1.

1851

To Alexander Graham

Dr

July	18 th	Traveling Expenses from 15 th June to the 18 th August to Caledonia from camp —	11	32
	18	Horse hire	1	00
Oct	1 st	Traveling expenses & pay from the 1 st to the 4 th Oct. inclusive from Jonestown to Caledonia & neighborhood	19	50
	8	do to the 12 th —	17	70
			<u>\$59</u>	<u>52</u>

Note. I certify this account because I
think Mr Graham entitled to
some compensation from not
having money to pay him off

Arthur L Ormsby

Rev Eng^r

The above is correct }
Arthur L Ormsby }
Division Engineer }

Received fifty nine $\frac{52}{100}$ dollars
in full of the above —

Illinois Central Railroad Company
To Alexander Graham Dr-

To amt of Voucher 1.	\$ 59.52
" " paid medical fees	14.00
" Error on pay roll	<u>18.68</u>
Balance due Graham	\$92.20

And afterwards, to wit, on the day and year last
aforesaid, to wit, on the 30th day of July AD 1855
the said Alexander Graham at the time of suing
out the aforesaid summons filed in the Clerk's office
aforesaid the following cost bond, to wit,

State of Illinois
Union County Of Alexander Graham

"
Ills. Cen R R Co

I do hereby enter myself security for costs in this
cause and acknowledge myself bound to pay or
cause to be paid, all costs which may accrue
in this action either to the opposite party or
to any of the officers of this Court in pursu-
ance of the laws of this State dated this 27th
day of July 1855

W. L. Dougherty

And afterwards, to wit, on the twenty fifth day of
December in the year last aforesaid the said
Illinois Central Railroad Company filed in the
Clerk's office aforesaid the following pleas, to wit,

Illinois Central Rail

7 Road Company
Att
Alexander Graham

Assumpsit.

Plas of the December
Special Term of the
Union County Circuit
Court in the year of
our Lord 1855-

And the said defendants by Joy and Simons their
attorneys come and defend the wrong and injury where
to and say they did not undertake and promise in
manner and form as the said plaintiff hath above
thereof complained against them and of this they
put themselves upon the Country &c

And plff doth the like
J. Dougherty for Plff

Joy & Simons
Attorneys for Defs

2^d And for further plea in this behalf the said
defendants say Actis non because they say that
after the alledged promises and undertakings in
said plaintiffs declaration mentioned had come made
and entered into, and after the alledged work and
labor had been done and performed by the said
plaintiff - heretofore, to wit; on the fifteenth day
of November in the year of our Lord one thousand
and eight hundred and fifty three and before the
commencement of this suit they fully paid and
discharged the said promises and undertakings
to wit, fifty nine dollars and fifty two cents
together with all other promises and undertakings
in said plaintiffs declaration mentioned and
this they are ready to verify

Traverse & issue

J. Dougherty for Plff

Joy & Simons Attorneys
for Defendants

And afterwards, to wit, on the day and year first
aforesaid the said defendants "The Illinois Central
Railroad Company" filed in the Clerk's Office
aforesaid the following Bill of exceptions, to wit,

Alexander Graham	} Assumpsit.	Pleas of the December Special Term of the Union County Circuit Court in the year of our Lord one thousand eight hundred and fifty five
"		
The Illinois Central Railroad Company		

Be it remembered that at a special Term of the Union
County Circuit Court begun and holden pursuant
to notice given in accordance with the provisions
of the Statutes of this State in such case made
and provided, at Jourdons the County Seat of said
County, and at the Court House on the twenty
second day of December in the year of our Lord
one thousand eight hundred and fifty five the
following proceedings were had in a certain case
therein pending and undetermined wherein the above
named Alexander Graham was plaintiff and the
said Illinois Central Railroad Company were
defendants - The action was assumpsit on the
Common Counts - for work and labor done and
services rendered together with the other money
counts - To which the defendants plead first -
the general issue, secondly payment, third set-
off upon all of which issue was taken, A Jury
having been waived the case was tried before the
Court,

The plaintiff in support of his action

first introduced as a witness John Dougherty who being first duly sworn depose and state as follows, to wit,

I am acquainted with Alexander Graham and knew him during the summer and fall of 1851. He was employed as Engineer on the Illinois Central Railroad ~~Company~~ during the summer of that year. He served in that capacity under Arthur S. Ormsby Division Engineer in charge of the first division of the Illinois Central Railroad, and I presume was employed by him at all events he acted in that capacity. Hea witness then produced a paper and continued - I am acquainted with the hand writing of Arthur S. Ormsby - have seen him write a number of times the paper which I hold or rather the certificate at the bottom and the signatures thereto are in Ormsby's hand writing.

Upon his cross examination he stated that he did not recollect when Mr Ormsby was discharged - knew he was discharged and thought it was in the month of November 1851 did not think it was as early as October felt confident that it was not - did not recollect when Graham was discharged did not know whether he was discharged at all or resigned, knew that he did not leave until about the time Ormsby did, knew that he was addicted to drinking but could not tell how much of the time it incapacitated him for business, if at all or not.

The plaintiff by his counsel John Dougherty then offered in evidence the following paper

or voucher being the same about which he had testified

"Illinois Central Railroad Company"

"Voucher No. 1."

1851

"To Alexander Graham

Dr."

July	18 th	"Traveling expenses from 15 th June to the 18 th August to Caladonia from Camp"	11	32
"	18	"Horse hire"	1	00
Oct	1 st	"Traveling expenses & pay from the 1 st to 4 th Octr inclusive from Jonesboro to Caladonia & neighborhood"	19	50
"	8 th	Do to the 12 th	17	70
			<u>48</u>	<u>52</u>

"Note - I certify this account because I think Mr Graham entitled to some compensation from not having money to pay him off

(Signed) Arthur L Ormsby
Div Engr."

"The above is correct
Arthur L Ormsby
Divr Engineer"

The words "The above is correct"
printed

"Received fifty nine $\frac{52}{100}$ dollars
in full of the above"

To the introduction of the foregoing Voucher as evidence the defendants by their counsel then and there objected, but the objection was overruled by the Court and the defendants by their counsel excepted

1012
The voucher or paper was then read in evidence to the Court.

Then the plaintiff rested his case. The defendant then introduced as a Witness William W. Bennett who being duly sworn deposed as follows. I am or was acquainted with Alexander Graham and with Arthur S. Ormsby in the summer of 1851 and up until the time he was discharged. Mr. Ormsby was the Engineer in charge of the first Division of the Illinois Central Railroad from the Spring of 1851 until the fall of same year. I was employed in Ormsby's Corps from June until he was discharged. I was away at Mt. Vernon Ill. during a part of September 1851 but was on road during June July and August and all of the time except as above stated. Mr. Ormsby was discharged as Engineer between the ninth and twelfth of October, did not serve the company after that. He was discharged by Col. Mason Engineer in chief of the road. Mr. Graham was employed on the road as Engineer under Ormsby when I came on the road. He was in the same Corps with me. He continued in the service of the Company until August I think about the twentieth or nineteenth, perhaps on the twentieth at all events the pay rolls will show it was it about that time. Graham was then discharged for intemperance and incompetency. I think he was crazy. He was incapable of doing any service for a long time before he was discharged. He was heavily drunk a good part of the time and sick in consequence.

once of the remainder. He was not employed by the Company in any capacity after he was discharged to my knowledge. It is true I was away during a part of September but I never heard of his being employed or rendering any service while I was away. He was not employed when I went away nor was he when I returned nor after.

I am acquainted with Graham's hand writing have seen him write a good many times. Saw him sign a number of the pay rolls. Here the witness was handed a number of papers after examining which he stated "They are the pay rolls for Corps" "I find Alexander Graham's name written here on the rolls for June, July and August. The signature is in Graham's hand writing. I cannot say I saw him sign them all, but I did the most of them. Every thing due each man was put down on the roll and paid each month. They were regarded as a settlement with each man for the time specified therein. The Company paid once a month and these rolls were taken as receipts and settlements for such months. The following is a copy of the pay rolls from and including June up until the discharge of Ormsby.

Witness further ~~stated~~ testified that Ormsby was fully authorized as the agent of the defendants to employ hands in and about the business of the defendants and to make settlements with such hands up to the time of his discharge.

6. 17

244	"	"	"	7 1/2	7.69	7.30	17. Jeff Parker	R. S. Altherton
245	23	"	"	8 1/2	7.69	6.15	18. W. S. Shipman	Wm. R. Brown
246	"	"	"	8	7.69	6.15	19. Wm. R. Brown	
247	Direct Chargeable for same					266.72		
248						121.42		
249						19.67		
250					Value	407.81		
251						19.67		
252						389.14		
253					Certify that the above pay roll is correct in every particular (Signed) Alex. Buchanan Engineer in charge			
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Day Roll

We the undersigned do hereby acknowledge to have received from the Illinois Central Railroad Company through the hands of Arthur O. Ramsey, Treasurer, the sum of \$100.00 for the month of July, 1881 in the last bill names in full payment for our respective share in during the month of July, 1881 in the last bill

263	Revolution of Card Railroad	Amount due	Rate per day	No of	Rate per day	Amount due	Station of service or Expedition	Name of person or No of each voucher	Name of Witness
264									
265	Commencement of service	3 1/4	12	\$2.00	1	\$24.00	Leveler	1 Voucher D. M. D. Sanger	
266	of service	"	2	2.50	2	5.00	Compassman	2 D. West	D. West
267		"	10	1.00	10	10.00	Blackman	3 David R. Dock	Arthur O. Ramsey
268		"	30	1.00	7	7.00	Blackman	4 David S. Little	
269	July 19th	"	31	1.00	2 1/2	2.50	Blackman	5 L. A. Kelly	
270	" 29th	"	31	1.00	12 1/2	12.50	Blackman	6 R. J. Altherton	R. J. Altherton
271	" 27th	"	28	1.00	1	1.00	Blackman	7 James Barker	by R. J. Altherton

38.68 Voucher to 11
12 90 " to 2

This receipt of the Sanger is intended to cover all the amounts in different bills which refer to vouchers

R. D. M.

I certify that the above pay roll is correct in every particular

Alex. Graham, Engineer in charge

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Pay Roll

We the undersigned do hereby acknowledge to have received from the Illinois Central Railroad Company through the hands of Arthur J. Ramsay Secretary Engineer the sum set opposite our respective names in full payment for our services during the month of August 1887 in the survey of the old line of said Railroad.

Commence- ment of Service	Termination	No. of Days	Rate per day	Amount due	Station of Service or Expense	Name of Engineer or Subcontractor
August 1st	August 29th	20	\$4.00	\$80.00	Engineer in Charge	1. A. Graham
" 2nd	" 31st	6	"	24.00	Engineer in Charge	2. Adam Buck
" 1st	" 29th	20	83¢ per m	63.80	Location	3. Geo. Thompson
" 1st	" 31st	14	2.50	35.00	"	4. A. W. Adams
" 1st	" 31st	18	"	40.50	Leveler	5. Voucher A.
" 1st	" 31st	26	2.50	65.00	Compass man	6. B. West
" 1st	" 31st	17	2.00	34.00	Transitman & Leveler	7. Voucher B.
" 1st	" 31st	18	1.00	18.00	Roller man	8. Voucher C.
" 1st	" 31st	26	30¢ per m	20.00	Roller man	9. McCaughey
" 1st	" 31st	16	7.69	12.30	Chainman	W. G. Howell
" 20	" 22	3	1.00	3.00	Chief Clerk	G. W. Bellows
" 7	" 16	9	7.69	6.92	Chain man	A. J. Howell
" 1	" 22	19	"	14.61	Flag man	R. J. Atherton
" 12	" 29	16	"	20.00	Stake man	E. J. Stafford
" 1	" 8	7	1.00	7.00	Chainman	W. R. Jones
" 1	" 2	2	2.00	2.00	"	Thomas G. Clark
" 1	" 1	1	1.00	1.00	"	Adam G. Edwards
" 1	" 16	14	"	13.83	Chainman	Voucher D.
" 1	" 20	17	1.00	17.00	"	W. R. Jones
" 5	" 23	17	7.69	13.07	Chainman	W. R. Jones
" 9	" 23	12 1/2	"	9.61	"	W. R. Jones
" 11	" 31	18	"	13.84	"	W. R. Jones
Amount earned for work				\$524.53		

I certify that the above pay roll is correct in every particular "Adam Buck Engineer"

Pay Roll A. S.

51 We the undersigned do hereby acknowledge to have received from the Illinois Central Railroad
 52 road Company through the hands of Arthur J. Combs Division Engineer the sums herein
 53 set opposite our respective names in full payment for our services during the month of
 54 September 1881 in the Eastern Division of Lake & Eastern

55 Commencement of service on same of date of signature on
 56 of service of service on same of date of signature on
 57 of service of service on same of date of signature on

58	Sept. 1st	Sept. 30th	Rate per day	Amount	Station of service on same of date of signature on	of service of service on same of date of signature on
59	"	"	44.00	104.00	Engineer in charge James Stewart	James Stewart
60	"	"	3.50	42.00	Locater Marcus Hughes	Marcus Hughes
61	"	"	2.50	25.00	Do James Brown	James Brown
62	"	"	2.00	40.00	Locater George Bryant	George Bryant
63	"	"	1.00	23.00	Flagman Robert Marshall	Robert Marshall
64	"	"	1.00	16.00	Chorman A. Goldstrand	A. Goldstrand
65	"	"	07.69	19.99	Crook Alf Howell	Alf Howell
66	"	"	07.69	13.84	Chorman George W. Bellows	George W. Bellows
67	"	"	1.00	23.00	Chorman M. K. Davis per Mr. Brown. James Stewart	M. K. Davis per Mr. Brown. James Stewart
68	"	"	1.00	20.00	Crook Wm R. Spence	Wm R. Spence
69	"	"	7.69	9.22	Crook must James Deben	James Deben
70	"	"	7.69	13.84	Ademan C. R. Caplan	C. R. Caplan
71	"	"	7.69	18.45	Ademan Epp. H. K. Caplan	Epp. H. K. Caplan
72	"	"	7.69	13.84	Ademan James Stewart	James Stewart
73	"	"	1.00	23.00	Ademan James Stewart	James Stewart
74	"	"	07.69	8.46	Ademan James Stewart	James Stewart
75	"	"	07.69	8.46	Ademan James Stewart	James Stewart
76	"	"	1.00	3.00	Chorman James Brown	James Brown
77	"	"	07.69	4.61	Ademan Fisher, Boston	Fisher, Boston
78	"	"	07.69	4.61	Ademan Wm. H. K. Caplan	Wm. H. K. Caplan
79	"	"	07.69	3.07	Ademan M. R. Caplan	M. R. Caplan
80	"	"	1.00	6.15	Ademan James Stewart	James Stewart
81	"	"	2.00	5.00	Ademan W. C. Adams	W. C. Adams
82	"	"	2.00	22.00	Ademan B. L. Adams	B. L. Adams
83	"	"	2.00	28.00	Ademan Reuben Weaver	Reuben Weaver
84	"	"	2.00	20.00	Ademan James Thompson	James Thompson

Board
 incidental expenses
 traveling \$10.00
 128 94
 92 59
 10.00
 \$104.07
 128 94
 92 59
 10.00
 \$104.07

I certify that the above pay Roll is correct in every particular
 James Stewart Engineer in charge
 of Camp party No. 12

Day Roll

We the undersigned do hereby acknowledge to have received from the Illinois Central Railroad Company through the hands of J. S. Metcalf Engineer the sum herein set opposite our respective names in full payment for our services during the month of October 1851 in the - of said Railroad.

Commencement of service	Termination of service	No of days	Rate per day	Amount due or expenditure	Nature of service or expenditure	Name of Engineer
Oct 1st	Oct 31	27		120.00		J. S. Metcalf
Oct 1	Oct 31	27	4.00	108.00	Locator	Adam Buck
" 14	" 31	16	2.50	40.00	Locals	John Buck
" 1	" 31	27	3.50	94.50		Marys Hughes
" 1	" 31	27		75.00		Edbert Betty
Oct 1st	Oct 25	25	2.50	37.50	Livels	D Hunt
Oct 3	" 17	13		15.00	Rockman	John McDermott
" 8	" 13	3		5.75	Rockman	Charles McDermott
" 1	" 3	3		3.45	Rockman	George Corbin
" 9	" 10	2	1.00	2.00	"	Thomas Corbin
" 1	" 25	22	2.50	55.00	Locals	James Corbin
" 1	" 23	16		18.45		J. D. McClellan
" 1	" 31	31		5.00	Office Boy	Thos Jeff Metcalf
" 21	" 31	10	1.00	10.00	Rockman	Thomas Corbin
" 1	" 25	22		25.30	Rockman	Adam Giddens
" 1	" 31	31		30.00	Chamman	Wm R. Spencer
" 28	" 31	2 1/2	1.00	2.50	Rockman	John McClellan
" 1	" 31	21	2.25	47.25	Rockman	B. Hammond
" 1	" 31	27	2 1/2 + 2	59.50	Rockman	A. W. Davis
" 1	" 31	17	1.00	17.00	Rockman	August McClellan
" 10	" 31	13	"	13.00	Rockman	August McClellan
" 9	" 11	2	"	2.00	"	James D. Davis
" 21	" 31	10	"	10.00	"	William R. Corbin
				796.20		

I certify that the above pay roll is correct in every particular

1851-11-15

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Illinois Central Railroad Company

Voucher No. 2.

1851

To Alexander Graham

Dr

July	2 nd	Leah Muller	
		1/4 Gr Red Leach Carpenter Kennedy	1 15-
"	18	Wagon for conveying Marcus Hughes self & instruments from Jonestown to Caladonia	6 75-
"	28	Guides	85-
"	30	Lamp Wicks	05-
"	"	Pot Hooks	35-
"	"	Wagon expenses by Mr Patten to Caladonia	50
"	"	Various small items	3 25-
			<u>\$12 90</u>

The above is correct } "Received twelve dollars & $\frac{90}{100}$ dollars in full of the above" (Signed) Alex. Graham Assist. Engr.

Illinois Central Railroad Company

Voucher No. 1

1851

To Alexander Graham

Dr &

July	1 st	Tin Bucket 2 flower Barrels	1 10
"	"	Salt Peter	25-
"	"	1/2 Gall Honey	38
"	"	Salt & Horse hire	65-
"	"	Sauce Pan	62
"	"	Soap Candles & nails	2 75-
"	"	Coffee brush & sack	4 63
"	"	Tin Bucket Castled Loop	70
"	"	Salt & sack	35-
"	"	Scrubbing brush & flesh fork	40
"	"	1 Gall Vinegar	25-
"	"	Lent Pins	4 70
"	"	Horse hire 50 & expenses at Jonestown 1.40	1 90
"	"	Hauling water 25 - moving camp 6.00 Box for hams 25	6 50
"	"	Freight 2.00 Ink 50 rope Bridle & Bits 1.50 other small matters	4 50
"	30	Alex. Graham's horse hire for self & W D Sanger	9 00
			<u>\$38 68</u>

The above is correct.

"Received thirty eight dollars and $\frac{68}{100}$ dollars in full of the above"

Alex Graham

Asst Engineer

453
"Rec^d Jonesboro August 22nd 1851 of Arthur S Ormsby the sum of Forty dollars & 50/100 in full payment to August 21st"

(Signed) "Robert Patton"

"Voucher A"

"\$34.00" 452

Received Jonesboro August 22nd 1851 of Arthur S Ormsby the sum of thirty four dollars for services rendered to date

Voucher B"

(Signed) "William D Sanger"

~~"\$18.00"~~ 451

Received from the Illinois Central Railroad for services on survey of same for month of August Eighteen dollars in full per the hands of

Voucher "C" Arthur S Ormsby Dea Eugene
22nd Sept. 1851

Receipt for \$18.00

(Signed) James Love

Voucher "D"

450

"This is to certify that Cornelius Miles has been engaged on the survey of the Cent. Ill Rail- road from the 5th day of August to the 23rd inclusive"

Camp No 5.

(Signed) "A. Graham
Engineer in charge"

"August 26th 1851"

"4th Sept 1851 Jonesboro"
"Revenue County"
"Expense from Arthur S Ormsby"
"Expense for work done thirteen"
"dollar & 68 cents"
"\$13.08 (Signed)"
"Corn. Miles"
"Wm. D. Sanger"

Illinois Central Railroad Company

Voucher No 1.

1857

To Messrs Graham

On

June	27	To Bridges & Boren two Dutch ovens Coffee meal	4	95-
July	4 th	" Height & Holleman Baskets 1 white Stone flour	11	42
"	9	" Heston & Provo Bacon, meal Flour Soap Candles	24	59
"	14	" " " " " " " " " "	5	16
"	"	" Willard & Co 233 lb Bacon at 9 cts	20	97
"	16	" W D Sanger mutton, Chickens Bacon butter &c	14	69
"	23	" Daul & Leary Eggs & Chickens delivered	"	72
"	25	" James Miller " " " " "	2	58
"	"	" Michel Roche " " " " "	2	28-
"	27	" George J Patterson " " " " "	2	50
"	28	" W A Hughes hams flour Coffee Vinegar &c	13	84
"	29	" John McClelland Eggs & meal delivered	0	50
"	31	" R T Atterton for articles delivered in Camp No 2	8	04
"	"	" Jefferson Parker for water trucks Vessels	0	85-
"	"	" Simon Brown Potatoes delivered	1	50
"	"	" Alex Lackey Chickens & Eggs delivered	1	27
"	"	" J Lackey for articles delivered in Camp No 2	2	28-
"	"	" Thomas Rock 6 Dzs. Eggs & Potatoes	2	00
"	"	" Tolbot Attertons " " Chickens delivered	1	34
			\$121	42

The above is correct

"Received one hundred and twenty one
dollars & $\frac{42}{100}$ dollars in full of the above"

(Signed) Wm. Graham Engineer in
Charge Ill Central Railroad

Illinois Central Railroad Company

Voucher No 2. To James Stewart

Dr

Charge to	1851		Dollars	Cents
Sept. 3	A J Romy (Guide		1	00
" 4	Thos Moly for hauling		3	00
" 5	Do Do		3	00
" "	W Hewitt Do		3	00
" 10	Heaver as Guide 2 days		2	00
" 11	Do for haulage		4	00
" "	" for boards			20
" 13	Abernethy as Guide 2 days		1	75
" 16	W Gore for haulage		5	00
" "	Mr Jacks for Carriage line for Mr Brown from Jonestown		5	00
" 17	Mrs Peterson on acct of damages		10	00
" 18	W Gore for haulage		3	00
" 21	J B radly Guide 3 days		3	00
" 1	Ten Bush Castor Oil &c		2	75
" 16	Ten pairs Candles &c		5	60
" 18	Molasses, Cans Sugar &c		1	95
" 20	Medicines for Comp &c & medical at		8	00
" 16	Large & Small boiler & coffee mill &c		2	75
" 30	Board of temporary & Extra Men		23	09
" "	Expenses of out in Benton		4	00
Total			\$ 92 59	

Date

1851

Received of the Illinois Central Railroad Company the sum of Ninety Two 57/100 dollars (\$92.59) in full for the above account

James Stewart Eng in charge of party

Examined and correct

Illinois Central Railroad Company Station
474 To Marcus Hughes on

Voucher #

Charge To	1851		Dollars	Cents
Sept 15	"	For conveyance from Camp from		
" 17	"	near Buffalo Gap to foresters	8	00
" 17	"	medicine & medical attention	2	00
			\$10 00	

Dated Oct 7th 1851

Received of the Illinois Central Rail
road Company the sum of Ten dollars (\$10.00) in
full for the above account

Examined and Approved

(Signed) Marcus Hughes

528
"Received 16th September 1851 of James Stewart the
sum of five dollars on account of hauling camp
stores two days Ill Central R Road"
(Signed) "Watson Gore"

Illinois Central Railroad - Camp
No 3 Buffalo Gap 10th Sept 1851

"Received of James Stewart Engineer the sum of four and a
half dollars for services rendered with six Ox team in
moving camp from Cache to this place"
\$4.50 (Signed) "Elisha ^{his} Weaver"
neph

"Received 3rd Sept 1851 the sum of three dollars and fifty
cents for hauling stores provisions &c from Caladonia to
Camp at Cache Bridge distance 26 miles"
\$3.50 (Signed) "J. B. Malny"

"Rec'd. 4th Sept 1851 of James Stewart the sum of two
dollars & fifty cents for one wagon and team removing
stores from Cache Bridge to Chapmans Mills"
\$2.50 (Signed) "J. B. Malny"

"Rec'd this 4th September 1851 the sum of three dollars
for a wagon and two horses moving camp stores
from Cache Bridge to Chapmans mills of James
Stewart Engineer in charge"
(Signed) "Lewis Hewitt"

After submitting the foregoing pay rolls to the Court without objection from plaintiffs counsel the defendants rested their cause.

The foregoing was all the testimony introduced on the part of the plaintiff and defendant upon the trial of said cause, upon which the case was submitted.

The Court hereupon rendered a verdict in favor of the plaintiff for the sum of fifty nine dollars and fifty two cents and costs of suit.

The defendant made their motion for a new trial and which motion for a new trial, which was overruled by the Court to which they excepted, and assign the following causes.

- 1st The Verdict is against the law
- 2nd The Verdict is against the evidence
- 3rd The Verdict is against the law and the evidence
- 4th The Court admitted improper evidence on behalf of the plaintiff.

The Court then rendered judgment in favor of the plaintiff for fifty nine dollars and fifty two cents and costs of suit and also gave leave to prepare bill of exceptions in vacation

And Defendants pray that this their bill of exceptions may be signed sealed and made a part of the record which is done accordingly

William R Parrish (Seal)

State of Illinois }
County of Union } I Thomas Weideman Clerk of
the Circuit Court within and for said county
hereby certify that the foregoing contains a true
full and complete copy of the proceedings of the
said Court in the said entitled cause as the same
appears in my office.

In testimony whereof I do hereby subscribe
my name and affix the seal of said
Court at office in Jourdains this
18th day of July A.D. 1856
Thomas Weideman Ck

The Illinois Central
Railroad Company
vs.
Alexander Graham

Assignment of error
In the Supreme
Court November
Term A.D. 1856

And the said plaintiffs in error
by C. H. Simons their Attorney come and say that
there is manifest error in the record and proceedings
of the Circuit Court for the County of Union in
this to wit:-

- First That the verdict of the Court was against the
Law and the evidence
Second - That the Court erred in admitting the vouchers
signed by Arthur S. Crosby Secy. Engineers in favor
of Alexander Graham in evidence upon said
trial

3rd That the Court erred in overruling the Motion for
a New trial made by Plffs in error

4th That the Court erred in rendering judgment for
fifty nine dollars and 52 cents when only 49.52
was due

5th That the Court erred in admitting
the evidence objected to by Defendant

6th That the Court erred in rendering judgment
for which errors the Plff. in error prays that Court may
be reversed

Cyrus H. Scoville Atty for
Plffs. in error

No. 39-
The Supreme Court

November Term 1855

Wheeler's Executors Bail
Road Company

vs.

Wheeler's Executors

Dever & Wheeler & Co

L. W. Wheeler
Plffs vs Dfys

Debt for \$5.00, paid
to L. W. Wheeler

John W. W. 11. 1855

J. W. Wheeler

Attorneys for Dfys
in error

State of Illinois, Supreme Court

November Term 1857

Ill. C. R. Company Plff in Error

vs
Alexander Graham Deft in Error

} Assumpsit

This was an action

Page 2 of Assumpsit instituted in the Union County Circuit Court, at the October Term 1855, by Alexander Graham the Deft in Error, against the Ill. C. R. Company the Plaintiffs in Error. The declaration contains three ^{counts} counts, (to wit) for work and labor done; for money paid and advanced and for an account stated; with which was filed the following bills of particulars, (to wit)

Page 4
1857

Illinois Central Railroad Company

To Alexander Graham Dr

July 18th Traveling expenses from 15th June to the 18th August to
Caledonia from Camp \$11.32

" Horse hire 1.00

Oct 1st Traveling expenses and pay from 1st to the 4th

& c. inclusive from Jonesboro, to Caledonia & neighborhood 19.00

" 8th to the 12th 17.00

59.52

Amount paid Medical fees 14.00

Error on payroll 18.68

\$92.20

Page 5

Illinois Central Railroad Company

To Alexander Graham Dr

1857 July 18th Traveling expenses from 15th June to 18th August
to Caledonia from Camp \$11.32

18th Horse hire 1.00

Oct 1st Traveling expenses and pay from the 1st to the 4th of

& c. inclusive from Jonesboro to Caledonia & neighborhood 19.50

& do to the 12th 17.70

\$59.52

Note I certify this account, because I think Mr Graham
entitled to some compensation, from not having been
money to pay him off

Arthur L. Ormsby
Dir. Eng.

Received fifty nine $\frac{52}{100}$ dollars in full
 The above is correct of the above
 Arthur L Ormsby
 Division Engineer

Page 6

Illinois Central Railroad Company
 To Alexander Graham Dr
 To Amount of Voucher 1. \$59.52
 " " paid medical fees 14.00
 " " Error on pay-roll 18.68
 Balance due Graham \$92.20

Page 7

In which the Plaintiffs in Error filed two pleas, - general issue
 and payment, - upon which issue was joined, and the
 Cause submitted to the Court

Page 7

P. 10

Upon the trial in the Court
 below, the plea in Error introduced as a witness,
 John Dougherty Esq, who testified, ~~that~~ as follows (to wit)
 "I am acquainted with Alexander Graham, and knew him during the
 summer and fall of 1857. He was employed as Engineer on the
 Illinois Central Railroad during the summer of that year.
 He served in that capacity under Arthur L. Ormsby, Division
 Engineer, in charge of the first Division of the Illinois Central
 Railroad, and I presume was employed by him; at all events
 he acted in that capacity. He, witness, then produced a paper,
 and continued, I am acquainted with the hand writing of
 Arthur L. Ormsby - have seen him write a number of times,
 the paper which I hold, or rather the Certificate at the
 bottom, and the signatures thereto were in Ormsby's hand
 writing."

Upon his Cross Examination he related that he did not
 recollect when Mr Ormsby was discharged - knew he
 was discharged and thought it was in the month of Nov-
 ember 1857 - did not think it was as early as October -
 felt confident that it was not - did not recollect when
 Graham was discharged - did not know whether he was
 discharged at all, or resigned - knew that he did not leave
 until about the time Ormsby did - knew that he was

addicted to drinking, but could not tell how much of the time
it incapacitated him for business if at all, or not" —
by his Counsel John Dougherty
Defendant in error, then offered in evidence
the following paper or voucher, being the same about which he had testified

"Illinois Central Railroad Company"

"Voucher No 1"

1857	To Alexander Graham	Dr
July	18 th Traveling expenses from 15 th June to the 18 th August to Colodonia from Camp"	\$17.32
"	Since time	1.00
Oct	1 st " Traveling expenses & pay from the 1 st to 4 th Oct including from Jonesboro, to Colodonia & neighborhood	19.50
	& do to the 12 th	17.70
		\$59.52

"Note I certify this account because I think
Mr Graham entitled to some compensation from not
having money to pay him off

(signed) Arthur L Oursky
Dir Engrs"

"The above is correct
Arthur L Oursky
Rev Engineer"

"He paid fifty nine $\frac{52}{100}$ dollars
in full of the above"

To the introduction of said voucher,
as evidence, the Defendants by their Counsel, objected; but the
objection was overruled by the Court; and the Defts, by the Counsel
accepted. The voucher was then read in evidence both Courts.
Here Mr. Hoff rested his Cause.

P.12 The Defts then introduced as a witness William W Bennett
who testified as follows: to wit: I am or was acquainted
with Alexander Graham and with Arthur L Oursky in the
Summer of 1857, and up until the time he was discharged.

Mr Ormsby was the Engineer in Charge of the first Division
of the Illinois Central Railroad from the Spring of 1857 to the
fall of the same year. I was employed in Ormsby's Corps
from June until he was discharged. I was at Mt Vernon
sick during a part of September 1857, but was on road during
June, July and August, and all of the time except as above
stated. Mr Ormsby was discharged as Engineer, between
the ninth and twentieth of October, and not leave the Company
after that. He was discharged by Col Mason Engineer in Chief
of the road. Mr Graham was employed on the road as Engineer
under Ormsby when I came on the road. He was in the same
Corps with me. He continued in the service of the Company until
August, I think about the eighteenth or nineteenth, perhaps on
the twentieth, at all events the pay rolls will show it was
about that time. Graham was then discharged for intemperance
and incompetency. I think he was crazy. He was incapable
of doing any service for a long time before he was discharged.
He was heavily drunk a good part of the time and worse in
consequence of it the remainder. He was not employed by the
Company in any capacity after he was discharged to my knowledge.
It is true I was away during a part of September, but I never
heard of his being employed, or rendering any service while I
was away, he was not employed when I went away, nor was
he when I returned, nor after. — I am acquainted with
Graham's hand writing, have seen him write a good many times.
Saw him sign a number of the pay rolls. Here the witness was
shown a number of papers — after examining which, he stated, "they are the
pay rolls of Corps." "I find Alexander Graham's name written here on the
rolls for June, July and August, the signature is in Graham's hand-
writing. I cannot say I saw him sign them all, but I did the most
of them, everything due each man was put down on the roll and
paid each month. They were regarded as a settlement, with
each man for the time specified therein. The Company paid once a
month, and these rolls were taken as receipts and settlements for

the such months. The following is a copy of the pay rolls from and including
June up until the discharge of Ormsby. Witness further stated
that Ormsby was fully authorized as the Agent of the Defendants to employ
hands in and about the business of the Defendants and make settlement with
such hands up to the time of his discharge. The record in this case, from
pages 15 to 28 inclusive
pages 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, contain pay rolls and receipts, which
show he paid by Alexander Graham, which show that he received for the
services as Assistant Engineer, ~~at~~ for the day of 268, ~~the~~ ^{from Plffs in error} ~~amount~~, from June 9th
1857, to August 23rd 1857, \$268.⁰⁰ and for money expended by him
for the use of Plffs in error, from July 2nd ¹⁸⁵⁷ to July 31st 1857, \$173.⁰⁰
After submitting the foregoing pay rolls & receipts, to the Court, ~~which~~
without objection from the Plffs Counsel, the Defts rested their cause.
This was all the testimony introduced by Plffs and Defts upon the trial of
the cause; and upon which the Court rendered judgment a verdict
in favor of the Plff for \$59.⁵² as costs of suit.

The Defts made their motion for a new
trial; which motion was overruled by the Court, and to such
ruling of the Court, the Defts excepted; and for error assign
a following causes; (to-wit)

- 1st The verdict is against the law
- 2nd The verdict is against the ~~law~~ ^{the} Evidence
- 3rd The verdict is against the law and ^{the} Evidence
- 4th The Court admitted improper evidence on behalf of the Plff

The Court then gave judgment in favor

P. 8 of the Plff for \$59.⁵², as costs of suit

- P 29 The Plffs now assign the following causes of error: (to-wit)
- 1st The verdict of the Court was against the law and the Evidence
 - 2nd The Court erred in admitting the voucher signed by Arthur L
Ormsby Div Engineer, in favor of Alexander Graham, as Evidence
upon said trial
 - 3rd That the Court erred in overruling the motion for a new trial, made
by Plffs in error
 - 4th The Court erred in rendering judgment for \$59.⁵², when only
\$49.⁵² was due -

3^d
6th

The Court erred in admitting the Evidence objected to by Defts
That the Court erred in rendering judgment;
For which Errors ~~judges~~ the Plffs in Error pray that
this cause may be reversed

Cyrus G. Simons Atty
for Plffs in Error

Supreme Court

November Term 1857

The Ill. C. R. Company
Plffs in Error

vs

Alexander Graham

Def't in Error

Abstract & Record

Filed Nov. 16. 1857.

L. Johnston clk

Illinois Central Railroad }
Company Plffs in error }
vs }
Alexander Grohman }
Def't in error }
State of Illinois }
Jefferson County } ss

Error to Wm. C.

In the Supreme
Court. November
Term in the year
of our Lord 1856

Lepus G. Simons being first duly sworn
deposes and says that he is the Attorney in fact
and Attorney at law of the Illinois Central
Railroad Company, and has been informed
by them to move and consider the above Court
that Alexander Grohman the above named
defendant in error is a resident of the State
of Illinois. That he resides in the State of Mis-
souri as this deponent has been informed
and verily believes and further saith not.

Sworn to and Subscribed before me }

This eleventh day of November A.D. 1856 }
Noah Johnston Ck

Lepus G. Simons
Atty

Superior Cement
Manufacturing Co. 1856

Superior Cement
Manufacturing Co.

et.

Superior Cement
Manufacturing Co.

Superior Cement
Manufacturing Co.

Affidavit

Filed Apr. 11th 1856

A. Johnston clk

STATE OF ILLINOIS, }
SUPREME COURT. } ss.

THE PEOPLE OF THE STATE OF ILLINOIS,

To the Sheriff of *Union* County,

Because in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the Circuit Court of *Union* County, before the judge thereof, between *Alexander Graham*, Plaintiff; and *Illinois Central Rail road Company*

defendant; it is said that manifest error hath intervened to the injury of said *Illinois Central Rail road Company* as we are informed by *their* complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Mt. Vernon, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said *Alexander Graham*

that *he* be and appear before the Justices of our said Supreme Court, on the first day of the next term of said Court, to be holden at Mount Vernon, in said State, on the Second Monday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *Alexander Graham* notice, together with this writ.

Walter B. Scates
Witness, the Hon. ~~SAMUEL H. TREAT~~, Chief Justice of our said Court, and the seal thereof, at Mount Vernon, this *Eighteenth* day of *March* in the year of our Lord, one thousand eight hundred and fifty-*seven*.

Abraham Johnston
Clerk of Supreme Court.

Wm. G. F. F. F.

Her Merits Central

Railroad Company

Ppfs in error

ad.

Wiley and the Graham

defendant in error

Error to Merits

In the Supreme Court
December Term 1860

Wile the Clerk of the Supreme
Court please give a bill for the defendant
in error in the above styled Cause directed to the
Sheriff of Merion County for service

C. H. Dennis, atty for
Ppfs in error

In the Supreme Court
now under Term 1856
=====

Illinois Central
Railroad Company
vs.

Alexander Graham
=====

Case to Union
Receipts

Co. of Seniors
Pliffs in error

Filed Nov. 11. 1856

A. Johnston Clerk

STATE OF ILLINOIS, }
SUPREME COURT. } ss.

THE PEOPLE OF THE STATE OF ILLINOIS,

To the Sheriff of *Union* County,

Because in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the Circuit Court of *Union* County, before the judge thereof, between *Alexander Graham*

Plaintiff, and Illinois Central
Rail road Company

defendant, it is said that manifest error hath intervened to the injury of said *Illinois Central Rail road Company* as we are informed by *this* complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Mt. Vernon, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said *Alexander Graham*

that *he* and appear before the Justices of our said Supreme Court, on the first day of the next term of said Court, to be holden at Mount Vernon, in said State, on the *first Tuesday after the* Second Monday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *Alexander Graham* notice, together with this writ.

Walter B. Scott
Witness, the Hon. ~~SAMUEL H. TREAT~~, Chief Justice of our said Court, and the seal thereof, at Mount Vernon, this *20th* day of *April* in the year of our Lord, one thousand eight hundred and fifty- *seven*

Noah Johnston
Clerk of Supreme Court.

Mr. Graham Paul

Post Compensy

as } for fee

Alvanor Graham

May the 25 1867
I return the money
known not know the money
known to know the money
and John D. Graham for the
knowing to be

STATE OF ILLINOIS
SUPREME COURT,

{ SS.

THE PEOPLE OF THE STATE OF ILLINOIS;

WRIT OF ERROR.

To the Clerk of the Circuit Court for the county of *Union*

GREETING,

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of *Union* county, before the Judge thereof, between

Alexander Graham
plaintiff, and *Illinois Central Railroad*
Company

defendant it is said manifest error hath intervened, to the injury of the aforesaid *Illinois*

Central Railroad Company
as we are informed by *them*

complaint, and we being willing that error, should be corrected if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay, send to our Justices of the Supreme Court, the record and proceedings of the plea, aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at

Mount Vernon, in the county of Jefferson, on the *Second Monday of November*
next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law:

Witness, the Hon. WALTER B. SCATES Chief Justice
of our said court, and the seal thereof, at Mount Vernon this

Eighteenth day of *March*

in the year of Our Lord One Thousand Eight Hundred
and Fifty-*Seven*.

North Johnston
Clerk Supreme Court.

1011

Illinois Central
Railroad Company
Care of Mr. J. W. Brown

Alexander Graham

Issued & filed 18 March

1857.

N. Johnston CLK

LEGAL NOTICE.

Ill. Central R. R. Co. } Pleas of the November
vs. } Term of the Supreme
Alexander Graham, } Court, in the Year of
Our Lord, 1857,

NOTICE is hereby given to the above named Alexander Graham, that affidavit having been made and filed in said Court, setting forth your non-residence, sive facias having been also issued and returned by the Sheriff of Union County, "not found in my county," Notice is therefore given to you, Alexander Graham, that the above cause, originally instituted in the Union County Circuit Court is now pending in said Supreme Court, and unless you appear and plead or otherwise answer the same, the said case will be heard and determined in your absence.

NOAH JOHNSON, Clerk

June 9, 1857-4w

of Supreme Court.

*We, Dougherty & Marschall, Pub-
lishers of the
"Jonesboro Gazette",
a weekly newspaper*

*published in Jonesboro, Illinois,
certify that the annexed ad-
vertisement was inserted in said
paper on the 13th day of
June, A. D. 1857, and was
inserted for four consecutive
weeks.*

Printers fee \$5 00

*Dougherty & Marschall,
Publishers*

No 2

Ell. C. R. Rowe Co

by

Alex. Graham

Attn & Certificate

Filed Nov. 1857

N. Johnston *cm*
h

STATE OF ILLINOIS
SUPREME COURT,

} ss.

WRIT OF ERROR.

THE PEOPLE OF THE STATE OF ILLINOIS;

To the Clerk of the Circuit Court for the county of *Union*

GREETING,

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of *Union* county, before the Judge thereof, between

Alexander Graham

plaintiff, and

Illinois Central Railroad

Company

defendant, it is said, manifest error hath intervened, to the injury of the aforesaid *Illinois*

Central Railroad Company

as we are informed by *him*

complaint, and we being willing that error, should be corrected if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay, send to our Justices of the Supreme Court, the record and proceedings of the plaint, aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at

Mount Vernon, in the county of Jefferson, on the *first Sunday after the ~~first~~ ^{second} Monday of*

November next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law:

Witness, the Hon. WALTER B. SCATES Chief Justice of our said court, and the seal thereof, at Mount Vernon this

fourteenth day of *April*

in the year of Our Lord One Thousand Eight Hundred

and Fifty- *Seven*.

Noah Johnston
Clerk Supreme Court.

No 11

Illinois Central R.R.
Road Company

in { Mts of Iron

Alexander Graham

Issued & paid 20th April

A.D. 1857

A. Johnston Ck

SUPREME COURT OF ILLINOIS.

FIRST GRAND DIVISION.

NOVEMBER TERM, A. D. 1857.

ABSTRACT.

Record Page

Ill. C. R. Company Plaintiff in error }
 vs. } Assumpsit.
 Alexander Graham, Defendant in error.

2 This was an action of assumpsit instituted in the Union County Circuit Court, at the October term, 1855, by Alexander Graham the defendant in error, against the Ill. C. R. Company the Plaintiff, in error. The declaration contains three common counts, (to wit:) for work and labor done; for money paid and advanced, and on account stated; with which was filed the following bills of particulars, (to wit:)

	Illinois Central Railroad Company To Alexander Graham, Dr.,	
1851.	July 18, Travelling expenses from 15th of June, to the 18th of August, to Caledonia from Camp.	\$11.32
"	Horse hire	" 1.00
"	October 1st, Travelling expenses and pay, from 1st to the 4th of October inclusive from Jonesboro, Caledonia and Neighborhood	\$19.00
"	October 8th to the 12th,	" 17.00
		\$59.52
	Amount paid Medical fees,	" 14.00
	Error on Pay-roll,	" 18.68
5		\$92.20

	Illinois Central Railroad Company To Alexander Graham Dr.,	
1851.	July 18th, Travelling expenses from the 15th of June to 18th of August to Caledonia from Camp,	\$11.32
"	18th, Horse hire	" 1.00
"	October 1st Travelling expenses and pay from the 1st to the 4th of October, inclusive from Jonesboro to Caledonia and neighborhood,	\$19.50
"	October 8th do., to the 12th	" 17.70
		\$59.52

Note, I certify this account because I think Mr. Graham entitled to some compensation, from not having money to pay him off.

ARTHUR L. ORMSBY,
Div. Engineer.

Received fifty nine and fifty-two hundredths dollars in full of the above

The above is correct }
 Arthur L. Ormsby, }
 Division Engineer

	The Illinois Central Railroad Company To Alexander Graham Dr.,	
6	To Amount on Voucher 1	\$59.52
"	" " paid Medical Fees	14.00
"	" " Error on Pay roll	18.68
		\$92.20

7 To which the Plaintiffs in Error filed two pleas—general issue and payment, upon which issue was joined, and the cause submitted to the court.

10 Upon the trial in the court below, the defendant in error introduced as a witness, John

Dougherty Esq., who testified, as follows. (to wit:) "I am acquainted with Alexander Graham, and knew him during the summer and fall of 1857. He was employed as Engineer on the Illinois Central Railroad during the summer of that year. He served in that capacity under Arthur L. Ormsby Division Engineer, in charge of the first division of the Illinois Central Railroad, and I presume was employed by him; at all events he acted in that capacity. He, witness, then produced a paper, and continued; I am acquainted with the hand writing of Arthur L. Ormsby—have seen him write a number of times, the paper which I hold, or rather the certificate at the bottom, and the signatures thereto are in Ormsby's hand writing.

Upon his cross examination he stated that he did not recollect when Mr. Ormsby was discharged—knew he was discharged and thought it was in the month of November 1851, did not think it was as early as October—felt confident that it was not—did not recollect when Graham was discharged—did not know whether he was discharged at all, or resigned—knew that he did not leave until about the time Ormsby did—knew that he was addicted to drinking, but could not tell how much of the time it incapacitated him for business, if at all or not."

Defendant in Error, by his counsel, John Dougherty, then offered in evidence the following paper or voucher, being the same about which he had testified.

VOUCHER NO. 1.

To Alexander Graham

Dr.,

July 18th, Travelling expenses from 15th of June, to the 18th of August to Caledonia, from Camp,	\$11.32
Horse hire	" 1.00
October 1st, Travelling expenses and pay from the 1st to 4th October inclusive, from Jonesboro to Caledonia and neighborhood,	"19.50
October the 8th, do., to the 12th,	"17.70
	<u>\$59.52</u>

Note, I certify this account because I think Mr. Graham entitled to some compensation, from not having money to pay him of.

ARTHUR L. ORMSBY,

Div. Engineer.

Received fifty nine and fifty-two hundredths dollars in full of the above.

The above is correct }
Arthur L. Ormsby, }
Division Engineer }

To the introduction of said voucher, as evidence, the defendants by their Counsel, objected; but the objection was overruled by the court; and the defendant by counsel excepted. The voucher was then read in evidence to the Court.

Here the Plaintiff rested his cause.

12. The Defendant introduced as a witness William W. Bennett who testified as follows, (to wit:) I am or was acquainted with Alexander Graham and with Arthur L. Ormsby in the summer of 1851, and up, until the time he was discharged. Mr. Ormsby was the Engineer in charge of the first division, of the Illinois Central Railroad from the Spring of 1851 to the fall of the same year. I was employed in Ormsby's corps from June until he was discharged. I was at Mt. Vernon sick during a part of September, 1851, but was on road during June, July and August, and all of the time except as above stated. Mr. Ormsby was discharged as Engineer, between the ninth and twelfth of October; did not serve the company after that. He was discharged by Col. Mason Engineer in Chief, on the road. Mr. Graham was employed on the road as Engineer under Ormsby when I came on the road. He was with same corps with me. He continued in the service of the company until August, I think about the eighteenth, or nineteenth, perhaps on the twentieth, at all events the pay roll will show that it was about that time. Graham was then discharged for intemperance and incompetency. I think he was crazy. He was incapable of doing any service for a long time before he was discharged. He was beastly drunk a good part of the time and sick in consequence of it the remainder. He was not employed by the company in any capacity after he was discharged, to my knowledge. It is true I was away during a part of September, but I never heard of his being employed, or rendering any service while I was away, he was not employed when I went away, nor was he when I returned, nor after. I am acquainted with Graham's hand writing, have

seen him write a good many times saw him begin a number of the pay rolls. Here the witness was shown a number of papers, after examining which he stated, "they are the pay rolls of corps," I find Alexander Graham's name written here on the rolls for June, July and August, the signature is in Graham's hand writing. I cannot say I saw him sign them all, but I did the most of them, every thing due each man was put down on the roll and paid each month. They were regarded as a settlement, with each man for the time specified therein. The company paid once a month, and these rolls were taken as receipts and settlements for the such months. Witness further stated that Ormsby was fully authorized as the agent of the defendants to employ hands in and about the business of the defendants or make settlement with such hands up to the time of his discharge. The record in this cause from pages 15 to 28 inclusive, contains pay rolls and receipts, signed by Alexander Graham, which show that he received from plaintiffs in Error for services as assistant engineer, from June 9th 1851, to August 23rd 1851, \$268.00 and for money expended by him for the use of plaintiffs in error, from July 2nd 1851 to July 31, 1851, \$173.00. After submitting the foregoing pay rolls, and receipts to the court, without objections from the Plaintiff's counsel, the defendants rested their cause. This was all the testimony introduced by Plaintiff and Defendant, upon the trial of the cause; and upon which the court rendered a verdict in favor of the Plaintiff for \$59.52 and costs of suit.

The defendants made their motion for a new trial; which motion was overruled by the court; and to such ruling of the court, the defendants excepted; and for error assign the following causes, (to wit:)

- 1st. The verdict is against the Law.
- 2nd. The verdict is against the Evidence.
- 3rd. The verdict is against the law and the evidence.
- 4th. The Court admitted improper evidence on behalf of the Plaintiff.

The Court then gave judgement in favor of the Plaintiff for \$59.52 and the costs of the suit.

29. The Plaintiffs now assign the following causes of error, (to wit:)
- 1st. The verdict of the Court was against the law and evidence.
- 2nd. The Court erred in admitting the voucher signed by Arthur L. Ormsby Division Engineer, in favor of Alexander Graham as evidence upon said trial.
- 3rd. That the Court erred in overruling the motion for a new trial, made by Plaintiffs in error.
- 4th. The Court erred in rendering judgement for \$59.52, ~~by the Court~~.
- 5th. The Court erred in admitting the evidence objected to by Defendants.
- 6th. That the Court erred in rendering judgement.

For which errors the Plaintiffs in Error pray that this cause may be reversed.

CYRUS G. SIMONS, Atty.,

For Plaintiffs in Error.

No 11

W. C. R. R. Company

by

Alexander Graham

Ernest Green

Robert

Feb 19. Apr. 1857
J. L. Linton Clerk

67 1/2
1850 mdy

Argument

The claim in this case is based on a voucher in which there are Items charged amounting in the aggregate to \$59 ⁹²/₁₀₀

Record P. 5-

" P 11

The first item ch.^d is General running from 15th June to 18th of August, 1851. a period of sixty four days; and is for "travelling expenses" no way showing the different times when, or places where - or mode in which, the distinct sums making the \$11 ³²/₁₀₀ was expended, in vide Record P. 5-

To meet this item (so General in its character) the deft below introduced W^m Bennett. (Record P. 13) who swears to Graham's signature to pay rolls for June July and August, and that "Everything due each man was put down on the roll & paid each month". These "pay rolls" are never taken as "Settlement"

Now turn to these pay rolls on P. 15- to 20. of Record and it will be seen that the Receipts are in full for services to date of each - running from June 9th to Aug 23 being the very period in which the \$11 ³²/₁₀₀ item is claimed to have been made;

But again on P. 23- 4 + 25- of Record - the Court will find Vouchers signed by Graham (Plff below) Receipting for amounts paid him within & between the very period (15 June to 18th August) that this claim is said to have been made; & in voucher no two (Record P 23) Graham has Receipted for \$12.90, in that voucher, there are charged - "Wagon for conveying Marcus Hughes & Self & instruments from Jonesboro to Columbia"

\$675⁰⁰

* But to remove every doubt the Court will observe that the item of travelling expenses said for (see P. 11) between the vertical lines to the left of the item is dated July 18th/51. Now turn to Page 23. - and between the vertical lines to the left of the item for "Wagon for Conveyance" see you will see it also dated July 18th/51. Now is not this conclusive that these are identical with those said for

Boat over

\$ 6 25

"Shells

, 85-

"Wagon Expenses by Mr Patton to California

50

"Various small items

Total \$ 11 35-

Making precisely the amount of the ~~old~~ Claim of first item - incurred or made in the same period of time (viz between 15th June & 18 Augst), and for the same kind of expenses. This item of \$11³² in the voucher said on shows its identity in amount, its identity in time; & its identity in kind of services or expenditure, with those items set down and accepted for by Graham in voucher on P 23. - The only difference being that the item in the voucher said on is General, whilst the accepted voucher particularly shows the items making up the \$11³⁵. But as if to show further the identity of the Claim in voucher said on & the one accepted - The Court will observe that in the latter are other small items which added to the \$11³⁵ make total of this last voucher \$12⁹⁰. - These additional items are "Red chalk" ¹⁵/₁₀₀, "Lamp Wick ⁵⁵/₁₀₀" "Pot Hooks, ⁵⁵/₁₀₀" Neither of them for travelling expenses, whilst all the rest are ^{\$} - I therefore maintain - that the 11³² item has been paid

But again the charge of 18 for horse hire in the voucher said on is charged to be on 18th July. Now on P. 23 of record Graham reports for \$38⁶⁸ paid him by the Company for a great number of small items furnished from the 1st to the 30th of the same month (July) Now if this 18 was incurred against the Company on the

18th of July, ought he not to have included the same in the voucher he signed & receipted for on the 30th or up to the 30th of July. - and accordingly we find in this voucher receipted for three items for horse hire as follows Salt & horse hire, 65[¢] - "Horse hire 50[¢]" + horse hire for Self & W & Sanger 9[¢]. Now has he not included the 1st item said for, among the items for "horse hire" he has charged for - been paid for & receipted for in voucher on P. 23, I think so at all events the Onus Probandi is upon him to show that the 1132 & 1st items were not included, in the vouchers on P- 23, and are therefore not paid - having failed to do this the facts must & do raise the presumption (voluntarily too) of their payment; - then if so the judgment of the Court below is erroneous.

The other two items of travelling expenses (in the voucher lies on) from 1st to 4th & to 12th of October. The Court will see that these charges run from the 1st to the twelfth, On Page 12. vide (Bennett's Evidence) read, Bennett swears that "Ormsby was discharged as Engineer between the 9th & 12th of Oct.,. Now if these items were made up to the 12th & Ormsby was discharged between the 9th & 12th - Ormsby must have signed this voucher after he was discharged & hence without authority from the Campy - This Objection goes not only to this item but to the whole voucher - which taken in connection with Bennett's testimony shows that when Ormsby

Signed it as "Dir Eng." he had been Anchored
& was not the Company's Agent or Engineer -
And the proof must show that at the time he
Signed the voucher, he was then invested with the
Company's Authority to do so, Else it is not binding
There is no proof showing When this Voucher was
Signed by Ormsby - no man states the day it
was made & it bears no date - but if the Services
were rendered as charged up to the 12th of Oct
then it could not have been made by Ormsby
before the 12th Oct. & yet it is shown positively that
he was Anchored between 9th & 12th and hence
before the voucher said or was made & it was
made by Ormsby On or after the 12th & in
either case after his power ceased; I dissent
therefore from the proof that the whole voucher is
void and ought to have been rejected & not
having been, that the whole judgment is wrong

But again Ormsby in his certificate shows
that he has expended his authority - he certifies -
that he thinks Graham entitled to something for
not having money to pay him off; and he
certifies to this act for this reason - Now he
had no power to do so for that reason - his authority
was to certify to vouchers because they were unpaid
he had no right to give him a certificate to one
voucher simply because he had not money
to "pay him off" & it is therefore without consideration

For all these reasons I conclude without any
hesitation that the judgment is erroneous &
ought to be reversed

J. McQuinn
for Plaintiff in Error

Written Argument

In Case

St. Louis Central Railroad
Company vs

Atty Graham

SUPREME COURT OF ILLINOIS.

FIRST GRAND DIVISION.

NOVEMBER TERM, A. D. 1857.

ABSTRACT.

Record Page

Ill. C. R. Company (Plaintiff in error }
vs. } Assumpsit.
Alexander Graham, Defendant in error.

This was an action of assumpsit instituted in the Union County Circuit Court, at the October term, 1855, by Alexander Graham the defendant in error, against the Ill. C. R. Company the Plaintiff, in error. The declaration contains three common counts, (to wit:) for work and labor done; for money paid and advanced, and on account stated; with which was filed the following bills of particulars, (to wit:)

Illinois Central Railroad Company

To Alexander Graham, Dr..

1851. July 18, Travelling expenses from 15th of June, to the 18th of August, to Caledonia from Camp.	\$11.32
" Horse hire	" 1.00
" October 1st, Travelling expenses and pay, from 1st to the 4th of October inclusive from Jonesboro, Caledonia and Neighborhood	\$19.00
" October 8th to the 12th,	" 17.00
	\$59.52
Amount paid Medical fees,	" 14.00
Error on Pay-roll,	" 18.68
	\$92.20

Illinois Central Railroad Company

To Alexander Graham Dr.,

1851. July 18th, Travelling expenses from the 15th of June to 18th of August to Caledonia from Camp,	\$11.32
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October 1st Travelling expenses and pay from the 1st to the 4th of October, inclusive from Jonesboro to Caledonia and neighborhood,	\$19.50
October 8th do., to the 12th	" 17.70
	\$59.52

Note, I certify this account because I think Mr. Graham entitled to some compensation, from not having money to pay him off. ARTHUR L. ORMSBY,

Div. Engineer.

Received fifty nine and fifty-two hundredths dollars in full of the above

The above is correct }
Arthur L. Ormsby, }
Division Engineer

6

The Illinois Central Railroad Company

To Alexander Graham Dr.,

To Amount on Voucher 1	\$59.52
" " paid Medical Fees	14.00
" " Error on Pay roll	18.68
" " Balance due Graham	\$92.20

7 To which the Plaintiffs in Error filed two pleas—general issue and payment, upon which issue was joined, and the cause submitted to the court.

10 Upon the trial in the court below, the defendant in error introduced as a witness, John

Dougherty Esq., who testified, as follows (to wit:) "I am acquainted with Alexander Graham, and knew him during the summer and fall of 1851. He was employed as Engineer on the Illinois Central Railroad during the summer of that year. He served in that capacity under Arthur L. Ormsby Division Engineer, in charge of the first division of the Illinois Central Railroad, and I presume was employed by him; at all events he acted in that capacity. He, witness, then produced a paper, and continued; I am acquainted with the hand writing of Arthur L. Ormsby—have seen him write a number of times, the paper which I hold, or rather the certificate at the bottom, and the signatures thereto are in Ormsby's hand writing.

Upon his cross examination he stated that he did not recollect when Mr. Ormsby was discharged—knew he was discharged and thought it was in the month of November 1851, did not think it was as early as October—felt confident that it was not—did not recollect when Graham was discharged—did not know whether he was discharged at all, or resigned—knew that he did not leave until about the time Ormsby did—knew that he was addicted to drinking, but could not tell how much of the time it incapacitated him for business, if at all or not."

Defendant in Error, by his counsel, John Dougherty, then offered in evidence the following paper or voucher, being the same about which he had testified.
1851. "Illinois Central Railroad Company."

VOUCHER NO. 1.

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To the introduction of said voucher, as evidence, the defendants by their Counsel, objected; but the objection was overruled by the court; and the defendant by counsel excepted. The voucher was then read in evidence to the Court.

Here the Plaintiff rested his cause.

12. The Defendant introduced as a witness William W. Bennett who testified as follows, (to wit:) I am or was acquainted with Alexander Graham and with Arthur L. Ormsby in the summer of 1851, and up, until the time he was discharged. Mr. Ormsby was the Engineer in charge of the first division, of the Illinois Central Railroad from the Spring of 1851 to the fall of the same year. I was employed in Ormsby's corps from June until he was discharged. I was at Mt. Vernon sick during a part of September, 1851, but was on road during June, July and August, and all of the time except as above stated. Mr. Ormsby was discharged as Engineer, between the ninth and twelfth of October; did not serve the company after that. He was discharged by Col. Mason Engineer in Chief, on the road. Mr. Graham was employed on the road as Engineer under Ormsby when I came on the road. He was with same corps with me. He continued in the service of the company until August, I think about the eighteenth, or nineteenth, perhaps on the twentieth, at all events the pay roll will show that it was about that time. Graham was then discharged for intemperance and incompetency. I think he was crazy. He was incapable of doing any service for a long time before he was discharged. He was beastly drunk a good part of the time and sick in consequence of it the remainder. He was not employed by the company in any capacity after he was discharged, to my knowledge. It is true I was away during a part of September, but I never heard of his being employed, or rendering any service while I was away, he was not employed when I went away, nor was he when I returned, nor after. I am acquainted with Graham's hand writing, have

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The defendants made their motion for a new trial; which motion was overruled by the court; and to such ruling of the court, the defendants excepted; and for error assign the following causes, (to wit:)

- 1st. The verdict is against the Law.
- 2nd. The verdict is against the Evidence.
- 3rd. The verdict is against the law and the evidence.
- 4th. The Court admitted improper evidence on behalf of the Plaintiff.

8. The Court then gave judgement in favor of the Plaintiff for \$59,52 and the costs of the suit.

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- 1st. The verdict of the Court was against the law and evidence.
- 2nd. The Court erred in admitting the voucher signed by Arthur L. Ormsby Division Engineer, in favor of Alexander Graham as evidence upon said trial.
- 3rd. That the Court erred in overruling the motion for a new trial, made by Plaintiffs in error.
- 4th. The Court erred in rendering judgement for \$59,52, ~~which was due.~~
- 5th. The Court erred in admitting the evidence objected to by Defendants.
- 6th. That the Court erred in rendering judgement.

For which errors the Plaintiffs in Error pray that this cause may be reversed.

CYRUS G. SIMONS, Atty..

For Plaintiffs in Error.

Apr 1858

Witness for Plffs in Error

No 11

M. C. R. R. Company

by

Alvan Graham

Essex & Union

Abstract

Filed Nov. 19, 1857.

A. S. Johnston clk

I A. Mcaynie for
Puff in error