

13937

No. \_\_\_\_\_

# Supreme Court of Illinois


Northern R. R.

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vs.

Blackburn

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71641  7

K. R. R. Co

NY

Alex Blackburn

13937

1  
State of Illinois }  
McGonough County } ss

Pleas before the Hon O. C. Skinner judge of the  
Tenth judicial Circuit of the State of Illinois  
now Presiding in the Fifth judicial Circuit  
by reason of a change of seats with the Hon  
P. H. Walker judge of the fifth judicial  
circuit of the state of Illinois At a circuit  
Court began and held at the Court House  
in Macomb on the second Monday  
in the month of October AD 1854

Present the Hon O. C. Skinner judge  
John S. Bailey States Attorney  
W. H. Randolph Clerk  
S. H. Hogan Sheriff

And afterwards to wit On Monday the ninth  
day of October AD 1854 the following order  
was entered herein to wit

Northern Crop Rail Road Co }  
vs } Appeal  
Alexander Blackburn }

And now on this day came  
the dependant by his attorney and filed his  
Motion herein to dismiss this suit

And afterwards to wit on Tuesday  
October the 10th AD 1854 The following  
order was entered herein

Northern Crop Rail Road Co }  
vs } Appeal  
Alexander Blackburn }

And now on this day came

on to be heard the motion filed herein on  
 yesterday to dismiss this suit, and after hearing  
 the argument of counsel, it is concluded  
 by the court that said motion be sustained  
 and that this cause be dismissed, for want  
 of jurisdiction. It is therefore considered by  
 the court, that the said defendant have and  
 recover from off the said Plaintiff his  
 costs by him in this behalf laid out and  
 expended and that execution issue therefore

And afterwards to wit on the  
 fourteenth day of October AD 1854 The following  
 order was entered herein.

Northern & Rail Road Co }  
 vs } Appeal  
 Alexander Blackburn }

This day came the Plaintiff by their  
 attorney, and prayed an appeal to the second  
 Grand division of the Supreme Court of  
 this state, which prayer is granted them on  
 on their entering into an appeal Bond with  
 James M Campbell as security in the penal  
 sum of one hundred dollars conditioned  
 as the law directs within thirty days from  
 this date

Bill of Exceptions  
 Northern & Rail Road Co }  
 vs } Appeal  
 Alexander Blackburn }

Be it remembered that on the  
 calling of this cause, the said Blackburn  
 Appeal moved the court to dismiss this suit  
 for want of Jurisdiction upon the face of the paper

3  
State of Illinois }  
County of McDonough }  
Any other Citizen of <sup>the said County of</sup> McDonough, Upon the applica-  
tion of N. Bushnell Esq. President of the Northern  
Crop Rail Road Company you are hereby directed  
to summons Robert R. Bean Regin Taylor  
and William McLead house holders of said  
County to appear on the third day of April  
AD 1854 before me the undersigned, a Justice of  
the peace within and for said County, then  
and there to be sworn as appraisers to appraise the  
damages which will be sustained by Alexander  
Blackburn by reason of the construction of  
by the Northern Crop Rail Road Company of  
their Lateral Branch Rail Road extending  
from near Camp Point in Adams County  
to Galesburgh in Knox County over certain  
lands claimed by Alexander Blackburn and  
situated in said County to wit: Thirty acres  
off the south side of the south west quarter  
of section Thirty six in Township six north  
and of Range Three west and also the  
North half of the north west quarter of section  
one in Township five north and of Range  
Three west, and that they proceed to  
view of said Premises and make said  
appraisement on the seventh day of April  
AD 1854 and this you are not to omit, and  
have you then and there this summons  
Given under my hand and seal  
this third day of April AD 1854

Thos C Prannan J. P. Seal

State of Illinois } ss  
 County of McDonough }

The foregoing summons was at the request of Mr Bushnell Esqr. the President of the Northern Cross Rail Road Company served by me, by reading the same to Robert R Bean William T Heald and Reagin Taylor therein named this third day of April AD 1854  
 James M Campbell

State of Illinois } ss  
 County of McDonough }

Personally appeared before the undersigned a justice of the Peace in and for said County Reagin Taylor Robert R Bean and William T Heald householders of the County and State aforesaid who were by me severally sworn in manner and form as follows to wit That they would faithfully and impartially examine the lands that should be pointed out to them by Mr Bushnell the President of the Northern Cross Rail Road Company, or by any other agent of said Company as lands claimed by Alexander Blackburn over which the Lateral Branch Rail Road of said Company extending from near Camp Point, in Adams County to Galesburg in Knox County now being constructed will pass & that they would assess the damages which they should believe the said Alexander Blackburn will sustain by reason of the construction of said Rail Road over said premises over and above the additional value said land will derive from the construction of said Rail Road & that they or a majority of them would <sup>in</sup> five days after said view and assessment report their decision in the premises according to Law  
 Seal this 3<sup>d</sup> day of April AD 1854  
 Witness my hand and  
 Tho: E. Blannan J<sup>ss</sup>



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State of Illinois } ss  
County of McDonough }

Personally came by name H Hogan before me the undersigned, a Justice of the Peace, in and for said County, and made oath that he did on the seventh day of April AD 1854 serve the foregoing notice by reading the same to the said Alexander Blackburn.

Witness my hand and seal this seventh day of April AD 1854 Tho E Brannan J Peace  
Commissioner Fee 600

L.P. for T E Brannan 100

Transcript 25 Bond 25 50

\$7.50

State of Illinois } ss  
County of McDonough }

We the undersigned, householders of the County and State aforesaid, having been duly summoned and sworn according to Law by and before Thomas E Brannan a Justice of the Peace of said County to view certain premises herein after described, situated in the said County claimed by Alexander Blackburn and to appraise the damages which we believe the said Alexander Blackburn will sustain by reason of the construction by the Northern Cross Rail Road Company of a Lateral Branch Rail Road from near Camp Point in Adams County to Galesburgh in Knox County over said premises and having proceeded on the day in the said summons mentioned to view the said premises which were pointed out to us by James M Campbell Esq the Agent of the Northern Cross Rail Road Company

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7  
as lands claimed by the said Alexander Blackburn  
and over which the said Lateral Branch Rail  
Road, now being constructed will pass, do  
now award and report as follows to wit that  
the said Lateral Branch of the Northern Cross  
Rail Road passes over the land of the said  
Alexander Blackburn situated in the said  
County of Monmouth and described as the  
North half of the South west quarter of  
Section One (1) in Township Five (5)  
North and of Range Three (3) West And  
also Thirty acres off the South side of the  
South west quarter of Section Thirty six (36)  
in Township Six (6) North of Range  
Three (3) West, and that the said  
Northern Cross Rail Road company, necessa-  
rily for the purpose of a right of  
way for the construction and use of  
their said Rail Road over the said premises  
require and use a portion of said premises  
fifty feet in width on each side of the center  
line of the said Rail Road for the whole  
distance which said Road passes over the  
same and that the damage sustained by  
the said Alexander Blackburn by reason of  
the construction of the said Rail Road over  
the said premises as aforesaid over and above  
the additional value which the said land  
will derive from the construction of the  
said Rail Road is one hundred dollars

In Testimony Whereof we have hereunto  
set our hands and seals this seventh  
day of April A.D. 1854

W. L. Heald (Sd)  
R. R. Bean (Sd)  
R. H. Taylor (Sd)

8 which Motion was resisted by the Attorney of the Appellees, But the Court sustained the Motion & dismissed the suit, on the ground that the appraisers had not been appointed according to the provisions of an act entitled an act to amend the Law condemning the right of way for the purpose of internal improvements. Approved June the 22<sup>d</sup> 1852. To which Opinion and judgment of the Court the Appellees by their Attorney, excepted at the time when the same was rendered and pray that this their Bill of Exceptions may be signed sealed and enrolled which is done accordingly.

R. H. Skinner. Clerk

### Copy of Appeal Bond

Know all men by these Presents that we the Northern Cross Rail Road Company of the state of Illinois and James McCampbell of the county of McDonough and State of Illinois are held and firmly bound unto Alexander Blackburn of the county of McDonough and State of Illinois in the penal sum of one hundred dollars current money of the United States, for the payment of which well and truly to be made, we bind ourselves our heirs our successors executors and administrators jointly, severally and finally by these presents, witness our hands and seals at the Clerks office in Macomb this 27<sup>th</sup> day of October A.D. 1854.

The condition of the above obligation is such, that whereas the said Alexander Blackburn did on the tenth day of October in the year our Lord one thousand eight hundred and fifty four, in the Circuit Court, in and for the county of McDonough and State of Illinois, recover a judgment against the above bounden Northern Cross Rail Road Company for the sum of Three dollars and twenty five cents costs from which said judgment of the said Circuit Court the said Northern Cross Rail Road Company has prayed, and obtained an appeal to the Supreme Court of said State. Now if the said Northern Cross Rail Road Company shall <sup>not</sup> ~~not~~ <sup>only</sup> prosecute this said Appeal with effect and shall moreover pay the amount of the judgment, costs interest and damages rendered, and to be

rendered against them in case the said  
judgment shall be affirmed, in the said  
Supreme Court, then the above obligation  
to be void, otherwise to remain in  
full force and virtue.

In witness whereof the said Northern  
Cross Rail Road Company have caused  
their President to subscribe his name and  
to affix the seal of said Company the  
day and year aforesaid and the said  
Campbell hath also hereunto subscribed  
his name and placed his seal hereto of  
the same date.

Taken & entered into before N. Bushnell President of the  
Co. this 31<sup>st</sup> day of October Northern Cross Rail Road  
AD 1854 Company Seal

Attest W. H. Randolph Clerk James M. Campbell Seal

On the Back of said Bond is  
Endorsed

Filed and approved October  
31<sup>st</sup> AD 1854

W. H. Randolph  
Clerk

County of McDouough

I William H. Randolph Clerk  
of the Circuit Court in and for said  
County do certify that the foregoing  
contains a full and complete copy of  
the summons and service thereof for  
the appraisers. The notice of the time of the appra-  
-ent and service of the same, The affidavit  
of the oath of the appraisers as also the assessment of  
the damages together with all the orders entered  
herein during the trial of said cause and  
also a copy of appraisement In Testimony whereof I have hereunto  
set my hand and affixed the seal  
of said court at my office at  
Macon Ga this 31<sup>st</sup> day of October 1854  
W. H. Randolph Clerk



1

Northern + Rail Road Co

Ms.

Alex Blackburn

Northen + R R Co

as } Transcript

Alex Blackburn