

No. 12872

Supreme Court of Illinois

McBride

vs.

City of Chicago

71641  7

208

96

Silas McBride

vs

The City of Chicago

1859

2072

Vol. 1.

United States of America.
State of Illinois Cook County, ss.

Pleas before the Honorable John
McWilson Judge of the Cook County Court of
Common Pleas. Within and for the County
and State aforesaid, at a regular Term of the
Cook County Court of Common Pleas begun
& holden at the Court House in the City of Chicago
in the County of Cook & State of Illinois, on the
second Monday being the thirtieth day of
September in the year of our Lord one thousand
eight hundred and fifty eight and of the Independence
of the United States of America the eighty third,
Present John McWilson Judge.

Charles Haven Prosecuting attorney
John L. Wilson Sheriff

attest Walter Kimball, clerk,

Be it remembered that heretofore to wit on the
thirtieth day of March in the year of our Lord one
thousand Eight hundred & fifty eight Silas
McBride filed in the office of the clerk
of the Cook County Court of Common Pleas
his certain bill in Chancery and bond for his
injunction which said bill and bond are in
the words and figures following to wit.

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To the Honorable John M Wilson
Judge of the Cook County Court
of Common Pleas.

In Chancery Sitting.

State of Illinois }
County of Cook } ss.

Your Orator Silas Mc Bride of the
City of Chicago in the said County humbly
complaining shows unto your honor that he is the
owner in fee of certain real estate situate in
said city and described as follows viz.

Lot (4) Four Block (35) Thirty five School Section
addition to Chicago.

was such owner on the first day of July A.D. 1855
and from thence hitherto.

And your orator further shows
that said lots of land front & but on a certain
street or highway in said city usually called and
known Taylor Street - That certain proceedings
have been taken by said city for the purpose of
widening said street from the Chicago River
to a point thereon west of the lands of your
orator & in so doing seek to take and appro-
priate some of the lands of your orator fronting
on said street - and to that end & purpose have
instituted and carried on certain proceedings
of which a transcript so far as the same effects
& describes the lands of your orator is hereto

attached and made a part of this your orators
Bill of Complaint, and to the said proceedings now
remaining of record in the office of the Clerk of said
City for greater certainty your orators pray reference
may be had,

And your orator further shows unto
your Honor that the said proceedings are irregular
& defective in several material matters and things
namely in this.

1st That the notice by the Clerk that the Com-
mon Council intended to take & appropriate the
land for the purpose of widening said Street is
vague & indefinite, ^{nothing being therein specified} when the Council would act
in the premises,

2^d That at the expiration of the time required by
law for giving the notice the Common Council
did not act nor did they act at all in the
matter either by adjournment or otherwise until
the 12th day of May 1856 six months afterwards
or thereabouts.

3rd That the Commissioners did not within
forty days from the time of their appointment
make their report and return of their actings &
doings as such commissioners. They being appoi-
nted the 12th day of May & making their return
the 30th day of June then next.

4th They did not in fact act within forty
days next after their appointment as their return
shows that they did not act until the 28th day of June

in making their assessment.

5th The notice of confirmation of the report of such commissioners was published on the 12th day of July for the 14th July and was not in fact acted on until the 18th August no order being taken by the Council on the 14th July nor until the 18th August.

In all which matters & in other matters appearing of record in the said proceedings, the same are irregular and void & conferred no right power or authority in the said City either to condemn & appropriate the said Land of your orator or to levy and assess said Special assessment on the land of your orator as therein specified & set forth.

And your orator further show that as they are informed & believe all the proceedings of said City relative to the widening of said Street & the assessment made for that purpose are correctly set forth in said Transcript hereto annexed marked Schedule "A".

And your orator further shows that under color of said proceedings the said City of Chicago hath caused to be levied & assessed upon the said Lands of your orator the sum of Eighty two Dollars.

And your orator further shows that notwithstanding such the irregularity of the said proceedings & the want of right & power on the ^{part} of said City to take the said Lands of your orator & assess said tax or assessment for the

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supposed benefits of that alledged improvement
yet the said city has proceeded to issue its warrant
for the collection of the said assessment - and the said
assessment levied on the lands of your orator having
been returned unpaid such proceedings have been
thereupon had that upon application to this court
judgment hath been rendered against said Lands
in favor of the said city & the same ordered to be
sold to pay said assessment on the 31st day of
March 1858 - and your orators are fearful that
the said city or her agents will proceed
on that day and sell the same under said judg-
ment & order unless restrained by order of this
court.

And your orator further shews that he has
frequently & in a friendly manner requested the
officers of said city to refrain from further prosecu-
ting the said illegal proceedings, assessments &
judgment with which reasonable requests your
orator had well hoped the said Defendants would
have complied.

But now so it is may it please your
Honor the said city of Chicago & her agents,
combining & confederating with others to require your
orators in the premises refuse so to do & for excuse
therefor alledge a variety of unfounded pretences.

All which matters & things are contrary to
equity & good conscience & tend to the manifest
wrong injury & prejudice of your orator in the

premises.

And your orator further shows that he files this bill on behalf of himself and all others whose property has been taken or assessment levied thereon by virtue of said proceedings who may come in and become parties hereto & share the expense of this suit.

To the end therefore that the City of Chicago & her clerk agents & attorneys Defendants may without oath true answer make hereto.

That the said Defendants and their attorneys agents & servants may be enjoined & restrained from proceeding in the sale of the Lands advertised under said judgment & order of said sale until the further order of the Court that said injunction be made perpetual.

That the said proceedings of the said Common Council touching the widening of said street & the levying of said assessment specified therein & the said assessment may be set aside & annulled and altogether avoided & held for naught.

And for such other or further relief as the nature of the case shall require and shall be agreeable to equity & good conscience.

May it please your honor to grant your orator as well process of injunction against the City of Chicago her clerk

agents & attorneys and other the attorneys agents
& servants of them enjoining and restraining
them as hereinbefore prayed for as also the writ
of summons against said Defendants to appear
and answer this bill of complaint,
Silas M^c Bride.

State of Illinois
Cook County }^p Silas M^c Bride makes
oath & says that he is the complainant in the
above bill of complaint & that he has heard
said bill read & knows that all matters therein
stated as upon his own knowledge are true & those
stated on information & belief he believes to be true

Subscribed & sworn to before
me this 29th day of March
A.D. 1858 Walter Kimball
clerk.

Silas M^c Bride
Morris & Blackburn.
Compts Solts.

Morris & Blackburn.
Compts Solts.

Let the writ of Injunction issue in conformity
with the prayer in the foregoing bill of complaint
filing a bond in the penalty of Three Thousand
dollars with a good and sufficient surety
To the clerk of the Cook
County Ct of Common Pleas } John M Wilson Judge of
the Cook Co Ct of Common Pleas.

Assessment Roll.

For

widening Paylor Street,
from Halstead St to the River.

In Common Council July 30th 1855.

Ordered that when the sum of \$40 shall have been deposited with the City Treasurer the City Surveyor proceed forthwith to survey mark out plat and Record in the Book provided for that purpose (showing particularly the proposed improvement and the real estate required to be taken therefore) the widening of Paylor Street so that the same shall be 60 feet in width from Halstead Street to the south branch of the Chicago River, the ground necessary for such widening to be taken equally from the land adjoining said street in the north and south sides thereof

Reports concurred in & ordered passed
No 2 Ordered that when the Surveyor has completed and returned his plat to the City Clerk give ten days notice in the corporation newspaper that the Common Council of the City of Chicago intend to appropriate and take so much land as shall be necessary for the widening of Paylor Street so that the same shall be 60 feet in width from Halstead Street to the South Branch of the Chicago River the ground necessary for such

widening to be taken Equally from the land
adjoining said street on the North and South sides
thereof. Attest H. B. Zimmerman City Clerk

In Common Council May 12th 1856
Ordered that the Common Council do now elect by
ballot three reputable discreet and disinterested
freeholders of the City of Chicago whose duty it
shall be to ascertain the Damages and recompense
due the owners respectively of such real estate as shall
be taken and appropriated for the widening of
Taylor Street from Halstead Street to the South
branch of the Chicago river in accordance with an
order for the Survey passed September 17th 1855;
and at the same time assess the amount
of such damages together with the cost of the
proceedings upon the real estate deemed bene-
fitted by the improvement in proportion as
nearly as may be to the benefits resulting to
each parcel ^{of ground} respectively. The order was passed
and the Council proceeded to the election of
commissioners thereunder. On the first ballot
F. A. Bragg. received fifteen votes H. H. Yates and John
Wayman received each 16 votes and were declared
elected.

Attest H. B. Zimmerman
City Clerk

This certifies that the aforesaid notice relative to widening Taylor Street from Halstead Street to river has been published in the Chicago Daily Democrat the corporation newspaper of the City of Chicago County of Cook, and State of Illinois ten days consecutively commencing with October 26th 1855
Chicago June 21st 1856.

J M Bradley Publisher for
the proprietors.

Oath of Commissioners
State of Illinois }
City of Chicago } ss

We the undersigned freeholders of the City of Chicago appointed by the common Council of said City as Commissioners to ascertain the damages and recompense due the owners of such real estate as shall be appropriated and taken for widening Taylor Street from Halstead Street to the river. in accordance with the foregoing orders and at the same time to assess such damages together with the cost of these proceedings upon the real estate deemed benefitted thereby as nearly as may be, doxx solemnly swear that we will faithfully and impartially perform our duty as such Commissioners according to the best of our ability.

Subscribed & sworn to before me this }
2nd day of June 1856. }
H. W. Zimmerman, city clerk

F A Bragg }
Wm Weyman } commissioners
H. H. Yates }

Corporation Notice.

City Clerk's office.

Chicago October 25 1855

Public Notice is hereby given to all persons interested that the Common Council of the City of Chicago intend to appropriate and take the land necessary to widen Taylor Street so that the same shall be 60 feet in width from Halsted Street to the South branch of the Chicago River; the ground necessary to be taken for such widening to be taken equally from the land adjoining said Street on the north and south sides thereof.

Oct 26-10 1855.

H. M. Zimmerman,
City Clerk.

A Description of the Real Estate in the West Division of the City of Chicago, deemed benefitted and damaged by reason of the widening of Taylor Street from Halsted Street to the South branch of the Chicago River.

in accordance with the order for the Survey thereof, passed by the Common Council of the said City, on the 30th day of July 1855, and the subsequent orders in relation thereto; together with the valuation of said Real Estate and the sums of Money severally assessed thereon, for benefits and awarded as damages, respectively, by the Commissioners, to wit:

School Section Addition to Chicago.

NAMES OF OWNERS.	DESCRIPTION.	S. Lot.	Lot.	Block.	Valuation.	Value of Land Condem'd.	Damage to Buildin's Condem'd.	Total Damages.	Benefits by the Improvement.	Cost of Proceedings.	Total Benefits.	NET DAMAGES.	NET BENEFITS.
Saml F Smith			1	10	2200	100		100	2000		2000	80 00	
B. F. Addock			6	"	1500	20		20	9927	3 00	10227		8227
Richmond Leo			7	"	1500	20		20	9927	3 00	10227		8227
Saml F Smith,			12	"	1500	20		20	9927	3 00	10227		8227
do.			13	"	1500	20		20	9927	3 00	10227		8227
H. lb. Rencker.			18	"	1500	20		20	9927	3 00	10227		8227
J. lb. Baughopt.			19	"	1500	20		20	9927	3 00	10227		8227
Henry Wilson	E 1/2		24	"	750	10		10	4963	1 50	5113		4113
James Suffer	lb 1/2		"	"	750	10	5	15	4964	1 50	5114		3614
W. Earl Demer			1	11	2000	25	25	50	13897	4 60	14317		9357
W. E. Higgins			2	"	1500	20		20	9927	3 00	10227		8227
do			3	"	1500	20		20	9927	3 00	10227		8227
Amounts carried Forward										31 16		80 00	829 00

[illegible]

NAMES OF OWNERS.	DESCRIPTION.	S. Lot.	Lot.	Block.	Valuation.	Value of Land Condemned.	Damage to Buildings Condem'd.	Total Damages.	Benefits by the Improvement.	Cost of Proceedings.	Total Benefits.	NET DAMAGES.	NET BENEFITS.
<i>Amounts Brought forward.</i>										77 36		240 00	2141 22
Wm H Brown			21	15	1500	20		20	99 27	3 00	102 27		82 27
do			22	"	1500	20		20	99 27	3 00	102 27		82 27
do			23	"	1500	20		20	99 27	3 00	102 27		82 27
do			24	"	1650	100		100	20 00		20 00	80 00	
do			15	34	2000	100		100	20 00		20 00	80 00	
do			16	"	1500	20		20	99 27	3 00	102 27		82 27
Lehas Walker			17	"	1500	20		20	99 27	3 00	102 27		82 27
Wm H Brown			18	"	1500	20		20	99 27	3 00	102 27		82 27
do			19	"	1500	20		20	99 27	3 00	102 27		82 27
J. S. Buchanan			20	"	1500	20		20	99 27	3 00	102 27		82 27
do			21	"	1650	100		100	20 00		20 00	80 00	
Wm McBride			1	35	2000	100		100	20 00		20 00	80 00	
Lehas Walker			2	35	1500	20		20	99 27	3 00	102 27		82 27
do			3	"	1500	20		20	99 27	3 00	102 27		82 27
Silas McBride			4	"	1500	20		20	99 27	3 00	102 27		82 27
Wm H Brown			5	"	1500	20		20	99 27	3 00	102 27		82 27
Geo H Hubbard			6	"	1500	20		20	99 27	3 00	102 27		82 27
<i>Amounts carried forward.</i>										116 36		560 00	3210 73

NAMES OF OWNERS.	DESCRIPTION.	S. Lot.	Lot.	Block.	Valuation.	Value of Land Condemned.	Damage to Buildings Condem'd.	Total Damages.	Benefits by the Improvement.	Cost of Proceedings.	Total Benefits.	NET DAMAGES.	NET BENEFITS.
<i>Amounts brot forward.</i>										116 36		510 00	3210 73
Pho. H. Hubbard,			7	35	1150	100		100	20 00		20 00	80 00	
Pat Brady			1	38	2000	100		100	20 00		20 00	80 00	
Chas Walker			2	"	1500	20		20	99 27	3 00	102 27		82 27
do.			3	"	1500	20		20	99 27	3 00	102 27		82 27
Wm H Brown			4	"	1500	20		20	99 27	3 00	102 27		82 27
do.			5	"	1500	20		20	99 27	3 00	102 27		82 27
Anna Barth			6	"	1500	20	15	20	99 27	3 00	102 27		67 27
Chas Walker			7	"	1650	100		100	20 00		20 00	80 00	
Conrad Kinkman			15	39	2000	100	30	130	20 00		20 00	110 00	
do			16	"	1500	20		20	99 27	3 00	102 27		82 27
Chas Walker,			17	"	1500	20		20	99 27	3 00	102 27		82 27
Wm H Brown,			18	"	1500	20		20	99 27	3 00	102 27		82 27
do			19	"	1500	20		20	99 27	3 00	102 27		82 27
Chas Walker,			20	"	1500	20		20	99 27	3 00	102 27		82 27
Wm H Brown,			21	"	1650	100		100	20 00		20 00	80 00	
Pho S Boyd,			15	58	2000	100	25	125	20 00		20 00	105 00	
Chas Walker			16	"	1600	20		20	99 27	3 00	102 27		82 27
<i>Amounts carried forward.</i>										149 36		1095 00	4100 70

NAMES OF OWNERS.	DESCRIPTION.	S. Lot.	Lot.	Block.	Valuation.	Value of Land Condemned.	Damage to Buildings Condem'd.	Total Damages.	Benefits by the Improvement.	Cost of Proceedings.	Total Benefits.	NET DAMAGES.	NET BENEFITS.
Amounts brot forward.										149 36		109500	410070
Wm H Brown			17	5-8	1500	20		20	99 27	3 00	102 27		82 27
Lorenzo Fletcher	S.H. Keefoot	5	^{18x19} 207 21	"	2000	750		750	50 00		50 00	700 00	
do	J B & M Walker	6	"	"	700	10		10	49 64	1 40	51 04		41 04
do	do	7	"	"	700	10		10	49 64	1 40	51 04		41 04
do.	do	8	"	"	775	10		10	49 90	1 45	51 35		41 35
Thos H Hubbard			1	5-9	2000	100		100	20 00		20 00	80 00	
do			2	"	1500	20		20	99 27	3 00	102 27		82 27
Chas Walker,			3	"	1500	20		20	99 27	3 00	102 27		82 27
B Mc Cormick,			4	"	750	10		10	49 64	1 50	51 14		41 14
F Loeuan,			"	"	750	25		25	49 65	1 50	51 14		20 14
Wm H Brown.			5	"	1500	20		20	99 27	3 00	102 27		82 27
Chas Walker			647	"	5000	750		750	50 00		50 00	700 00	
A Moore			142	62	5000	750		750	50 00		50 00	700 00	
J Buchanan,			3	"	1500	20		20	99 27	3 00	102 27		82 27
do			4	"	1500	20		20	99 27	3 00	102 27		82 27
Chas Walker,			5	"	1500	20		20	99 27	3 00	102 27		82 27
Wm H Brown.			6	"	1500	20		20	99 27	3 00	102 27		82 27
Amount carried forward										180 61		3275 00	4964 57

NAMES OF OWNERS.	DESCRIPTION.	S. Lot.	Lot.	Block.	Valuation.	Value of Land Condemned.	Damage to Buildings Condem'd.	Total Damages.	Benefits by the Improvement.	Cost of Proceedings.	Total Benefits.	NET DAMAGES.	NET BENEFITS.
	Amount brot forward									180 61		32 45 00	49 64 57
Wm H Brown			7	62	1500	20		20	99 27	3 00	102 27		82 27
R. E. Yates.			8	"	1500	100		100	20 00		20 00	80 00	
John Borden				63	14,000	750		750	50 00		50 00	700 00	
A Rivers S ² / ₃ lb 100 ft of S ² / ₃				"	16,000	425		425	569 99	17 88	587 87		162 87
Est of J Butterfields S ¹ / ₃				74	4,000	4000		4,000	3497 00		3497 00	503 00	
H J Deeken			122	75	3000	200		200	50 00		50 00	150 00	
do			3	"	2680	30		30	139 24	4 87	144 11		114 11
do			4	"	2000	20		20	99 27	3 00	102 27		82 27
do			5	"	2000	20		20	99 27	3 00	102 27		82 27
do			6	"	2000	20		20	99 27	3 00	102 27		82 27
Deeken & Lee.				78	85,000	3000		3000	2500 00		2500 00	500 00	
Phos Beebe.							15	15				15 00	
L. L. Lyon, & Co.							10	10				10 00	
Andrew Staacke							10	10				10 00	
Andrew McDermitt							15	15				15 00	
City of Chicago	least of proceedings									215 36 52 300			54 88 36
	Total.												

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To the Mayor and Aldermen of the City of Chicago, in Common Council assembled:

The undersigned Commissioners appointed by your Honorable body to ascertain the damages and recompense due the owners of such real estate as shall be appropriated and taken for the widening of Taylor Street, from Halsted Street to the River.

in accordance with the orders passed by the Common Council and hereto prefixed, and at the same time to assess the amount of such damages together with the cost of the proceedings upon the real estate deemed benefitted by the said improvement, in proportion as nearly as may be, to the benefits resulting to each lot or parcel of ground respectively; Do hereby report and return to the Common Council:

That in pursuance of said appointment they were duly qualified before entering upon their duties as appears by the oath recorded herein; that they published a notice of the time and place of their meeting for the purpose of making their assessment, in the Chicago Daily Times the Corporation Newspaper of the City of Chicago, for the period of ten consecutive days previous to such meeting, a certificate of which publication is hereto prefixed; that they were present at the time and place and for the purpose designated in said notice

That they adjourned from day to day until June 28th 1856 when they were all present and did then and there, and do hereby assess the respective amounts set opposite to each lot or parcel of ground in the foregoing Assessment Roll mentioned in their appropriate columns, as the damages and benefits resulting from the said improvement, to such lots or parcels of ground respectively—having first fixed a valuation on the said real estate, which is likewise set forth in said roll.

All which is respectfully submitted,

Ed. Bragg.
Wm. Mayman
W. H. Yates.

} Commissioners.

Chicago, June the 28th 1856

This Certifies that the appended Notice relative to widening Taylor St from Halsted St to the River has been published in the Chicago daily Times the Corporation Newspaper of the City of Chicago, County of Cook, and State of Illinois, ten days consecutively, commencing with June 7th 1856

CHICAGO, June 21st. 1856

Sheahan & Cameron. PUBLISHER.

Commissioners Notice

Public notice is hereby given to all persons interested that the undersigned commissioners appointed by the common council of the City of Chicago to ascertain the damages and recompense due the owners respectively of such real estate as shall be appropriated and taken for the widening of Taylor Street so that the said street shall be ~~to~~ sixty feet in width from Halsted Street to the South branch of the Chicago River in accordance with an order passed in common council May 12th 1856 and at the same time to assess the amount of such damages together with the costs of the proceedings upon the real estate by them deemed benefitted in proportion as nearly as may be to the benefits resulting to each parcel of ground respectively will meet at room No 3 in the Court House on the 18th day of June 1856 at the hour of 10 o'clock a.m. for the purpose of viewing the premises and making said assessment,

F. A. Bragg, }
 Wm. Mayman, } Commissioners
 A. H. Yates, }

Chicago June 7 1856

State of Illinois }
 City of Chicago } ss.

I do hereby certify that the foregoing assessment Roll was returned to me and filed in my office by the Commissioners this 30th day of June 1856

A. W. Zimmerman,
 City Clerk.

This certifies that the appended notice has been published in the Daily Times the Corporation Newspaper of the City of Chicago County of Cook and State of Illinois ten days consecutively commencing with July 12th 1856.

Chicago August 16th 1856
 Sheahan & Cameron,
 Publishers.

City Clerks Office
 Chicago June 30th 1856
 Assessment Notice,

Public Notice is hereby given to all persons interested that the commissioners appointed by the common Council of the City of Chicago to ascertain and assess damages and benefits resulting to owners of real estate in the West Division by reason of widening Taylor Street so that the same shall be 60 feet

in width from Halsted Street to the South branch of the Chicago River have made their assessment & made their return thereof to my office.

Any person wishing to appeal from said assessment must file their objections in writing in my office or or before Monday the 14th day of July, 1856 at 4 o'clock P.M., as the Common Council will at that time hear all objections to said assessment and revise and confirm or annul the same.

A. L. Zimmerman,
City Clerk.

Order of Confirmation.

In Common Council August the eighteenth 1856

Whereas due notice has been given by the City Clerk of the return of the foregoing assessment roll and all objections thereto having been over ruled it is therefore ordered That the said assessment as revised by the Common Council be and the same is hereby confirmed It is further ordered that a warrant be issued for the collection thereof returnable in thirty days after its date

Passed

City Clerk.

City Clerk.

and on the back of which said assessment Roll last mentioned appears an endorsement which is in the words and figures following to wit,

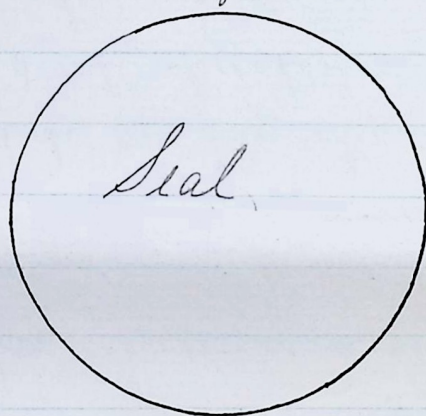
"Local assessment."

July 21/56

confirmed

August 18th/56.

State of Illinois
County of Cook } ss.



I William L Church Clerk of the Circuit Court of Cook County in the State aforesaid do hereby certify the above and foregoing to be a true perfect and complete copy of a certain assessment Roll filed in the office of the clerk aforesaid on the 25th day of

September A.D. 1856 in a certain cause to wit pending in said Court on the Common Law side thereof wherein Floyd Higgins et al were Plaintiffs and the City of Chicago was Defendant.

In Witness Whereof I have hereunto set my hand and affixed the seal of our said Court at Chicago this Seventeenth day of August A.D. 1858

Wm. L. Church, Clerk.

State of Illinois
Cook County } ²⁰

Know all men by these presents
that we the undersigned are held and firmly
bound unto the City of Chicago in the sum of
Three Hundred Dollars well and truly to be paid
we bind ourselves our heirs Executors administrators
& assigns

Silas M^cBride
Thomas Ruckley (seal)

The condition of the above Bond is that Whereas
Silas M^cBride has filed a Bill in this Common
Pleas Court of Cook County against the City of
Chicago asking that an injunction be granted
against the said City restraining the said City from
selling & disposing of his certain piece of property in
said City situated on Taylor St for and on account
of a assessment levied on said property Now therefore if we
the subscribers shall well & truly pay & satisfy said City in
all costs & damages that she may sustain from the
opening of said injunction then this Bond to be void
otherwise to remain in full force & effect signed and
sealed with our hands & seals this 30th day of March
A.D., 1858.

approved by me
John M. Wilson.

Judge cc.

S M^cBride (seal)

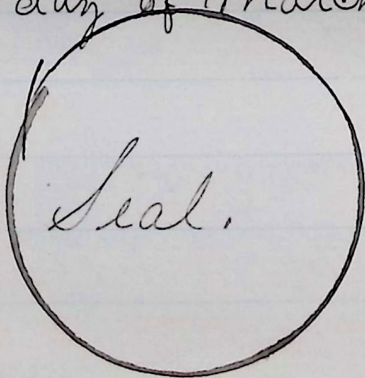
Thomas Ruckley (seal)

And afterwards to wit on the same day and year aforesaid there issued out of the office of the Clerk of said Court the Peoples writs of summons and Injunction which said writs with the Sheriffs returns thereon endorsed are in words and figures following to wit,

State of Illinois }
 Cook County } ²⁰ The People of the State of Illinois
 to the Sheriff of said County Greeting.
 We Command You that you summon The City
 of Chicago, if it shall be found in your County
 personally to be and appear before the Cook County
 Court of Common Pleas of said County of Cook
 on the first day of the next term thereof to be
 holden at the Court House in the City of Chicago
 in said County on the first Monday of June next to
 answer unto Elias McBride in his certain Bill of
 Complaint filed in the said Court on the Chancery
 side thereof. And have you then and there this
 writ with an endorsement thereon, in what manner
 you shall have executed the same.

Witness Walter Kimball Clerk of our said Court and
 the seal thereof at the City of Chicago aforesaid this 30th
 day of March A.D. 1858.

Walter Kimball Clerk

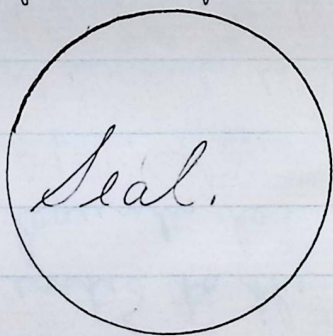


"Endorsed" Served this writ on J.D. Ward City
comptroller and E Anthony City attorney and deliver-
ing a copy to them by delivering a copy thereof to them
the 1 day of April 1858 John L Wilson Sheriff.
B Miles Deity.

State of Illinois
County of Cook } ss The People of the State of Illinois
To The City of Chicago and to its attorneys
Solicitors, agents, and servants. and to each and
every of them Greeting, Whereas it hath been repres-
ented to the Honorable John M Wilson Judge of the Cook
County Court of Common Pleas in said County and
State aforesaid on the part of Silas M^c Bride Com-
plainant in his certain bill of complaint exhibited
before said Judge and filed in said Court against
you the said City of Chicago. to be relieved touching
the matters therein complained of In which said bill
it is stated among other things that you are combi-
ning and confederating with others to injure the complain-
ant, touching the matters set forth in the said bill and
that your actings and doings in the premises are contrary
to equity and good conscience, and the said Judge
having under his hand endorsed upon said bill an order
that a writ of Injunction issue out of said Court.
according to the prayer of said bill, we thereupon in considera-
tion thereof and of the particular matters in said bill
set forth do strictly command you the said City of
Chicago and all persons before mentioned, and each

and every of you, that you do absolutely Desist and refrain from proceeding in the sale of the Lots Pieces or Parcels of land described in the warrant for the widening of Taylor Street from Halsted Street to the South Branch of the Chicago River upon which Warrant judgment was rendered in the Cook County Court of Common Pleas. on the Thirtieth day January A.D. 1858 which warrant is numbered 218 west dated August 21st 1856. until this Honorable Court in Chancery sitting shall make other order to the contrary. Hereof bail not under the penalty of what the law directs.

To the Sheriff of said County to execute and return in due form of law.



Witness Walter Kimball Clerk
of our said Court and the seal
thereof at Chicago in said County
this 30th day of March A.D. 1858

Walter Kimball Clerk.

"Endorsed"

Perred this writ of Joseph M. Henricks
by delivering a copy thereof to him the 31st day of
March 1858

John L. Wilson Sheriff.
By A. M. Nelson. Deputy.

And afterwards to wit on the twenty eight day of April in the year aforesaid the City of Chicago defendant in this cause by E Anthony her solicitor filed in the office of the clerk of said court her motion in the words and figures following to wit.

Cook County Court of
Common Pleas.

Elias Mc Bride, ^{vs} The City of Chicago	}	In Chancery.
---	---	--------------

And now comes the said defendant by its attorney Elliott Anthony and moves the court to dissolve the injunction issued in this case for want of Equity appearing upon the face of the bill.

E Anthony,
City Attorney.

And afterwards to wit on the second day of October in the year aforesaid said day still being one of the days of the September term of said court the following among other proceedings was had and entered of record in said court to wit.

And afterwards to wit on the twenty eight day of April in the year aforesaid the City of Chicago defendant in this cause by E Anthony her solicitor filed in the office of the clerk of said court her motion in the words and figures following to wit.

Cook County Court of
Common Pleas.

Elias Mc Bride, ^{vs} The City of Chicago	}	In Chancery.
---	---	--------------

And now comes the said defendant by its attorney Elliott Anthony and moves the court to dissolve the injunction issued in this case for want of Equity appearing upon the face of the bill.

E Anthony,
City Attorney.

And afterwards to wit on the second day of October in the year aforesaid said day still being one of the days of the September term of said court the following among other proceedings was had and entered of record in said court to wit.

Cook County Court of
Common Pleas AD 1858

Silas Mc Bride
vs
City of Chicago

In Chancery.

This cause came on to be heard at the June Term of the Court upon motion of Elliott Anthony counsel for the defendant to dissolve the injunction for want of Equity appearing upon the face of the bill - and was argued by Morris & Blackburn counsel for complainant and by E. Anthony counsel for the City of Chicago and therefore upon consideration thereof it was ordered adjudged and decreed that the injunction herein be dissolved and the bill be dismissed with costs.

And thereupon the said complainant by his counsel enters his exceptions to the ruling of this court.

And afterwards to wit on the twenty ninth day of October in the year aforesaid said day still being one of the days of the September Term of said Court the following among other proceedings was had and entered of record in said Court to wit.

Silas Mc Bride
vs
City of Chicago

In Chancery.

And now upon this day comes

the said complainant and prays an appeal in this cause to the Supreme Court of the State of Illinois which is allowed upon his filing his appeal Bond in thirty days from this date to be approved by the Judge of this Court.

and afterwards to wit on the twenty sixth day of November in the year aforesaid. Elias Mc Bride the complainant in this cause filed in the office of the clerk of said Court his appeal bond which is in the words and figures following to wit.

Know all men by these presents that we Elias Mc Bride as principal and Floyd Higgins as surety are held and firmly bound unto the City of Chicago in the penal sum of two hundred and fifty dollars (\$250-) for the payment of which well and truly to be made unto the said City of Chicago we do bind ourselves our heirs executors and administrators jointly and severally firmly by these presents.

Signed sealed and dated this thirteenth day of November A.D. Eighteen hundred & fifty eight
Whereas at the November Term A.D. 1858 of the Cook County Court of Common Pleas in a certain cause then pending in said Court on the Chancery side thereof wherein the above bounden Elias Mc Bride was plaintiff and the said City of Chicago was Defendant a decree was

rendered against the said Mc Bride from which
 decree the said Mc Bride hath prayed an appeal
 to the Supreme Court of the State of Illinois which
 appeal hath been granted by the Court Now therefore
 the condition of this obligation is such that if the
 above bounden Silas Mc Bride shall and do bare
 and keep harmless the said City of Chicago of and from
 all costs and charges incurred in said Supreme Court
 and shall pay or cause to be paid the judgments
 costs interest & damages in case said Decree of said
 Court of common Pleas. shall be affirmed in
 said Supreme Court & shall duly prosecute said appeal
 then this obligation shall be void otherwise to
 remain in full force and virtue,

approved

John M. Nelson Judge

Flory Higgins

Silas Mc Bride

Seal

Seal

State of Illinois
County of Cook } S.S.

I Walter Kimball Clerk of Cook
County Court of Common Pleas in and for said County,
do hereby certify that the foregoing is a full and true
transcript of all the papers on file in my office, and of the
proceedings entered of Record in said Court in the case
wherein Selas McBride is Complainant and The City of
Chicago Defendant in a certain Bill in Chancery.

In testimony whereof I hereunto subscribe
my name, and affix the Seal of said
Court, at the City of Chicago, in said
County this 7th day of January
A.D. 1859 Walter Kimball Clerk



In the Supreme Court

Silas McNichol

vs

The City of Chicago

of April Term A.D. 1889

} Appal from Cook
Common Pleas

And now comes the said
McNichol Appellant by W. J. Phrypp
his Attorney and says that in the
next proceeding and upon a point
there is manifest & material error ap-
pearing of record in this that the Court
below sustained said motion of the said
defendant below to dismiss said bill
and dismissed said bill

Wherefore & for other errors manifest
& material appearing of record therein
the said appellant prays that the
said decree may be reversed and
altogether set aside for a new trial.

W. J. Phrypp
for Appellant

and the City by its Attorney
& says there is no error
Elliott Anthony & Co. City Attorneys

208
Silas M^cBride
vs
City of Chicago

Filed

Filed April 19, 1859
L. Leland
clerk

Fees for Transcript.
\$9.00

IN THE SUPREME COURT.

Silas McBride,	}	APPEAL FROM COOK COUNTY COURT OF COMMON PLEAS.
Appellant,		
vs.		
The City of Chicago,		
Appellee.		

ABSTRACT OF RECORD.

1 Bill filed March 30, 1858.

*To the Honorable JOHN M. WILSON, Judge of the Cook County
Court of Common Pleas, in Chancery sitting :*

STATE OF ILLINOIS, } ss.
COUNTY OF COOK, }

2

Your Orator, Silas McBride, of the City of Chicago, in the said County, humbly complaining, shows unto your honor, that he is the owner, in fee, of certain real estate, situate in said city, and described as follows, viz :

Lot (4) four, Block (35) thirty-five, School Section addition to Chicago.

Was such owner on the first day of July, A. D. 1855, and from thence hitherto.

And your orator, further shows that said lots of land front and butt on a certain street or highway, in said City, usually called and known Taylor street: that certain proceedings have been taken by said City for the purpose of widening said street, from the Chicago River, to a point thereon, west of the lands of your orator, and in so doing seek to take and appropriate some of the lands of your orator, fronting on said street; and to that end and purpose have instituted and carried on certain proceedings, of which a transcript, so far as the same affects and describes the lands of your orator, is hereto attached, and made a part of this, your orator's, bill of complaint, and to the said proceedings

now remaining of record in the Office of the Clerk of said City, for greater certainty, your orator prays reference may be had.

And your orator further shows unto your Honor, that the said proceedings are irregular and defective in several material matters and things, namely in this:

1st—That the notice by the Clerk, that the Common Council intended to take and appropriate the land for the purpose of widening said street, is vague and indefinite, no time being therein specified when the Council would act in the premises.

2d—That at the expiration of the time required by law for giving the notice, the Common Council did not act, nor did they act at all in the matter, either by adjournment or otherwise, until the 12th day of May, 1856, six months afterwards or thereabouts.

3d—That the Commissioners did not within forty days from the time of their appointment, make their report and return of their actings and doings as such commissioners—they being appointed the 12th day of May, and making their return the 30th day of June then next.

4th—They did not, in fact, act within forty days next after their appointment, as their return shows that they did not act till the 28th day of June, in making their assessment.

5th—The notice of confirmation of the report of such commissioners was published on the 12th day of July, for the 14th July, and was not in fact acted on until the 18th of August, no order being taken by the Council on the 14th July, nor until the 18th August.

In all which matter, and in other matters appearing of record in the said proceedings, the same are irregular and void, and conferred no right, power or authority in the said City, either to condemn and appropriate the said land of your orator, or to levy and assess said special assessment on the land of your orator, as therein specified and set forth.

And your orator further shows that, as he is informed and believes, all the proceedings of said City, relative to the widening of said street, and the assessment made for that purpose, are correctly set forth in said transcript hereto annexed, marked "Schedule A."

And your orator further shows that under color of said proceedings, the said City of Chicago hath caused to be levied and assessed upon the said lands of your orator, the sum of eighty-two dollars.

5 And your orator further shows that, notwithstanding such, the irregularity of the said proceedings, and the want of right and power on the part of said City, to take the said lands of your orator, and assess said tax or assessment for the supposed benefits of that alleged improvement, yet the said City has proceeded to issue its warrant for the collection of the said assessment; and the said assessment levied on the lands of your orator having been returned unpaid, such proceedings have been thereupon had, that, upon application to this Court, judgment hath been rendered against said lands, in favor of the said City, and the same ordered to be sold to pay said assessment, on the 31st day of March, 1858, and your orator is fearful that the said City, or her agents, will proceed on that day and sell the same under said judgment and order, unless restrained by order of this Court.

And your orator further shows that he has frequently and in a friendly manner requested the officers of said City to refrain from further prosecuting the said illegal proceedings, assessments and judgment, with which reasonable requests your orator had well hoped the said defendants would have complied.

But now, so it is, may it please your Honor, the said City of Chicago, and her agents, combining and confederating with others to require your orator in the premises, refuse so to do, and for excuse therefor allege a variety of unfounded pretenses.

6 All which matters and things are contrary to equity, and good conscience, and tend to the manifest wrong, injury and prejudice of your orator, in the premises.

And your orator further shows that he files this bill on behalf of himself and all others whose property has been taken or assessment levied thereon, by virtue of said proceedings, who may come in and become parties hereto, and share the expense of this suit.

To the end, therefore, that the City of Chicago and her Clerk, agents and attorneys, defendants, may without oath, true answer make hereto:

That the said defendants and their attorneys, agents and servants may be enjoined and restrained from proceeding in the sale of the lands advertised under said judgment and order of said sale, until the further order of the Court that said injunction be made perpetual:

That the said proceedings of the said Common Council, touching the widening of said street, and the levying of said assessment specified

therein, and the said assessment may be set aside and annulled, and altogether avoided and held for naught:

And for such other or further relief as the nature of the case shall require, and shall be agreeable to equity and good conscience:

7 May it please your Honor to grant your Orator as well, process of injunction against the City of Chicago, her clerk, agents, and attorneys, and other the attorneys, agents and servants of them enjoining and restraining them as hereinbefore prayed for, as also the writ of summons against said Defendants to appear and answer this Bill of Complaint.

SILAS McBRIDE.

STATE OF ILLINOIS, }
Cook County, } ss.

Silas McBride makes oath and says, that he is the Complainant in the above Bill of Complaint, and that he has heard said bill read, and knows that all matters therein stated as upon his own knowledge are true, and those stated on information and belief he believes to be true.

SILAS McBRIDE.

Subscribed and sworn to before me, }
this 29th day of March A. D. }
1858.

WALTER KIMBALL, CLERK.

MORRIS & BLACKBURN,
Comp'ts Sol'rs.

Let the Writ of Injunction issue in conformity with the prayer in the foregoing Bill of Complaint, filing a bond in the penalty of three hundred dollars, with a good and sufficient surety.

JOHN M. WILSON,
Judge of the Cook Co. Court of Com. Pleas.
To the Clerk of the Cook Co. Court of Com. Pleas.

8 DAMAGES AND BENEFITS.

Assessment Roll for Widening Taylor Street from Halstead Street to the River.

IN COMMON COUNCIL, July 20th, 1855.

Ordered, That when the sum of \$40 shall have been deposited with

9 the City Treasurer, the City Surveyor proceed forthwith to survey, mark out, plat and record in the book provided for that purpose, (showing particularly the proposed improvement and the real estate required to be taken therefor,) the widening of Taylor Street so that the same shall be 60 feet in width from Halstead Street to the South Branch of the Chicago River, the ground necessary for such widening to be taken equally from the land adjoining said street on the north and south sides thereof.

Reports concurred in, and ordered passed.

No. 2. *Ordered*, That when the Surveyor has completed and returned his plat to the City Clerk, he give ten days' notice in the corporation newspaper, that the Common Council of the City of Chicago intend to appropriate and take so much land as shall be necessary for the widening of Taylor Street, so that the same shall be 60 feet in width from Halstead Street to the South Branch of the Chicago River, the ground necessary for such widening to be taken equally from the land adjoining said street on the north and south sides thereof.

Attest,

H. W. ZIMMERMAN, City Clerk.

IN COMMON COUNCIL, May 12th, 1856.

Ordered, That the Common Council do now elect by ballot three reputable, discreet and disinterested freeholders of the City of Chicago, whose duty it shall be to ascertain the damages and recompense due the owners respectively, of such real estate as shall be taken and appropriated for the widening of Taylor Street, from Halstead Street to the South Branch of the Chicago River, in accordance with an order for the survey, passed September 19th, 1855, and at the same time assess the amount of such damages together with the costs of the proceedings upon the real estate deemed benefitted by the improvement, in proportion, as nearly as may be, to the benefits resulting to each parcel of ground respectively.

The order was passed, and the Council proceeded to the election of Commissioners thereunder. On the 1st ballot, F. A. Bragg received fifteen votes, H. H. Yates and Wm. Wayman received each sixteen votes, and were declared elected.

Attest,

H. W. ZIMMERMAN, City Clerk.

11
CORPORATION NOTICE.

CITY CLERK'S OFFICE, }
Chicago, October 25, 1855. }

Public Notice is hereby given to all persons interested, that the Common Council of the City of Chicago intend to appropriate and take the land necessary to widen Taylor Street so that the same shall be 60 feet in width from Halstead Street to the South Branch of the Chicago River; the ground necessary to be taken for such widening, to be taken equally from the land adjoining said street, on the north and south sides thereof.

Oc. 26, 10 ts.

H. W. ZIMMERMAN, City Clerk.

10
This certifies that the appended notice relative to widening Taylor Street from Halstead Street to River, has been published in the Chicago Daily Democrat, the corporation newspaper of the City of Chicago, County of Cook, and State of Illinois, ten days consecutively, commencing with October 26th, 1855.

D. M. BRADLEY, Publisher
for the Proprietors.

Chicago, June 21st, 1856.

OATH OF COMMISSIONERS.

STATE OF ILLINOIS, {
City of Chicago. } ss.

10
We, the undersigned, freeholders of the City of Chicago, appointed by the Common Council of said city as commissioners to ascertain the damages and recompense due the owners of such real estate as shall be appropriated and taken for widening Taylor Street from Halstead Street to the River, in accordance with the foregoing orders, and at the same time to assess such damages, together with the costs of these proceedings upon the real estate deemed benefitted thereby, as nearly as may be, do solemnly swear that we will faithfully and impartially perform our duty as such commissioners, according to the best of our ability.

F. A. BRAGG, }
H. H. YATES, } Commissioners.
WM. WAYMAN, }

Subscribed and sworn to before me, this }
2d day of June, 1856. }

H. W. ZIMMERMAN, City Clerk.

23

The certificate of
the Publication of this
notice is on page 21
of Record -

COMMISSIONERS' NOTICE.

Public notice is hereby given to all persons interested that the undersigned commissioners, appointed by the Common Council of the City of Chicago, to ascertain the damages and recompense due the owners respectively, of such real estate as shall be appropriated and taken for the widening of Taylor Street so that the said street shall be sixty feet in width from Halsted Street to the South Branch of the Chicago River, in accordance with an order passed in Common Council, May 12, 1856, and at the same time to assess the amount of such damages together with the costs of the proceedings upon the real estate by them deemed benefited in proportion, as nearly as may be, to the benefits resulting to each parcel of ground respectively will meet at room No. 3 in the Court House, on the 18th day of June, 1856, at the hour of ten o'clock, A. M., for the purpose of viewing the premises and making said assessment.

F. A. BRAGG,
H. H. YATES, } Commissioners.
WM. WAYMAN, }

Chicago, June 7, 1856.

13

A description of the Real Estate in the West Division of the City of Chicago, deemed benefitted and damaged by reason of the widening of Taylor Street from Halstead Street to the South Branch of the Chicago River, in accordance with the order of the survey thereof, passed by the Common Council of the said City, on the 30th day of July, 1855, and the subsequent orders in relation thereto; together with the valuation of said real estate and the sums of money severally assessed thereon, for benefits, and awarded as damages, respectively, by the Commissioners, to wit: School Section, Addition to Chicago.

17

Here follows description of land, owners' names, &c., and among others, Silas McBride, on page 17, is assessed \$82.27 for net benefits on Lot 4, Block 35, as the owner thereof.

COMMISSIONERS' RETURN.

To the Mayor and Aldermen of the City of Chicago in Common Council assembled:

21

The undersigned, Commissioners appointed by your honorable body to ascertain the damages and recompense due the owners of such real estate as shall be appropriated and taken for the widening of Taylor Street from Halstead Street to the River, in accordance with the orders passed by the Common Council and hereto prefixed, and at the same time to assess the amount of such damages, together with the cost of the

proceedings upon the real estate deemed benefited by the said improvement, in proportion, as nearly as may be, to the benefits resulting to each lot or parcel of ground respectively; do hereby report and return to the Common Council:

That in pursuance of said appointment, they were duly qualified before entering upon their duties as appears by the oath recorded herein; that they published a notice of the time and place of their meeting for the purpose of making their assessment, in the Chicago Daily Times, the corporation newspaper of the City of Chicago, for the period of ten consecutive days previous to such meeting, a certificate of which publication is hereto prefixed; that they were present at the time and place and for the purpose designated in said notice; that they adjourned from day to day until June 28th, 1856, when they were all present, and did then and there, and do hereby assess the respective amounts set opposite to each lot or parcel of ground in the foregoing Assessment Roll mentioned in their appropriate columns, as the damages and benefits resulting from the said improvement, to such lots of parcels of ground respectively, having first fixed a valuation on the said real estate, which is likewise set forth in said roll.

All which is respectfully submitted.

F. A. BRAGG,
WM. WAYMAN, } Commissioners.
H. H. YATES, }

Chicago, June the 28th, 1856.

21

This certifies that the appended notice relative to the widening of Taylor Street from Halstead Street to the River, has been published in the Chicago Daily Times, the corporation newspaper of the City of Chicago, County of Cook and State of Illinois, ten days consecutively, commencing with June 7th, 1856.

SHEHAN & CAMERON,
Publishers.

Chicago, June 21st, 1856.

44

This certifies that the appended notice has been published in the Daily Times, the corporation newspaper of the City of Chicago, County of Cook, and State of Illinois, ten days consecutively, commencing with July 12th, 1856.

SHEHAN & CAMERON,
Publishers.

Chicago, August 16th, 1856.

24

ASSESSMENT NOTICE.

CITY CLERK'S OFFICE, }
Chicago, June 30th, 1856. }

Public notice is hereby given to all persons interested, that the Commissioners appointed by the Common Council of the City of Chicago, to ascertain and assess damages and benefits resulting to owners of real estate in the West Division, by reason of widening Taylor Street, so that the same shall be 60 feet in width from Halstead Street to the South Branch of the Chicago River, have made their assessment, and made their return to my office. Any person wishing to appeal from said assessment must file their objections, in writing, in my office, on or before Monday, the 14th day of July, 1856, at 7 o'clock P. M., as the Common Council will at that time hear all objections to said assessment, and revise and confirm, or annul the same.

H. W. ZIMMERMAN,
City Clerk.

24

STATE OF ILLINOIS, {
City of Chicago. } ss.

I do hereby certify that the foregoing assessment Roll was returned to me and filed in my office by the Commissioners this 30th day of June, 1856.

H. W. ZIMMERMAN,
City Clerk.

25

ORDER OF CONFIRMATION.

IN COMMON COUNCIL, August 18th, 1856.

Whereas, due notice has been given by the City Clerk of the returns of the foregoing assessment roll, and all objections thereto having been overruled, it is therefore ordered, That the said assessment as revised by the Common Council be, and the same is hereby confirmed. It is further ordered, that a warrant be issued for the collection thereof, returnable in thirty days after its date.

Passed.

City Clerk.

Men's Warrant issued the 185 , and on the back of which said assessment Roll last mentioned appears an endorsement which is in the words and figures following, to wit:

26

"Local Assessment,
July 21, '56,
confirmed
August 18, '56.

Motion to dismiss made April 28, 1858.

Cook County Court of Common Pleas.

SILAS McBRIDE }
vs. } IN CHANCERY.
CITY OF CHICAGO.

31

And now comes the said defendant, by its Attorney, Elliott Anthony, and moves the Court to dissolve the injunction issued in this case, for want of Equity appearing upon the face of the bill.

E. ANTHONY, City Attorney.

Order dismissing suit made Oct. 2, 1858.

Cook County Court of Common Pleas, A. D. 1858.

32

SILAS McBRIDE }
vs. } IN CHANCERY.
CITY OF CHICAGO.

This cause came on to be heard at the June Term of the Court, upon motion of Elliott Anthony, counsel for the defendant, to dissolve the injunction, for want of equity appearing upon the face of the bill; and was argued by Morris & Blackburn, counsel for complainant, and by E. Anthony, counsel for the City of Chicago, and therefore, upon consideration thereof, it was ordered, adjudged and decreed, that the injunction herein be dissolved, and the bill be dismissed, with costs.

And thereupon, the said complainant, by his counsel, enters his exceptions to the ruling of this Court.

ERRORS ASSIGNED.

That the Court sustained the motion to dismiss, and dismissed the bill and dissolved the injunction.

W. T. BURGESS,
For Appellant.

208-96

Silas M^cBride

vs

The City of Chicago

Abstract

Filed April 20. 1869

L. Leland
Clerk