

14608

No. _____

Supreme Court of Illinois

Chicago, Burlington &
Quincy R. R. Co

vs.

Knox College

STATE OF ILLINOIS,
SUPREME COURT,
THIRD GRAND DIVISION.

No. 235 133

J. W. Middleton & Co., Stationers, 196 Lake St.

14608

L B O R R
vs
Kropf & Co
1864

(Ready)

1
Pleas before the circuit court within in for
the county of Peoria, and state of Illinois, on
the Seventh day of March AD 1864.

Be it remembered that heretofore to-wit:
on the 25th day of May, AD 1863, there was
filed in the office of the clerk of the cir-
cuit court of Peoria county, Illinois, a
Transcript, together with accompanying
documents, in words and figures fol-
lowing, to-wit:-

Transcript of the Records of the circuit court
of Knox county, state of Illinois, in a cause
wherein "The President and Trustees of Knox Col-
lege" is plaintiff and "the Chicago, Burlington
and Quincy Rail Road company" is defendant. In
Circuitment. Removed from the circuit court
of Knox county, state of Illinois, by change of
venue, to the circuit court of Peoria county
state of Illinois, as hereinafter set forth.

June 7th AD 1859.

On this day met the circuit court of the
county of Knox and state of Illinois, in
court in course of the June Term AD 1859,
pursuant to adjournment. The record of
which convening is as follows, to wit:-

June 7, AD 1859.

State of Illinois, Knox county, ss.,

Pleas before the Honorable John S. Thompson, Judge of the Tenth Judicial Circuit of the state of Illinois, at a court begun and held at the court house in the city of Knoxville and state aforesaid, on the first Monday of the month of June A.D. 1859, in the year of our Lord one thousand, eight hundred and fifty-nine - It being the sixth day of said month in said year. Present - The Honorable John S. Thompson, Judge - James A. Stewart, states attorney, Cephas Ames, clerk, Andrew Thompson, sheriff:

And afterwards, during this said term of this court, to wit on the Eleventh day of June A.D. 1859 - the following orders were made and entered by the court in this cause, to wit:-

Knox College

vs

Ejectment

Chicago I & B. RR Co.

This day came the plaintiff by their attorney and filed his declaration, notice and proofs of service, and on his motion, It is ordered by the court that the defendant be ruled to plead to the plaintiffs declaration filed herein, within twenty days, from the date hereof. And in failure so to do, judgment will be rendered against him by default and the plaintiffs will recover the possession of his premises

by him in the declaration mentioned and described - And this suit is continued until to the next term of this court.

September 26th AD 1859.

On this day again met the circuit court of Knox County, state of Illinois in court in course of the said September Term AD 1859, pursuant to adjournment. The Record of which is follows to wit:-

State of Illinois }
Knox County } ss

Pleas before the Honorable John Thompson, Judge of the tenth judicial circuit of the state of Illinois, at a court begun and held at the court house in the city of Knoxville, on the fourth Monday of September in the year of our Lord, one thousand eight hundred and fifty-nine - It being the twenty sixth day of September in the year aforesaid. Present - Honorable John L. Thompson, Judge, James A. Stewart, State attorney, Cephas Ames, Clerk, Andrew Thompson, Sheriff:

Knox College &c

vs

Ejectment

Chicago, Burlington & Quincy RR Co

No order special was made herein at this term (September Term AD 1859)

of this court, but the following general order = ordered by the court that all suits not otherwise disposed of be continued to the next term of this court. = Ordered that court adjourn to court in course:-

February 20th AD 1860.

On this day again met the circuit court of the county of Knox and state of Illinois in court in course of the February term thereof AD 1860. pursuant to adjournment. The record of which convening is as follows, to wit:-

State of Illinois,
Knox county } ss

Pleas before the Honorable John L. Thompson, Judge of the tenth judicial circuit of the state of Illinois, at a court begun and held at the court house in the city of Knoxville, on the third Monday of February in the year of our Lord one thousand eight hundred and sixty. It being the twentieth day of February in the year aforesaid. Present - Hon. John L. Thompson, Judge, James N. Stewart, states attorney, Lehas Ames, clerk, Andrew Thompson, Sheriff:

And afterwards to wit - on the 12th day of March AD 1860.

Court met pursuant to adjournment - Present - Same as on the first day of this term - And the following orders were made and entered by the court in this cause, to wit: -

Knox College

vs

Ejectment

Chicago, Burlington & Quincy RR Co

This day came the defendants by their attorney - and move the court to dismiss said suit for want of authority to prosecute said suit by their attorney - And now the court having heard said motion, and being advised herein. It is ordered that said motion be overruled.

And afterwards to wit on the 13th day of March A.D. 1860.

Court met pursuant to adjournment - Present - Same as on first day of this term -

And made and entered in this cause the following orders, to wit: -

Knox College

vs

Ejectment

Chicago Burlington & Quincy RR Co

This cause again coming on to be heard, and issues being joined, the parties by attorneys waived a jury, and for

trial put themselves upon the court - and the court, after hearing the evidence, takes the same under advisement:

And afterwards to wit, on the 14th day of March A.D. 1860.

Court met pursuant to adjournment - Present same as on first day of this term - and made and entered in this cause the following orders, to wit -

Knox College

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Objection

Chicago, Burlington and Quincy R.R. Co

This cause again coming up - and being under advisement by the court, by agreement of parties, this cause is to be decided within thirty days hereof and held as of this term:

June 4th A.D. 1860.

On this day again met the circuit court of the county of Knox and state of Illinois, in court in course of the June Term A.D. 1860, thereof - pursuant to adjournment - The record of which convening is as follows to wit -

State of Illinois,

Knox County }th

Pleas before the Hon. John L. Thompson, Judge of the tenth Judicial circuit

of the state of Illinois, at a court begun
and held at the court house in the city of
Knoxville, in said county, on Monday
the fourth day of June, in the Year of
our Lord one thousand eight hundred
and sixty - said day being the first
Monday of said month - Present Hon-
orable John S. Thompson, Judge, James
N. Stewart, states attorney, Cephas Ames,
clerk, Andrew Thompson, sheriff.

And afterwards to wit on the 6th day of June,
"Court met pursuant to adjournment -
Present same as on first day of this term" -
and entered and made the following order
in this cause, to wit -
Knox College

Objection

Chicago, Burlington and Quincy Rail Road Co

This cause again coming on, the
same having been taken under advisement
by the court at the last term. It is consid-
ered and adjudged by the court that the plaintiffs
are owners in fee simple of the premises in
their declaration mentioned and described
and are entitled to the possession thereof,
and that they recover of the defendants
the possession of said premises, and that
they have a writ of possession therefor.

and it is further considered by the court that the plaintiff recover of the defendant the sum of one cent damages together with their costs by them in this suit expended, and may have execution therefor. Thereupon came the defendant and moved the court to vacate judgment and grant new trial herein.

September 24th A.D. 1860.

On this day met again the circuit court of Knox County, State of Illinois in Court in course of the September Term A.D. 1860 thereupon pursuant to adjournment - The Record of which convening is as follows, to wit -
September Term, A.D. 1860.

State of Illinois
Knox County } ss:

Pleas before the Honorable Aaron Tyler, Judge of the Tenth Judicial circuit of the state of Illinois, at a court begun and held at the Court House in the city of Knoxville in said county, on Monday the 24th day of September in the year of our Lord one thousand, eight hundred and sixty - being the fourth Monday of said month.
Present - Honorable Aaron Tyler, Judge, James N. Stewart, states attorney, Cephas Ames, clerk, Andrew Thompson, Sheriff.

And afterwards to wit - on the 3^d day of

October A.D. 1860. Court met pursuant
to adjournment - Present same as on
first day of this term. And made and
entered the following, to wit -
Knox College

m Ejectment

C. B. and L. RR Co.

This day came the defendant by
attorney and moved the court to vacate
the judgment heretofore entered herein. And
for an order for a new trial - all costs
being paid. And afterwards to wit -
on the 12th day of October A.D. 1860. "Court
met pursuant to adjournment - Present
same as on first day of this term". -
And made and entered in this cause the
following orders, to wit -
Knox College

m Ejectment

Chicago, Burlington and Quincy Rail Road Co

This cause coming on for hearing
on defendant's motion to vacate judgment
heretofore entered herein - and for a new
trial of said cause - and the court being
advised in the premises - It is ordered by the
court that said motion be allowed and
that a new trial of said suit be awarded.
And afterwards, to wit - on the 19th day of

October A.D. 1860. "Court met pursuant to adjournment. Present. Same as on first day of this term." And made and entered the following general order: "Ordered by the court that all suits not otherwise disposed of be continued to the next term of this court. Ordered that this court do now adjourn to court in course."

New Trial:—

February 18th A.D. 1861.

On this day again met the Circuit Court of Knox County, state of Illinois, in court in course of the said February term, A.D. 1861 thereof. pursuant to adjournment. The record of which is as follows to wit:—

February Term A.D. 1861.

State of Illinois,

Knox County, S.D.

Pleas before the Honorable Aaron Tyler, Judge of the Tenth Judicial Circuit of the state of Illinois, at a Court begun and held at the court house in the city of Knoxville in said county, on Monday the eighteenth day of February in the year of our Lord one thousand eight hundred and sixty-one. being the third Monday of said Month. Present. Honorable Aaron

Tyler, Judge - James N. Stewart, states at-
torney, John N. Lewis, clerk, Elijah C. Pratt
Sheriff - Court opened by proclamation -

And afterwards during said term of
this court, to wit - on the 12th day of
March AD 1861. Court met pursuant
to adjournment - Present same as on
the first day of this term - and the
following proceedings were had in this
cause, to wit -

Knox College

"

Ejectment

C. B. & L. RR Co

This day came the defendant
and moved the court for a contin-
uance herein - It is therefore ordered
by the court that the defendant file af-
fidavit therefor by to morrow morning.

And afterwards during the present
term of this court, to wit - on the 14th day
of March AD 1861 - "Court met pur-
suant to adjournment - Present same
as on first day of this term" And the
following proceedings were had in
this cause, to wit -

Knox College

"

Ejectment

C. B. & L. RR Co

This cause coming on for a hearing on dependant's motion for a continuance herein. It is ordered by the court that said motion be overruled for want of affidavit, therefore.

And after was during the present term of this court, to wit: On the 16th day of March AD 1861. "Court met pursuant to adjournment. Present - same as on first day of this term," And the following general orders were made and entered to wit:

"Ordered by the court that all suits pending not otherwise disposed of be continued to the next term of this court. Ordered that court adjourn to court in course.

June 3^d AD 1861.

On this day again met the circuit court of Knox county, state of Illinois in court in course of the June term AD 1861 thereof - pursuant to adjournment - The record of which convening is as follows, to wit:

June Term AD 1861.

State of Illinois
Knox County SS

Pleas before the Honorable

Aaron Tyler, Judge of the Tenth Judicial Circuit of the state of Illinois, at a court begun and held at the court house in the city of Knoxville in said county on Tuesday the fourth day of June A.D. one thousand eight hundred and sixty one - and being the first Tuesday of said month - The opening of the court having been postponed one day on account of Judicial Election held on Monday June 3^d A.D. 1861, by order of court - Present. Honorable Aaron Tyler, Judge, James A. Stewart, State attorney, John A. Lewis, Clerk, E. C. Pratt, Sheriff - Court opened by proclamation -

And afterwards, during this term of court, ^{to wit:} on the 8th day of June A.D. 1861: "Court met pursuant to adjournment - Present same as on first day of this term" And the court made and entered the following general orders to wit: Ordered by the court that all suits pending and not otherwise disposed of, be continued to the next term of this court.

Knox College

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Exhibitment

C. B & L. R.R. Co

No special order was made and entered herein at this term.

Ordered that court do now adjourn to court in course.

September 23^d A.D. 1861.

On this day met again the circuit court of Knox county, state of Illinois, in court in course of the September A.D. 1861 Term thereof - pursuant to adjournment, the record of which convening is as follows to wit:

September Term A.D. 1861.

State of Illinois
Knox County SS

Pleas before the Hon. Charles B. Lawrence, Judge of the Tenth Judicial circuit of the state of Illinois, at a court begun and held at the court house in the city of Knoxville in said county on Monday the 23^d day of September A.D. 1861, being the fourth Monday of said month =

Present - Honorable Charles B. Lawrence, Judge, James N. Stewart, Prosecuting attorney, John A. Lewis, Clerk, C. C. Pratt, sheriff. Court opened by proclamation.

And afterwards, during the said term of this court, to wit - on the 15th day of Dec

tober AD 1861 - "Court met pursuant to adjournment - Present same as on first day of this term". And the following proceedings were had in this cause, to wit:-

Knox College

" Ejectment

C.B. & L. RR Co

Ordered by the court that this suit be continued generally to the next term of this court - And the court having been counsel herein - It is stipulated by the parties that this cause shall be tried at the next term by Mr. Wead, or Mr. Frost acting in place of the court.

February 17th AD 1862

On this day again met the Circuit Court of Knox County state of Illinois in Court in course of the February AD 1862 term thereof, pursuant to adjournment - The record of which is as follows, to wit:

February Term AD 1862

State of Illinois,

Knox County) ss

Pleas before the Hon. Charles B. Lawrence, Judge of the Tenth Judicial Circuit of the state of Illinois, at a Court begun and held at the Court house in the city of Knoxville in said county, on

Monday the 17th day of February in the year of our Lord one thousand, eight hundred and sixty two - being the third Monday of said month - Present - Hon. Charles B. Lawrence, Judge, James H. Stewart, States attorney, John A. Lewis, clerk, C. C. Pratt, Sheriff - Court opened by proclamation:-

And afterwards during said term to wit - on this same day, 17th of February A.D. 1862, the following proceedings were had in this cause, to wit:-

Knex College

"

Ejectment

C. B. & I. R.R. Co.

This day came the defendant by attorney and moves the court for a continuance herein.

And afterwards, during said term - to wit - on the 1st day of March A.D. 1862, Court met pursuant to adjournment - Present same as on first day of this term - And the following proceedings were had in this cause, to wit:-

Knex College

"

Ejectment

C. B. & I. R.R. Co.

This day came the defendant by attorney and on his motion, It is ordered

by the court that this cause be continued to the next term of this court at the dependants costs. It is therefore considered by the court that the plaintiff recover of the dependant its costs by it in this suit expended at the present term of this court, and may have execution therefor. And ordered that this court do now adjourn to court in course.

June 2^d AD 1862

On this day again met the Circuit Court of Knox County, state of Illinois in court in course of the June AD 1862 term thereof, pursuant to adjournment. The record of which convening is as follows, to wit:

June Term, AD 1862

State of Illinois
Knox County } ss

Pleas before the Hon. Charles B. Lawrence, Judge of the Tenth Judicial Circuit of the State of Illinois, at a court begun and held at the Court house in the city of Knoxville in said county on Monday the 2nd day of June AD 1862, being the first Monday of said month. Present. Hon. Charles B. Lawrence, Judge, James W. Stewart, State attorney, John N. Lewis, Clerk, E. C. Pratt, Sheriff. Court opened by proclamation.

And afterwards, during this said term to wit - on the 13th day of June A.D. 1862.

"Court met pursuant to adjournment. Present same as on first day of this term. And the following proceedings were had in this cause, to wit -

Knox College

"

Ejectment

C. B. and L. R. R. Co

On motion It is ordered by the court that the parties have leave to file substitute declaration, pleas, herein on or before the first day of next term. To which time this suit is continued and ordered that court adjourn till court in course.

September 22nd, A.D. 1862.

On this day again met the circuit court of Knox County, State of Illinois in court in course of the September A.D. 1862 term thereof, pursuant to adjournment. The record of which convening is as follows to-wit -

September Term A.D. 1862.

State of Illinois,
Knox County } ss

Pleas before the Hon. Charles B. Lawrence, Judge of the Tenth judicial Cir-

court of the state of Illinois, at a court begun and held at the court house in the city of Knoxville in said county on Monday the 22nd day of September in the year of our Lord one thousand eight hundred and sixty-two, being the fourth Monday of said month. Present. Hon. Charles B. Lawrence, Judge, James A. Stewart, states attorney, John A. Lewis, clerk, C. C. Pratt, Sheriff, By Wm. McGowan, Deputy Sheriff - Court opened by proclamation.

And afterwards during said term of this court, to wit. On the 22nd day of September AD 1862. Court met pursuant to adjournment. Present same as on first day of this term. And the following proceedings were had in this cause, to wit: Knoxville College

v Ejectment

C. B. and L. RR Co

On motion, it is ordered by the court that the plaintiffs have leave to file copy of last declaration herein.

And afterwards during this term of this court, to wit. On the 29th day of September AD 1862. Court met pursuant to adjournment. Present same as on first day of this term. And the

following general orders were made and entered = Ordered that all suits at common law or in chancery not otherwise disposed of be continued to the next term of this court. And ordered that court adjourn to court in course.

February 16th AD 1863.

On this day again met the circuit court of Knox County state of Illinois in court in course of the February 1863 term thereof pursuant to adjournment, the record of which is as follows, to wit:-

February Term AD 1863.

State of Illinois
Knox County } ss

Pleas before the Hon. Charles B. Lawrence, Judge of the Tenth Judicial circuit of the state of Illinois, at a court begun and held at the court house in the city of Knoxville in said county, on Monday the 16th day of February AD 1863 - being the third Monday of said month. Present. Honorable Charles B. Lawrence, Judge. James H. Stewart, states attorney, John N. Lewis, clerk. J. Calvin Cover, sheriff. Court opened by proclamation.

And afterwards during said term of this court, to wit: On the 19th day of February

A.D. 1863. "Court met pursuant to adjournment - Present same as on first day of this term - And the following proceedings were had in this cause.

Knox College

Ejectment

Chicago Burlington
and Quincy RR Co

Ordered by the court that the venue of this suit be changed to Peoria county Illinois - The court having been of counsel in the case. It is therefore ordered by the court that the clerk of this court make out and transmit to the clerk of the circuit court of Peoria county a transcript of the record herein together with all of the papers filed in this court in this cause. Which is accordingly done.

State of Illinois
Knox County } ss

I, John H. Lewis, Clerk of the circuit court in and for said county and state, do hereby certify that the above and foregoing instrument of writing is a true, correct and complete copy of the records of this ^{said} court of all the proceedings in the above entitled cause - And further

tify that the papers accompanying this instrument of writing numbered from 1 inclusive to 10 inclusive in a seroll, are all the papers now on the files of this court in the above entitled cause.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Knoxville, this 21st Day of May A.D. 1863.



John H. Lewis, Clerk

By E. C. Cheesney, Deputy

Accompanying said Transcript is a declaration in Ejectment, in words and figures following to wit:-

Declaration = United States of America } Knox County Circuit Court
State of Illinois }
Knox County } June Term A.D. 1859.

The Chicago Burlington & Quincy Rail Road company was summoned to answer unto The President & Trustees of Knox College of the state of Illinois, of a plea of Trespass and Ejectment: For that whereas, heretofore to wit: on the first day of January in the year of our Lord, one thousand eight hundred and fifty nine at and within the County of Knox, in said state of Illinois, the said Plaintiffs were possessed as of their own demesne in fee simple of a certain tract of land situate at and within the said county, and state, and known as being

part of the north half of the north east quarter
of section twenty-one (21) in Township Eleven
(11) north of the base line of Range one (1) east
of the 4th principal meridian, described as follows to-
wit, a strip of land one hundred feet in width,
being fifty-feet in width on each side of the cen-
ter line Peoria & Ogawka Rail Road as now
located and constructed across said north
half of said north east quarter of said section
twenty one, containing four and one half acres
more or less, which land exceeds in value
five hundred dollars. And the said plaintiffs
being then and there so possessed of said prem-
ises, the said defendants there afterwards, to wit:
on the day and year aforesaid, entered into the
said described premises, and from the time
last aforesaid have unlawfully withheld
and do now unlawfully withhold from
the said plaintiffs the possession of the
said premises, to the damage of the said
plaintiffs in the sum of five hundred
dollars, and therefore they bring suit,
Hc

Hannaman & Hale, attorneys for Plaintiff.

To the Chicago Burlington & Quincy Rail Road
company - You are hereby notified, That the
Declaration with a copy of which you are
now herewith served, and to which this notice
is subjoined, will be filed in the circuit court

of the county of Knox and state of Illinois,
 (to be held at the city of Knoxville,) on the
 6th day of ^{the} June Term thereof, AD 1859, and
 that upon filing the same, a rule will
 be entered requiring you to appear and
 plead to the said declaration within twenty
 days after the entry of said rule, and
 that if you neglect so to appear and
 plead, a judgment by default will be
 entered against you, and the plaintiffs
 will recover possession of the premises
 specified in the said declaration. Dated
 this 6th day of June AD 1859.

Hannan & Hale, attorneys
 for plaintiff

State of Illinois Knox circuit court
 Knox County 5th June Term AD 1859.

Hollis M. Hale being
 duly sworn, doth depose and say:
 That he did, on the sixth day of June
 AD 1859, personally serve James W. Cothren
 the freight agent in the city of Galzburg for
 the said Chicago Burlington & Quincy Rail
 Road company the defendants in this suit,
 with a true copy of the declaration here-
 unto annexed, and also a true copy of the
 notice in writing, to the said declaration
 subjoined, and likewise hereto an-

needed, by delivering the same to him and
further this deponent saith not.

H. W. Hale

Subscribed and sworn to
before me this seventh
day of June, AD 1859
C. Ames, clk

Also the following Plea:-
Knox Manual Labor College

Chicago Burlington & Q. RR Co

Knox Cir. Court,

Sept Term AD 1859.

And now comes the said defendant
by Manning, Douglass & Craig its attor-
neys & defends the wrong & injury, when
it & says it is not guilty of with unlaw-
fully holding the said premises from
the plaintiff in manner & form or in
any manner as the plaintiff hath
alleged & of this it puts itself upon
the country &c. Manning, Douglass & Craig
Attys for Deft

Proceedings at a term of the circuit court begun
and held at the court house in and for the city
and county of Peoria and state of Illinois, on

the first Monday in the month of February in the year of our Lord one thousand eight hundred and sixty-four, it being the first day of said month. Present the Honorable Marion Williamson, Judge of the 16th Judicial circuit in said state; John A. J. Murray, sheriff and Enos D. Sloan, Clerk, to-wit: Wednesday, February 24th A.D. 1864.

Knox College

vs

Ejectment

Chicago Burlington &

Quincy Rail Road Company

This day came the plaintiff by Judge Wead its attorney, and the defendant by McCoy & McCullough, its attorney, and waive trial by jury and agree that all matters of law and fact arising in this cause shall be tried by the court.

Friday, March 4th A.D. 1864.

Knox College

vs

Ejectment

Chicago Burlington &

Quincy Rail Road Company

This day came plaintiff by Judge Wead its attorney, and the defendant by McCoy & McCullough, its attorneys, and waive trial by jury and agree that all matters of law and fact arising in this cause shall be tried by the court. And the court having heard the evidence in the case, and not being fully advised in

the premises, takes time to consider.

Monday, March 7th 1864.

Knox College

Ejectment

Chicago, Burlington &

Quincy Rail Road Company

This day come the parties to this suit by their respective attorneys, and the court now being fully advised in the premises, do find the issues for the plaintiff, and find the defendant guilty and that the plaintiff has title in fee simple to the land as by it alleged in his declaration filed herein, and do assess the plaintiff's damages by reason of the premises, at the sum of one cent. Therefore it is considered by the court that the said ^{President and Trustees of} Knox College have and recover of the said Chicago Burlington & Quincy Rail Road Company the said sum of one cent its damages aforesaid, and also its costs and charges by it about its suit in this behalf expended and that execution issue therefor. And that the said President and Trustees of Knox College have and recover of the said Chicago Burlington and Quincy Rail Road Company, the possession of the following described property to-wit:- part of the north half of the north east quarter of section Twenty-

one (21) in Township Eleven (11) north of the base line of Range one (1) east of the 4th principal Meridian, described as follows to-wit:- a strip of land one hundred feet in width, being fifty feet in width on each side of the center line Peoria & Oquawka Rail Road as now located and constructed across said north half of said north east quarter of said section twenty one, containing four and one half acres more or less, in the county of Knox, state of Illinois, and that a writ of possession issue thereon.

Friday, March 11th A.D. 1864.

Knox College.

Ejectment

Chicago Burlington &
Quincy Rail Road Company

This day come defendant by attorney, and prayed an appeal to the supreme court of this state, which is allowed on its filing in the office of the clerk of this court in twenty-days, an appeal bond payable to the plaintiff, in the penal sum of two hundred and fifty dollars, conditioned as the law directs. By agreement the bill of exceptions is to be made and filed in ten days.

And afterwards to wit on the 19th day of March 1864
there was filed in the Clerk's office of said Court a Bill
of exceptions in the above entitled cause which is in the
words and figures following to wit:

Bill of
Exceptions

"
The President & Trustees
Knox College

vs.

The Chicago Burlington &
Quincy Rail Road Company

In Peoria Circuit Court -
Feb'y Term A D. 1864.

Be it Remembered that on the
trial of this cause at the February term 1864. a jury was
waived and the cause submitted to the Court for trial, where-
upon the plaintiff in order to maintain the issues on its part -
read in evidence without objection a patent from the United
States to Sylvanus Ferris dated the tenth day of October A.D.
1840 for section twenty one in township eleven north of the
base line of range one east of the fourth principal meridian
in the district of lands subject to sale at Quincy Illinois.
Said plaintiff then offered in evidence a deed with its accompany-
ing certificates is in the words and figures following:

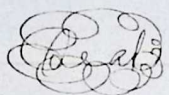
" This indenture made the 24th day of January in the year
eighteen hundred and thirty eight between Sylvanus Ferris
and Sally his wife of Knox County, State of Illinois of the first
part and the trustees of Knox Manual Labor College of the
second part Witnesseth that the said parties of the first part
for and in consideration of the sum of three thousand six

hundred and fifty dollars current money of the United States
 unto them is hand paid by the said party of the second part
 the receipt whereof is hereby acknowledged do hereby grant bargain
 sell alien enfeoff, release and confirm unto the ~~said~~ party of
 the second part and their successors in office all and singular
 the following described tracts or parcels of land in Knox County
 State of Illinois and lying and being in Township eleven north
 of Range one east of the 4th principal meridian and known
 and designated as follows to wit: The whole of section numbered
 twenty containing six hundred and forty acres. Also the whole
 of section numbered twenty one containing six hundred and forty
 acres; Also the whole of section numbered twenty two excepting
 the south half of the north west quarter containing five hun-
 dred and sixty acres. The whole of section numbered twenty
 three excepting the South half of the east half of the south
 east quarter and the north half of the north west-q^r. Also the
 west half of the north east quarter of section numbered twenty
 nine containing eighty acres. Also the west half of the north
 west quarter of section numbered twenty eight containing eighty
 acres; Also the west half of the north east quarter of section
 numbered twenty eight, containing eighty acres. Also the west
 half of the north west quarter of section numbered twenty seven
 containing eighty acres; Also the west half of the north east
 quarter of section numbered twenty seven containing eighty
 acres. Together with all and singular the rights improvements
 hereditaments and appurtenances whatsoever thereto belonging
 and the reversion and remainders rents issues and profits
 thereof. To have and to hold all and singular the premises

"with the appurtenances hereby granted unto the said party of
"the second part their successors in office and assigns to the only
"proper use and behoof of the said party of the second part their
"successors in office and assigns forever and the said party of
"the first part hereby covenant for themselves and their heirs that
"they are seized of good and indefeasible estate of fee simple
"in the premises and that they have good right to convey the
"same to the said party of the second part in manner aforesaid
"and lastly that the said parties of the first part and their heirs
"all and singular the premises hereby granted with their appurten-
"ances unto the said party of the second part - heirs and assigns
"against the said part of the first part and heirs and all and
"every other person shall warrant and forever defend by these
"present. In witness whereof the said Silvanus Ferris and
"Sally his wife ha hereunto set hand and seal the day and
"year first above written. Silvanus Ferris (Seal)
Sally Ferris (Seal)

"Signed sealed and delivered in presence of ~
"the words "excepting the south half of the north west quarter"
"being ~~inserted~~ interlined in the eleventh line before signing
John G. Sanborn

"State of Illinois }
"Knox County } ss I John G. Sanborn, Clerk of the Circuit
"Court for said County do certify that on this day appeared
"before me Silvanus Thompson Ferris and Sally Ferris whose
"names appear signed to the foregoing deed of conveyance and
"who are personally known to me to be the identical persons
"who signed the same and acknowledged that they had executed

" the same as their voluntary act and deed for the uses and
 " purposes therein expressed. And the said Sally Ferris wife
 " of the said Silvanus Ferris having been by me made acquainted
 " with the contents of said deed and being by me examined separately
 " and apart from her husband acknowledged that she had executed
 " the same and relinquished her dower to the premises therein con-
 " veyed voluntarily, freely and without any compulsion of her
 " said husband. In witness whereof I have hereunto set my hand
 "  and affixed the seal of said Circuit Court at Knox-
 " ville this 7th day of March A.D. 1838
 " John G. Sanborn Clerk.

" State of Illinois } Records Office
 " Knox County } March 15, 1848
 " I ~~do~~ hereby certify that this deed was this day duly recorded in
 " book 11 page 19.

" L. D. Montgomery Recorder "
 " To the introduction of which deed in evidence the said defend-
 " ants by its attorneys objected because the plaintiff did not have
 " the right to have or hold real estate, which was the only objection
 " made; but the Court overruled said objection and permitted
 " the said deed to be read in evidence, to which ruling of the
 " Court the said defendant by its attorneys then and there
 " excepted.

" The said plaintiff then read in evidence the following
 " stipulation of the parties:

" State of Illinois }
 " Knox County }
 " Knox County Circuit Court
 " February Term A.D. 1861.

2
The President & Trustees
of Knox College

vs.
Chicago Burlington &
Quincy Rail Road Company

Ejectment to recover the
following described real estate (see description of premises in
declaration)

In this case it is agreed as follows.

1. That the Peoria and Oquawka Rail Road Company took
possession of the land in controversy as right of way on the
day of — A. D. 1854. and constructed their rail road upon
said land.
2. That Peoria and Oquawka Rail Road Company had the
damages resulting to plaintiffs by reason of entry said land
duly & legally assessed as is and was by law required, before
the commencement of this suit in 1854.
3. That plaintiff before the commencement of this suit brought
a suit against the said Peoria & Oquawka Rail Road Com-
pany upon said assessment & for the same and recovered a
judgment for the full amount thereof. That an execution
was issued upon said judgment and returned unsatisfied
and that the same is yet wholly unpaid.
4. When this suit was brought defendants were in possession
of said premises as the lessees of Peoria & Oquawka Rail
Road Company, that their Rail Road running from
Peoria to Burlington over said land & defts. were
running their cars over said land when suit was brought

and still are using & occupying said land as aforesaid upon
 "said trains & cars. carry the United States Mails,
 5. That the name of plaintiff was changed from "Knox Manual
 "Labor College" to "Knox College" after Plaintiff received
 "deed for said premises and before the commencement of this
 "suit, by Act of the Legislature of the State of Illinois, each party
 "reserving the right to object to the

"Douglas Craig & Ford for defts."

The said plaintiff then offered in evidence a book purporting to
 be incorporation laws of the State of Illinois containing three
 hundred and forty four printed pages exclusive of the index
 thereto to which book is prefixed a printed title page in
 the words and figures following:

"Incorporation laws of the State of Illinois passed at a
 session of the General Assembly begun and held at Vandalia
 the 6th day of December 1836. — Published in pursuance of
 law. Vandalia: William Walters Public Printer 1837"

from which said book the said plaintiff proposed reading
 in evidence commencing on page 33 of said book the words
 & figures following:

An Act to incorporate the Knox Manual Labor College.
 Sec. 1. Be it enacted by the people of the State of Illinois,
 represented in the General Assembly, That John Waters, John C.
 Sanburn, Mathew Chambers, Erastus Swift, Nehemiah H. Losey,
 George H. Wright, Ralph H. Marlbut, George W. Gale, Nehemiah
 West, Thomas Simmons, and Parnack Owen, he and hereby
 are created a body politic and corporate, to be styled and

known by the name of the trustees of Knox Manual Labor College, and by that name and style to remain, and have perpetual succession, the said college shall be located on Section No. fifteen, in township No. eleven north, of range one east, of the fourth principal meridian in the county of Knox. The number of trustees shall not exceed twenty five including the President of the college, who shall be ex officio a member of the board of trustees. For the present the individuals above named shall constitute the board of trustees with power to fill the remaining vacancies at their discretion.

Sec. 2. The object of said corporation shall be to promote the general interests of literature, and to qualify young men in the best manner for the various professional and business occupations of society, by carrying into effect a thorough system of mental, moral, and physical education, and so reduce the expenses of such education, by manual labor and other means, as shall bring it within the reach of every young man of industry and promise.

Sec. 3. The corporate powers hereby bestowed, shall be such only as are essential to the attainment of said object, and such as are usually conferred on similar bodies corporate viz: to have perpetual succession, to make contracts, to sue and be sued, plead and be impleaded, to grant and receive in its corporate name, and to do all other acts as natural persons may, to accept, acquire, purchase or sell property, real, personal, or mixed, in all lawful ways, to use, employ, manage, and dispose of all such property, and all money belonging to said corporation, in such manner as shall seem to

The trustees best adapted to promote the above mentioned objects, to have a common seal and to alter or change the same, to make such by-laws for its regulation as are not inconsistent with the Constitution and laws of the United States or this State, and to confer on such persons as may be considered worthy of such academical and honorary degrees as are usually conferred by similar institutions.

Sec. 4. The trustees shall have power from time to time to prescribe and regulate the course of study to be pursued in said College, and in the preparatory departments attached thereto, to fix the rate of tuition, room rent and other college expenses, to appoint instructors, professors, and such other officers and agents as may be needed in managing the concerns of the institution, to define their powers, duties, and employments, to fix their compensation to displace and remove either of the instructors, officers or agents, as they may deem the interests of the College require; to fill all vacancies among the instructors, officers, and agents, to erect necessary buildings to purchase books, chemical, and philosophical apparatus and other suitable means of instruction, to establish and regulate the proposed system of manual labor, in the way which they shall deem best adapted to promote the object of said Corporation, to make rules for the general management of the affairs of the College, and for the regulation of the conduct of the students, and to establish when they shall deem it expedient, and the means can be procured, professorships of law and medicine.

Sec. 5. If any trustee shall be elected president of said

College, his former place as trustee shall be considered vacant and shall be filled by the board of trustees. The trustees for the time being, shall have power to remove any trustee from office for any dishonorable or criminal conduct, provided, That no such removal shall take place without giving to such trustee notice of the charges exhibited against him, and an opportunity to defend himself before the board nor unless two thirds of the whole number of trustees for the time being, shall concur, in such removal. The trustees in order to have perpetual succession, shall have power as often as a trustee shall be removed from office, die resign, or remove out of the State, to appoint a resident of this State to fill the vacancy in the board. A majority of the trustees for the time being, shall be a quorum to do business.

Sec. 6. The trustees shall faithfully apply all funds collected or hereafter to be collected for said college, according to their best judgment, in erecting suitable buildings, in compensating the necessary instructors, professors, officers and agents, and in procuring books, maps, charts globes philosophical, chemical, and other apparatus necessary in the promotion of sound learning in said institution, provided, That in case any donation, devise, or bequest shall be made, for particular purposes, accordant with the object of the institution, and the trustees shall accept the same, every such donation, devise, or bequest, shall be expressly applied in conformity with the condition prescribed by the donor, or devisor, provided, also, That lands

donated or devised as aforesaid, shall be sold or disposed of as required by the last Section of this act.

Sec. 7. The trustees of said College always, and all other agents when required by the trustees, before entering upon the duties of their appointments, shall give bonds respectively for the security of the Corporation, in such penal sum and with such securities as the board of trustees shall approve. All process against said Corporation shall be by summons, and the service of the same shall be by leaving an attested copy with the treasurer of the College, at least thirty days before the return day thereof.

Sec. 8. The said College and its preparatory department shall be open to all denominations of Christians, and the profession of any particular religious faith shall not be required of those who become students; all persons however may be suspended or expelled from said institution whose habits are idle or vicious, or whose moral character is bad.

Sec. 9. The lands tenements, and hereditaments to be held in perpetuity in virtue of this act, by said institution, shall not exceed one thousand and forty acres, Provided however, That if donations, grants or devises in land shall from time to time be made to said Corporation, over and above one thousand and forty acres, which may be held in perpetuity as aforesaid, the same may be received and held by such Corporation, for the period of three years from the date of every such donation, grant, or devise; at the end of which time, if the said lands over and above the said one thousand and forty acres, shall not have been sold, then and

in that case the said land so donated, granted, or devised, shall revert to the owner, grantor, or the heirs of the devisees of the same. Approved Feb. 15th 1837.

To the introduction of which book and the reading therefrom in evidence the said defendant by its attorneys then and there objected, but the court overruled said objection and permitted the said plaintiff to read the aforesaid portion of said book in evidence to which ruling of the court the said defendant by its attorneys then and there excepted, The plaintiff then read in evidence without objection an act of the Legislature of the State of Illinois in words and figures following to wit:

An act to amend an act to incorporate Knox Manual Labor College.

Sec. 1. Be It enacted by the people of the State of Illinois represented in the General Assembly, That the period of three years, allowed to the Trustees of Knox Manual Labor College, by the ninth section of the act, to which this is an amendment, for holding donations, grants, or devises in lands, be, and the same is hereby extended to seven years, in addition to the aforesaid period of three years, any thing in said section to the contrary notwithstanding. Approved January 18. 1840.

The plaintiff then read in evidence without objection an Act of the Legislature of the State of Illinois in words & figures following,

An act to amend the charter of Knox County Manual Labor College. Whereas by an act entitled "An act

to incorporate "Knox Manual Labor College" approved February 15, 1837. it was provided that if donations, grants or devises in land should, from time to time, be made to said Corporation, over and above One thousand and forty acres, (which One thousand and forty acres, by the term of the said act, might be held in perpetuity by the said Corporation) the same might be received and held by such Corporation for the period of three years from the date of every such donation, grant or devise. And whereas by an act entitled an act to amend the act first aforesaid, approved January 18, 1840. the time for holding the said donations, grants or devises of land by the said Corporation was extended to seven years, in addition to the period of three years; now, therefore, ~~now, therefore,~~

Section 1. Be it enacted by the people of the State of Illinois represented in the General Assembly, That the period during which the said Corporation of Knox Manual Labor College may hold any such donations, grants or devises in land, be and the same is hereby extended for the further period of ten years, in addition to the said terms limited in the said two above mentioned acts.

§ 2. That in all cases where the said limitation of seven years shall have expired before the passage of this act, the said term of ten years in this act provided for shall be construed to commence and shall commence at the time of the expiration of such seven years.

§. 3. That in all cases where the said Corporation may have been the owner or holder of the title to any real estate

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before the expiration of the said term of seven years, the right, title or interest of the said corporation in or to such real estate shall not be construed or held to be or to have been impaired or defeated, on account of the said corporation having failed to sell or dispose of such real estate during the said term of seven years, but the right, title and interest of such corporation in and to such real estate shall be held to be and shall be as full and perfect, from and after the expiration of the said seven years, during the full term of ten years in this act mentioned, as before the expiration of the said term of seven years.

§ 4. That all contracts and agreements, bonds, obligations, conveyances and deeds of any real estate made or entered into concerning any real estate heretofore owned by said corporation, which may have been made or entered into since the expiration of the said term of seven years, by the said corporation, shall be deemed and held as good and effectual in law, to all intents and purposes, to bind, hold and convey any interest which the said corporation might or would have had in such real estate if the said limitation of seven years had not expired at the time of the making or entering into of any such contract, agreement, bond, obligation, conveyance or deed.

Approved Feb 1. 1851.

The plaintiff then read in evidence without objection an act of the legislature of the State of Illinois in the words and figures following.

An act to amend an act entitled "An act to incorporate

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the Knox Manual Labor College."

Section 1. Be it enacted by the people of the State of Illinois, represented in the General Assembly, That the name of "The Knox Manual Labor College" in the town of Galesburg, be and the same is hereby changed to "Knox College"; and all the lands, property, privileges, powers, rights and franchises of said Knox Manual Labor College are hereby transferred to and vested in Knox College; and the president, trustees, professors and other officers and agents of said Knox Manual Labor College shall continue and be the like officers and agents, with the like powers and duties in said Knox College.

§ 2. The board of trustees of said Knox College shall have power to establish a female collegiate department of said College, to be called "The Female Collegiate Department of Knox College" for the education and instruction of females. It shall be the duty of said board to provide sufficient funds to pay for, complete and furnish the building for said department, now in progress of erection on the north side of the College square, in said town of Galesburg, and shall set apart, for the benefit of said department, of the funds derived from the lands donated by Charles Phelps, of Cincinnati, to said College, not exceeding twenty thousand dollars, of which fifteen thousand dollars shall be invested, in the manner hereinafter mentioned, for the endowment and support of a professorship of Mathematics and natural Philosophy in said department.

§. 3. It shall be the duty of the board of trustees, as soon as funds shall come into the treasury of the college, not wanted for the present engagements of the same or for completing the buildings now in progress, to set apart twenty thousand dollars as an endowment for the presidency of ~~the~~^{said} college, and fifteen thousand dollars, each, for the endowment therein of the professorships of moral philosophy and belles lettres, the professorship of natural science, and the professorship of modern languages, which shall never be used or applied for any other use or purpose whatever: Provided, however, that the board of trustees shall always have power to fix the amount of salaries of said president and all of the professors, and other officers and agents of said college; and any surplus from the endowments by this act provided, after payment of the salaries of said president and professors, may be appropriated by the board as other funds of the college.

§. 4. Said funds, including that for the endowment of a professorship of mathematics and natural philosophy, in the female collegiate department, shall be loaned out on real estate security only, of the double the value of the amount loaned, without estimating buildings or other perishable improvements, and on lands to which the title is understood to be perfect, at a rate of interest not exceeding twelve per cent. per annum, payable annually, in advance, at any time, whether the debt be due or not. If in the opinion of the board of trustees, or other executive committee thereof, the security is ⁱⁿ insufficient they may require additional security,

or the immediate payment of the principal and interest of said debt.

§ 5. It shall be the duty of said board to cause ^{for} ~~five~~ thousand dollars to be loaned out as aforesaid and at the same rate of interest, the interest of which shall be appropriated, annually, to the increase of the library and apparatus of the college.

§ 6. It shall be the duty of said board, as soon as the funds are not wanted for the purposes aforesaid, to provide and cause to be loaned out, in the manner above provided for, fifteen thousand dollars, for the endowment of the principal of the academic department of said college, subject to the same condition as provided for in salaries of the president and professors in section three.

§ 7. The board of trustees shall in their discretion, have full power to sell any land or other property of said ~~know~~ college, or of the female collegiate department, thereof, or which may hereafter be vested in said college or department, as the interests of said college or department may from time to time require, and make sufficient and necessary conveyances for the same, or they may retain all or any of said lands or other property, according to their own discretion and pleasure, and lease, rent, use or occupy the same, for the uses and purposes of said college and department, any law to the contrary notwithstanding. And be it further enacted, that all laws conflicting with any of the provisions hereof be and they ^{are} hereby repealed.

Approved Feb. 16, 1857.

The plaintiff here rested and the defendant in order to maintain the issues on its part read in evidence the following deposition.

State of Illinois
Knox County 388.

Knox Circuit Court
Clerks Office

Knox College 3

vs.

Ejectment

Chicago Burlington
& Quincy R.R. Co 3

The deposition of James W. Gilson taken before the undersigned clerk of said court by the mutual agreement & appearances of the parties without notice at my office in said County, & to be read in evidence on the trial of the above entitled cause, taken Nov. 5th 1862.

And the said James W. Gilson being by me first duly sworn to testify the truth the whole truth & nothing but the truth in regard to the matter in controversy in said suit so far as he should be interrogated testifies as follows;

Int 1 Was you Engineer of the Peoria & Oquawka Rail Road Company during the time their Rail Road was located in said County of Knox. and while the track was being laid.

Ans. I was Assistant Engineer

Int 2nd Do you know the land in controversy in this suit

to wit, the North half of the North East qr.
Sec. 21 Township 11 North of Range One East.

Answer Yes I do

Int 3rd State whether you had in charge the locating of the
Peoria & Oquawka Rail Road & laying the track on
said piece of land as engineer.

Answer The line was located by E. B. Kellogg and I run
the levels & after the location I had charge of the
Construction of that part of the road under Mr Kellogg

Int 4th State what you know if any thing in regard to the
plaintiffs giving consent to the location of said Road &
laying of the track across said land

Answer. I had frequent Conversations with person in the interest
and connected with the College, during the time we were
locating, and when we commenced work on this land,
and they said that there was no question about the
Right of Way, through any of the lands of the College. as by an
agreement with the Rail Road Co. the College had given them
the Right of Way through their lands, and I understood this
to be one of them - I had conversations with President
Blanchard who owned a quarter adjoining, who said there
was no question as to this quarter, Dr. Bunce who was
Trustee I think told me the same & I believe W Selden
Gale, & others with whom I conversed, connected with
the college from time to time - Mr Blanchard was
then President of the College.

1st Interrogatory 1st

Do you know whether the Rail Road Company ever had Commissioners appointed to assess the damages for constructing said Road across the above named piece of land

Answer.

There was a Commission issued but whether it embraced this land or not I do not know but think it did

James M. Gilson

State of Illinois

2d Knox County Ill. Office of the Clerk of the Circuit Court Nov 5, 1862.

I, J. M. Lewis Clerk of the Circuit Court in & for said County, do hereby certify that on the 3th day of November A.D. 1862, the foregoing deposition of James M. Gilson was taken before me at my office in said County by agreement of parties & reduced to writing by me except the answer to the 4th direct Interrogatory which was reduced to writing by the witness, that said deposition was at the time aforesaid signed by said James M. Gilson in my presence & sworn to by said James M. Gilson before me at the time & place aforesaid. Witness my hand and seal of said Court at Knoxville this 5th day of November A.D. 1862.

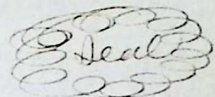


John M. Lewis. Clk.

This was all the evidence in the case, after the arguments of counsel had been heard the Court found the issues for the plaintiffs and rendered judgment in favor of the

the said plaintiff and against the said defendant to which ruling of the Court the said defendant by its attorneys then & there excepted and prayed that this its bill of exceptions be signed sealed and made part of the record according to the Statute in such case made & provided which is accordingly done this 13th day of March A.D. 1864,

Wm Williamson
Judge



And afterwards, to wit: on the 24th day of March A.D. 1864. there was filed in the clerk's office of said Court an appeal bond which is in words and figures, as follows, to wit:

Supreme Court of Illinois Third Grand Division
The Chicago Burlington & Quincy
Railroad Company
Plaintiff in error

Appeal

vs.

Knox College

Defendant in error

Know all men by these

presents; that, we, The Chicago Burlington & Quincy Railroad Company, Chauncey S. Walton & David Sanborn are held and firmly bound unto Knox College, in the penal sum of Two hundred & Fifty Dollars lawful money of the United States, for the payment of which well and truly to be made, we bind ourselves, our executors administrators, successors and assigns, jointly, severally, and

firmly, by these presents. Sealed with our seals, and dated the twenty first day of March A.D. 1864,

The condition of this obligation is such, that, whereas in a certain suit in Ejectment, lately pending in the Circuit Court, of Peoria County wherein the said Knox College was plaintiff, and the said Chicago Burlington & Quincy Railroad Company was defendant, judgment was on the seventh day of March A.D. 1864, rendered against the said Chicago Burlington & Quincy Railroad Company from which said judgment the said Chicago Burlington & Quincy Railroad Company has prayed and obtained an appeal to the said Supreme Court of the State of Illinois: Now therefore if the said Chicago Burlington & Quincy Railroad Company shall duly prosecute its said appeal, and shall pay all damages costs and interests that may be awarded against it in case said judgment shall be affirmed, then this obligation shall be void, otherwise it shall ^{be void} remain in full force and effect.

Seal

The Chicago Burlington & Quincy Railroad Company

By John Van Nostriek President

L. S. Bolton

David Sanborn

Seal

Seal



State of Illinois)
Peoria County S.S.

I, Enoch T. Sloan, clerk of the Circuit Court, within and for said County, do hereby certify, that the foregoing is a true, full and perfect copy, of all the papers filed in the cause wherein Knox College is plaintiff, and The Chicago Burlington and Quincy Railroad Company is defendant, and of the proceedings of our said Court in said cause, as the same appears on file and of record in my office.

Given under my hand, and the seal of said Court, at Peoria, this 7th day of April in the year of Our Lord one thousand eight hundred and sixty four.

Enoch T. Sloan Clerk
per Newton Debus

State of Illinois } In Supreme Court
Third Grand Division }⁴³ To April Term AD 1864-

The Chicago Burlington and
Quincy Railroad Company } Assignment
vs Appellant } of
The President & Trustees } Errors
of Knox College }
Appellee - }

And now the said
Chicago Burlington & Quincy Railroad
Company appellant, by ^{rel} Walker &
Lefler its counsel, comes and
says that in the record and
proceedings aforesaid there
is manifest error in this, to wit:
1st That the judgment entered in
the court below against the
appellants is erroneous in this
; that the evidence introduced
in said cause upon the trial
thereof, was not sufficient
to make out said action, or
to support said judgment-

2nd That upon the evidence, the

verdict and judgment, and each of them should have been for the appellants, and not for the appellee

3rd That said judgment is contrary to the law of the case

4th That it is contrary to and unsupported by the evidence therein -

5th That it is otherwise erroneous and void -

By reason whereof the appellant prays that said judgment may be reversed -

Walker & Dexter
Attorneys for Appellant

And now comes the said defendant by Head his Attorney and says that in the record and proceedings aforesaid & in the judgment aforesaid, no such errors have intervened as is above alleged, set forth, & that he prays may be enquired of by the Court By J. M. Head
his Attorney

235 133
The Chicago Burlington
& Quincy Railroad Company
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Knox College

Record & Return

Filed April 21st 1884
L. Leland
Clerk

Recd of Mc Callach &
Taggart an order on
Walker, Van Arman &
Dexter for \$12.25 my
fee for making this
Record. C. Sloan, Sh

12.25