

8633


No. _____

Supreme Court of Illinois

Illinois Central R.R.Co.

vs.

Squire G.Shropshire

71641  7

No 511 10

Sup Ci Nov 27

Mrs Centl R P Co

by

Squire J Shropshire

Enor to manor

Filed 23. November 1857

A. Johnston Clk

Paid by Sup Squire
\$5.00. Nov 23. 1857.

State of Illinois }
 Marion County } Pleas & proceedings had
 in the Circuit Court within & for the County
 of Marion State of Illinois in a certain cause
 heretofore pending in said Court wherein
 Squire G. Shropshire was plaintiff and the
 Illinois Central Railroad Company were
 defendants.

Be it remembered that the said defts.
 heretofore to wit: on the 26th day of August
 A.D. 1856 filed in the office of the clerk of
 the Circuit a transcript of a judgment against
 them (from the Wicket of N. R. Stickney a justice
 of the peace within & for said County) and
 in favor of the said plaintiff, which said
 transcript is in the words & figures following
 to wit:

"State of Illinois } In justice Court before
 Marion County } N. R. Stickney J.P.

Squire G. Shropshire

vs

Illinois Central Rail Road Company

Upon the trial of above cause before said
 justice judgment was entered against 15th
 in words & figures as follows to wit:

It is hereby ordered that judgment be entered against the Illinois Central Rail Road Company & in favor of Squire C. Shroffshire for the sum of twenty seven and $\frac{3}{100}$ dollars & Costs of Suit.

Given under my hand & seal
August 15th 1856

signed N. R. Stickney J.P.

Costs, justice & Court fees 4.10

" of taking depts 4.00"

State of Illinois }
Marion County } } Whereby certify that the
within transcript and papers therewith
transmitted contain a full and correct statement
of all the proceedings before me in said
Cause.

Given under my hand & seal
this 25th August 1856

N. R. Stickney J.P.

Upon the filing of said transcript a summons
issued in the words & figures ^{following} to wit,

State of Illinois } ss
Marion County } } The people of the State
of Illinois: To the Sheriff of Marion County
Greeting.

3.

We Command you to summon Squire G
Shropshire if to be found in your County
to appear before the Circuit Court of said
County, on the first day of the next term
thereof, to be holden at the Court House in
Salem, on the third Monday in the month
of September next to answer the Illinois
Cen. R.R. Co. in their appeal from the
docket of W. R. Stickney a Justice of the
peace in & for said County, and hereof
make due return to our said Court as
the law directs.

Witness B. H. Marshall clerk
of our said Court, and the judicial
Seal thereof at Salem this 26th
day of August A.D. 1856



B. H. Marshall clk.

By G. R. Pace Deputy

And afterwards to wit at the September
Term 1856 of said Court the following
order was made by the Court in said
cause & entered of Record to wit

Thursday Sept 18th 1856

G Shropshire

vs.

The Illinois Central
Railroad Company

} Appeal

And now at this day

came the plaintiff by O'Mahony, his
 attorney & said defendants by Haynie their
 attorney and said defendants ask leave of
 the court to amend the bond filed in this
 case, which leave is granted by the court.
 And upon motion it is ordered that
 N R Stearns Justice of the Peace, be ruled
 to transmit to this court a correct trans-
 cript of the proceedings had before him
 in this case & that this case be continued
 until the next term of this court

And afterwards to wit at the March
 Term 22 1857 of the Circuit court afore-
 said the following order was made by the
 court in said court to wit

Wednesday March 18th 1857

S G Shroffshire }
 vs } Appeal
 The Illinois Central
 Railroad Company }

And now at this
 day it is ordered by the court that
 the exceptions to the depositions herein
 be allowed

And afterwards to wit at the August
 Term 22 1857 of said Circuit court

37
The following order was made by the
court in said cause to wit

"S. G. Schropshire vs
The Illinois Central
Railroad Company

Thursday August 20th 1857

The Illinois Central
Railroad Company

And now at this day
come the said plaintiff by O'Malley
his attorney and the said defendants by
Hoyne their attorney and by consent this
cause is submitted to the court for trial
whereupon the court having heard the
proofs and being fully and sufficiently
advised of and concerning the premises
tried & adjudge that the said plaintiff
do recover of and from the said
defendants the sum of twenty seven
dollars & fifteen cents together with his
costs in this behalf expended & may have
execution therefor. Whereupon the said
defendants enter their motion for a
new trial herein which motion is
denied by the court

And afterward to wit on the 21st
day of August A.D. 1857 the said
defendant filed in the office of the
Clerk of said Circuit Court his

6
bill of exceptions duly signed & sealed
by the judge of said Court which Bill
of exceptions are in the words & figures
following to wit.

"Be it remembered that at the
August term 1857 a certain cause came on
to be tried and was tried by & before his
honor Sidney Bassett judge without a jury
wherein one Squire G. Shropshire was
plff and the Illinois Central Railroad
Company defts. in the trial of which
cause the plff introduced

James M. O'Melveny who testified - that
he had a conversation with A. H. Cory
who was then the freight agent at
Centralia Ills. - and said Cory told
witness that a certain Cornsheller had
been shipped for plff on the Central
Railroad and came to Centralia, and
one white had told said Cory the same
had been delivered to witness, but it
never had been. Witness also
had a conversation with Mr. Watson
the Superintendent of Railroad at the
time & he told witness that the Corn-
sheller had been shipped on the road - and
that said Cornsheller was worth twenty
seven dollars if it was like one.

7
afterward saw in Cincinnati & Skrofski
said it was a double Cornsheller & it
was worth two dolls and 50^{cts} to bring
it there and this was all the testimony
in the case

To which evidence deft at the time
objected as being hearsay and not bind-
ing on depts, but the court overruled
the objection and to which deft then except-
ed, & found for plaintiff \$2950, whereupon
deft moved for a new trial, which
was overruled to which deft then excepted,
and judgment was then entered on said
finding for said sum so found by the
court. To all of which deft then and
such time excepted and now pray
this bill to be signed & sealed which is
done &c

Sidney Bross 

State of Illinois }
Marion County } }

I W W Cagon Clerk
of the Circuit Court within & for said
County do hereby certify that the fore-
going is a full complete and correct
transcript of the Record & proceedings
in the above entitled case as appears

8 by the records & proceedings in the same on file in my office.

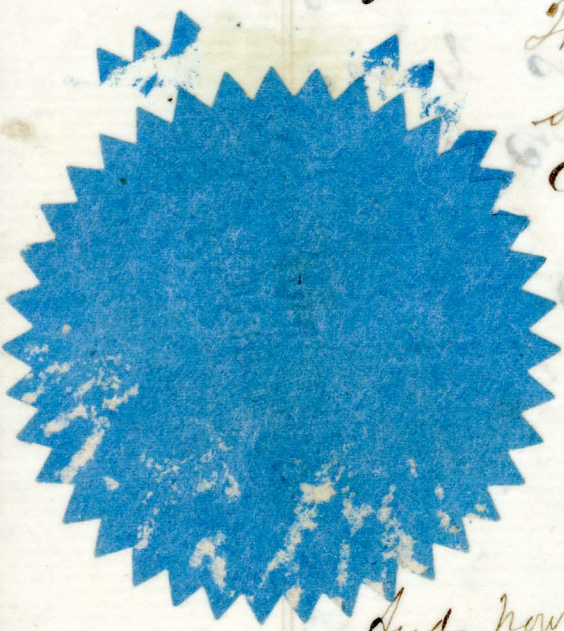
In testimony whereof I have hereunto set my hand & affixed the seal of said Court this 10th day of November 1857.
H. W. Bagan clk

And now comes the said Plaintiffs in Error, by their atty & says there is manifest Error appearing in the foregoing record & proceeding, and for Assigning Error herein unto set down & show the following to this Hon Court to wit

- 1st The Court erred in admitting Witness to state what Cory said in a Conversation with Witness
 - 2nd The Court erred in allowing Witness to state what Watson had said in Conversation with Witness
 - 3rd The Court erred in allowing Witness to state the price of the machine in dispute produced upon what Stroopshire had said to Witness & what Witness affirmed. Saw in Concord note
 - 4 The Court erred in refusing to sustain the objection of Aft below to all of said testimony
 - 5 The Court erred in refusing a new trial
 - 6 The Court erred in entering judgment for plaintiff below
 - 7 The Court erred in not entering judgment for Aft below
- Wherefore the plaintiff in Error prays that said judgment may be reversed set aside & made void & that a new trial may be awarded & for this Cause that this Case be remanded to

H. W. Bagan for
Plaintiffs in Error

These may be returned for the Shellen Show or
after a report -



SUPREME COURT OF ILLINOIS.

FIRST GRAND DIVISION.

NOVEMBER TERM A. D., 1857.

Record Page.

ABSTRACT.

Illinois Central Railroad Company, Plaintiff in Error.

vs.

Squire G. Shropshire, Defendant in Error.

} Error to Marion.

1

Suit brought before N. R. Stickney, a Justice of the Peace, &c., by Shropshire against Plaintiffs in Error, to recover the value of a Corn Shelling Machine, alleged to have been shipped on the Road of the Plaintiffs in Error and lost by them—no amount claimed.

5

Judgment for Shropshire before Justice, and appealed by the Company, and judgment given in Circuit Court for Shropshire for \$27.15. Cause was submitted to the Court and tried by Hon. S. Breese without a jury.

6

PLAINTIFFS' EVIDENCE.—J. M. O'Melveny testified that he (witness,) had a conversation with one Corey, then the Freight Agent at Centralia, Illinois. Corey told witness that a Corn Sheller had been shipped for plaintiff, and came to Centralia; and one White had told him (Corey,) that the same had been delivered to witness, which witness denied. Also, that witness had a conversation with one Watson, then the Superintendent of the Railroad, he told witness that the Corn Sheller had been shipped on the Road. Witness testified that Corn Sheller was worth twenty-seven dollars if it was like one he (witness,) saw afterwards in Cincinnati, and Shropshire said it was—a double Corn Sheller. It was worth \$2,50 to bring it there (to Centralia.) This was all the evidence.

7

Defendant below, (Plaintiff in Error,) at the time, objected to said evidence as *hearsay*. Objection overruled by the Court, and exceptions by defendant below, and motion for new trial, and overruled, to which defendant below excepted—and judgment as finding of Court is excepted to by defendant below.

8

ERRORS ASSIGNED.—1st. The Court erred in admitting witness to state what Corey had said in conversation.

2d. The Court erred in allowing witness to state what Watson had said.

3d. The Court erred in allowing witness to state the price of the machine in dispute, predicated upon what Shropshire had said and witness saw, in Cincinnati.

4th. The Court erred in refusing to sustain the objection of defendant below to all said testimony.

5th. The Court erred in refusing a new trial.

6th. The Court erred in entering judgment for plaintiff on the testimony.

7th. The Court erred in not entering judgment for defendant below on the testimony.

HAYNIE, for Plaintiff in Error.

54-10

The Ill Cen RR Co

Simon S. Chapman

SUPREME COURT OF ILLINOIS

FIRST GRAND DIVISION

NOVEMBER TERM A. D. 1857

Abstract

TO ALL WHOM THESE PRESENTS SHALL COME

filed Dec. 1. 1857.

N. Schuster *clm*

[Faint, mostly illegible text from the reverse side of the page, including fragments of legal opinions and case details.]

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SUPREME COURT OF ILLINOIS.

FIRST GRAND DIVISION.

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HAYNIE, for Plaintiff in Error.

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54 10
M. C. R. Co
vs
Square & Shropshire

Abstract

Filed Dec. 1, 1857,
A. J. S. M. M.

REGISTERED COPY OF WILLIAMS

LIBRARY CHAND DIVISION

YOUNG MAN... D. 1857

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Illinois Central Rail

Road Company

Pltgs in even

as

John G. Sharpshin

Left in even

Ernest Martin

Des Moines Av., 1858 by

Pltgs in even

8633