

8544

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

# Supreme Court of Illinois

Thomas Rodney

---

vs.

Illinois Central R.R.Co.

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71641  7

At a Circuit Court begun and held at Shelby within and for  
the County of Alexander and State of Illinois, On Monday the  
28<sup>th</sup> day of April Anno Domini 1856.

Present the Hon. William N. Parish. Judge of the  
third judicial district of the State of Illinois and Presiding Judge  
of the Alexander County Circuit Court,

In the matter wherein Thomas Rodney is plaintiff and  
the Illinois Central Rail Road Company are defendants, the  
following proceedings were had in said cause to wit  
" State of Illinois } of the October Term of the Alexander County  
" Alexander County } Circuit Court A.D. 1855,

" Thomas Rodney who is a resident of the State of Missouri  
" plaintiff complains of the Illinois Central Rail Road Company of a  
" plea of Trespass on the case,

" For that whereas the said defendants before and at the time of committing  
" the grievances hereinafter mentioned were the owners and proprietors  
" of a certain Rail Road and the Cars running thereon known as the

Declaration " Illinois Central Rail Road to wit, at the County of Alexander and

" the State of Illinois aforesaid and the said defendants being such  
" owners thereupon, heretofore to wit, on the 9<sup>th</sup> day of August 1855, at

" and in the said County & State aforesaid, a certain colored man by  
" the name of Joseph, who then and there was owing service to the

" said plaintiff by virtue of the laws of the State of Missouri and the  
" Constitution of United States, wherein slavery is allowed, had escaped

" from his service at the special instance and request of the said defen  
" -dendants, and was taken and received on their said Cars on their said

as Amended " Rail Road and transported to the City of Chicago the defendants, there  
" & there knowing the said Joseph to be the slave of the said plaintiff by

means of which the said plaintiff hath wholly lost the service of the said colored man, named Joseph to the damage of the said plaintiff of three thousand dollars,

2<sup>nd</sup> Count, And that whereas also heretofore to wit on the 9<sup>th</sup> day of August 1855. Thomas Rodney the plaintiff in this case avers that he lives in the state of Missouri, and that by the laws of the state of Missouri and the Constitution of United States, Slavery is recognized and supported and being such resident of such state as aforesaid he was then and then the owner of a certain slave the same being a colored man named Joseph of which the defendants then & there had notice who is a slave under the laws of the state of Missouri, and being such owner was entitled to his services on the 9<sup>th</sup> day of August 1855. the said slave reaped from his service, and the said defendants being such owner and proprietors of the said Rail Road as aforesaid to wit at the County of Alexander and the State of Illinois. Carelessly and negligently received the said slave into and upon their said Cars and carried him away, by reason of which his services are wholly lost to the said plaintiff - to the damage of the said plaintiff of other three thousand dollars.

3<sup>rd</sup> Count, And that whereas also heretofore to wit on the 9<sup>th</sup> day of August 1855. Thomas Rodney the said plaintiff avers that the Illinois Central Rail Road Company were the owners and proprietors of a certain Rail Road and the Cars running thereon, known as the Illinois Central Rail Road and that said Rail Road is situated in the state of Illinois and that said Road terminates in the County of Alexander and State of Illinois and the said plaintiff further avers that he is a citizen of the State of Missouri, and as such citizen under the laws of the State of Missouri he was owner of and entitled to the services of a

a certain negro man, named Joseph, and being such owner and entitled  
to the services of said negro man as aforesaid, on the 9<sup>th</sup> day of August  
1855, the said negro escaped from his service and the state of Missouri  
to the city of Cairo in the County of Alexander and the state of  
Illinois, and the said defendants, being the owners and proprietors  
of the said Rail Road & the Cars running thereon, known as the  
Illinois Central Rail Road Company, the defendants then and there  
well knowing the said Joseph to be a slave, and owing service in said state  
of Missouri to the said plaintiff, by the carelessness and negligence of their  
agents, took and received into their said Cars the said negro man named  
Joseph owing to the said plaintiff service as aforesaid, and carried him  
away to the city of Chicago by reason of which his services have been wholly  
lost to the said plaintiff to his other damages of three thousand dollars.

4<sup>th</sup> Count, And that whereas also, on the 9<sup>th</sup> day of August 1855. Thomas Rodney  
the said plaintiff avers that the Illinois Central Rail Road Company  
was the owners and proprietors of a certain Rail Road and the Cars  
running thereon known as the Illinois Central Rail Road and that  
said Rail Road is situated in the state of Illinois, and that said  
Road terminates in the County of Alexander and State of Illinois and  
the said plaintiff further avers, that he is a citizen of the state of  
Missouri and that by virtue of the laws thereof and as such citizen  
under the laws of the state of Missouri he was owner of and enti-  
tled to the services of a certain negro man named Joseph and  
being such owner and entitled to the services of said negro man  
named Joseph as aforesaid on the 9<sup>th</sup> day of August 1855. escaped  
from his service and the state of Missouri, to the city of Cairo in the  
County of Alexander and state of Illinois, and the said defendants being  
the owners and proprietors of the said Rail Road and the Cars—

“ running thereon, known as the Illinois Central Rail Road Company, then  
“ and there knowingly and wilfully, carried off upon their said Cars  
“ the said negro man named Joseph, owing to the said plaintiff  
“ services, as aforesaid by reason of which his services have been wholly  
“ lost to the said plaintiff to his damage other three thousand dollars  
3<sup>rd</sup> Court.) And that whereas also on the 9<sup>th</sup> day of August 1855.  
“ Thomas Rodney the plaintiff in this case avers, that the Illinois Central  
“ Rail Road Company were the owners and proprietors of a certain Rail  
“ Road and the Cars running thereon known as the Illinois Central  
“ Rail Road, and that said Rail Road is situated in the state of  
“ Illinois and said Road terminates in the County of Alexander and State  
“ of Illinois and the said plaintiff further avers that he is a citizen of  
“ the state of Missouri and by virtue of the laws thereof and as such  
“ citizen under the laws of the state of Missouri he was owner and  
“ entitled to the services of a certain negro man called Joseph, and that  
“ by the laws of the state of Missouri, negro's are made personal property,  
“ and the said negro belonging to the said plaintiff as such personal property,  
“ on the day and year aforesaid, escaped from the said plaintiff and from  
“ the said state of Missouri and came over to the city of Cairo in the County  
“ of Alexander in the state of Illinois and the said defendants, being such owners  
“ and proprietors of the said Rail Road aforesaid, through the carelessness  
“ and negligence of their agents, received the said negro being the property  
“ of the said plaintiff as aforesaid into and upon their said Cars upon  
“ their said Rail Road and conveyed him to the City of Chicago by reason  
“ of which, he wholly lost his said property and he further avers that  
“ the said property before mentioned was reasonably worth Three  
“ thousand dollars but the defendants have wholly refused to make  
“ any compensation for the same.

6<sup>th</sup> County, And that whereas, also on the 9<sup>th</sup> day of August 1855. Thomas  
a Rodney the said plaintiff avers that the Illinois Central Rail Road  
a Company were the owners and proprietors of a certain Rail Road and the  
a Cars running thereon known as the Illinois Central Rail Road and that  
a said Rail Road is situated in the state of Illinois & that said Rail Road  
a terminates at the City of Cairo in the County of Alexander and the state  
a of Illinois and the said plaintiff further avers that he is a citizen of  
a the state of Missouri and that by virtue of the laws thereof and as such  
a citizen under the laws of the state of Missouri, he was the owner of  
a and entitled to the services of a certain negro man called Joseph  
a and that by the laws of the state of Missouri, negroes are made personal  
a property and the said negro belonging to the said plaintiff as such  
a personal property on the day and year aforesaid and escaped from  
a the said plaintiff and from the said state of Missouri and came over  
a to the state of Illinois at the City of Cairo, and the said defendants by  
a their agents knowingly and wilfully took and carried away the said  
a property of the said Thomas Rodney as aforesaid by reason of which  
a he has wholly lost his said property and has been, and is wholly  
a lost his said property to his damage other three thousand dollars.

7<sup>th</sup> County, And that whereas also on the 9<sup>th</sup> day of August 1855.  
a Thomas Rodney the said plaintiff avers that the Illinois Central  
a Rail Road Company were the owners and proprietors of a certain Rail  
a Road and the Cars running thereon, known as the Illinois Central  
a Rail Road and that said Rail Road is situated in the state of Illinois  
a and that said Rail Road terminates in the County of Alexander and the  
a state of Illinois, and the said plaintiff further avers that he is a citi-  
a-zen of the state of Missouri & by virtue of the laws thereof and as  
a such citizen under the laws of the state of Missouri he was the owner

of and entitled to the services of a certain negro man called Joseph  
and the said plaintiff further avers that on the 9<sup>th</sup> day of August  
1855. the said negro man called Joseph owing such service as aforesaid  
to the said plaintiff aforesaid escaped from the state of Missouri to  
the City of Cairo in the County of Alexander and the state of Illinois and  
was there and there a fugitive slave and being such fugitive slave  
the said defendants being the owners and proprietors of the said  
Rail Road as aforesaid to wit at the County of Alexander and the state  
of Illinois by their agents and servants upon their said Rail Road  
took and carried away the said fugitive slave being the property  
of the said plaintiff as aforesaid by reason of which and by virtue  
of the premises the plaintiff hath wholly lost the said slave and his  
property therein, and is damaged to the amount of other three  
thousand dollars.

8<sup>th</sup> County, And that whereas also on the 9<sup>th</sup> day of August 1855. Thomas  
Rodney the said plaintiff avers that the Illinois Central Rail Road  
Company were the owners of and proprietors of a certain Rail Road  
and the Cars running thereon, known as the Illinois Central Rail Road  
and that said Rail Road is situated in the state of Illinois and that  
said Rail Road terminates in the County of Alexander and the  
state of Illinois and the said plaintiff further avers, that he is a  
citizen of the state of Missouri and was there and there the owner  
of and entitled to the services of a certain negro slave named  
Joseph, and that said slave resided with the said plaintiff  
in the state of Missouri, and the said plaintiff further avers  
that slavery is tolerated in said last mentioned state and  
that by the laws of said last mentioned state, slaves are made per-  
sonal property and the said plaintiff being such owner as aforesaid

of the said slave lost him out of his possession to wit on the said  
9<sup>th</sup> day of August 1855, and that the said slave came into the pos-  
-session of the said defendants to wit at the County of Alexander  
& State of Illinois who converted the said slave to their own use  
by reason of the premises the said Plaintiff has been damaged  
and injured to the amount of Three thousand Dollars.

And the said defendants although often requested to pay the  
said sum of Three thousand dollars, hath hitherto wholly failed  
and refused and still do fail and refuse to pay the said sum of  
Three thousand Dollars wherefore he avers that he has been damaged  
to the said amount of Three thousand Dollars and therefore he brings  
this Suit.

Dunning & Goforth  
Atty. for Plaintiff

Filed March 21<sup>th</sup> 1856. L. L. Lightner Clerk.

Summons issued in the following words & figures to wit  
State of Illinois Alexander County  $\int$  Jet  
The People of the State of Illinois. To the Sheriff of Alexander  
County Greeting. We command you to summon the Illinois Cen-  
tral Rail Road Company if to be found in your County, to be and  
appear before the Circuit Court of said County, on the first day of the  
next term thereof to be holden at the Court house in the Town of  
Thebes on the fourth Monday in the month of April next to  
answer Thomas Rodney of a plea of Trespass on the Case, to his  
damage three thousand dollars as he says. And hereof make  
due return to our said Court as the law directs.

Witness Levi L. Lightner Clerk of our said Court and  
Seal the Judicial Seal thereof at Thebes this 22<sup>nd</sup> day of  
March A.D. 1856, L. L. Lightner, Clerk



On the back of said summons were the following endorse-  
ments to wit "

" Served by leaving a copy of this summons with  
" B. R. Abbott, agent of the Illinois Central Rail Road Co. at  
" Cairo Ill. March 31<sup>st</sup> 1856. J. L. Brown. Shff  
" Filed April 19<sup>th</sup> 1856. L. L. Lightsey, Clerk

On the 29<sup>th</sup> day of April 1856. the following Demurrer  
was filed to wit "

" Illinois Central Rail Road Company }  
" ats }  
" Thomas Rodney }  
Pleas of the April Term of the Alexan-  
der County Circuit Court in the  
the case } year of our Lord 1856.

Demurrer

" And the said defendants by M. Clerm and  
" Senior, their attorneys come and defend the wrong and injury when se  
" and say that the said matters and things in said plaintiffs declaration  
" mentioned and in the said first, second, third, fourth, fifth, sixth,  
" seventh and eighth Counts thereof are not, nor are any or either of  
" them sufficient in law, to enable the said plaintiff to have or maintain  
" his aforesaid action thereof against them and they are not bound  
" to answer the same wherefore  
" M. Clerm and Senior

Plaintiffs Attornies

" And for Special Cause of Demurrer, to the plaintiffs declaration  
" by leave of the Court here first had and obtained the said defendants say  
" 1<sup>st</sup> That the said first Count does not aver that the injury complained of;  
" was done by the said defendants, knowingly, wilfully, carelessly or negli-  
" gently.

2<sup>nd</sup> That neither the second, third, fourth, fifth, sixth, nor seventh  
a County ever or show that the injury complained of was done knowingly  
a or intentionally, nor do any or either of them show in what the  
a carelessness and negligence exists,

3<sup>rd</sup> The third Count being in error, does not cover the time when  
a the said slave came into the possession of the said defendants.

4<sup>th</sup> That the conclusion of said declaration is in assumpsit or debt and  
a not in case. (Refiled Oct: 15<sup>th</sup>. 1856. L.L. Lightner, Clerk)

On the 30<sup>th</sup> day of April 1856, the following order was entered of  
Record in the said Circuit Court to wit,

order, a Thomas Rodney }  
a us } Despass on the Case  
a The Ill. Central Rail Road Co: }

Now on this day comes the plaintiff and  
a by Daugherty his attorney and the defendants by Simons &  
a all Clermont their counsel, and the defendants file their  
a demurrer to the declaration herein.

At the October Term 1856 of the said Circuit Court on the third  
day of said term the following order was entered of record to wit,

order, a Thomas Rodney }  
a us } Despass on the Case  
a Ills Central R.R. Company }

Now on this day came the plaintiff  
a and the defendants by their attorneys, and the demurrer to  
a the Declaration, heretofore filed, was by the Court sustained  
a with leave to plaintiffs to amend.

11  
Also on the fourth day of the term of the said Circuit Court, the following order was entered of Record to wit:

Thomas Rodney

vs  
Newspaper on the Case

All Central RR Company

order

Came again the parties by their counsel, and the demand to the amended declaration being sustained by the Court, and that judgment be entered for the defendants for costs. It is therefore considered by the Court that the defendants recover of the said plaintiff their costs of suit in this behalf expended and may have execution therefor &c

State of Illinois Alexander County } ss

I Levi L. Lightner Clerk of the Circuit Court within and for the County and State aforesaid do hereby certify that the foregoing Transcript from Pages 1 to 10 inclusive is a true and correct copy from the files and Records of my office in the before named cause.

Certificate

In Witness whereof I have hereunto set my hand and affixed the Seal of said Court at  
Mexico this 12<sup>th</sup> day of November AD 1856.  
L. L. Lightner, Clerk

Copy of Fee Bill

Alexander Circuit Court Thomas Rodney  
 April Term 1856  
 vs  
 The Central R.R. Co.

Proseps on the Case

Petty Defts

Clerk	Docket suit 10 July die 5. 1/2 1/2 sum 40	55			
	1/2 1/2 3 subps for petff 1.20, order & att out "	1.80			
\$ 11 <sup>75</sup> / <sub>100</sub>	app 15 ra cuty 1/2 sum	15		0 35	
	1/2 1/2 2 subps for defts & Bill 30			1 10	
	Cent <sup>es</sup> 20 & Bill 2 app <sup>ts</sup> 1/2 30	80	\$ 3 30	\$ 1 45	
Shuff Brown	1/2 sum & mize w 2.25 & att out 2.00	4.25			
\$ 19 <sup>50</sup> / <sub>100</sub>	1/2 2 subps " " 10.10	10.10	14 35	" "	
" <sup>75</sup> / <sub>100</sub> Cooper	" 1 do " "		" 90	" "	
Witness	do. Arter 3 days app. 56, 18 miles, petff & de aft 3 <sup>90</sup> / <sub>100</sub> ra.		3 90	3 90	
\$ 7 <sup>80</sup> / <sub>100</sub>	October Term 1856. Judgt for defts for Cent,				
Clerk	Docket 10 1/2 1/2 2 subps for petff 50 & 1/2 fly precept 10-	1.00	" "	" "	
	cuty and <sup>d</sup> de <sup>nt</sup> : 20, order to sustain 20	20	" "	" 20	
	" order Judgt, Hat <sup>er</sup> 60 Bill, & Copies 50 ra	50	" "	1 10	
	Trans cript to	4.00	\$ 5 70	\$ 1 30	
Shuff Brown	1/2 2 subps. mize to petff		5 15		
	Total Bill,		\$ 33.30	\$ 6 65	

I do hereby Certify that the foregoing is a correct copy of fee Bills in the foregoing Cause Recorded On Book Page 199.

Attest

L. L. Lightner, Clerk

Thomas Rodney  
vs  
Illinois Central Rail Road  
Company

In the Supreme Court  
at Washington Term thereof  
AD 1886

1 And the said Thomas Rodney by J. Langhorne his  
attorney comes into Court and says that in the  
record and proceedings aforesaid and also in the  
multiplication of judgment aforesaid, there is manifest  
error in this to wit, that by the record aforesaid  
it appears that the judgment in favor aforesaid  
given, was given for the said Illinois Central Rail  
Road Company, against the said Thomas Rodney  
whereas by the law of the land the said judgment  
ought to have been given for the said Thomas  
Rodney and against the said Illinois Central  
Rail Road Company, therefore in this there  
is manifest error

2<sup>d</sup> There is also manifest error in this to wit the  
Court sustained defendant's demurrer to the  
plaintiff's amended declaration, herein and  
in this there is also manifest error,

3<sup>d</sup> There is also manifest error in this that the Court  
sustained the demurrer of the defendant to the  
4<sup>th</sup> 5<sup>th</sup> 6<sup>th</sup> & 7<sup>th</sup> Counts of plaintiff's declaration  
and in this also there is manifest error Whereupon  
the said plaintiff prays the people most graciously  
writ &c. ~~therefore~~

J. Langhorne attorney  
for  
J. Rodney,

And the said defendant in error  
comes and says there is no error in  
proceedings aforesaid and that they are  
ready to verify  
20544-12  
Serrano for Defts.

No 23

Thomas Rodney  
Plff in error

vs

Ill. Cent. R. R. Company  
Def't in error.

Filed October 8. 1857.

A. Johnston Clerk

Repaid by Col Dougherty,  
May 7. 1857. \$5.00

Repaired

Thomas Rodney  
vs  
Missis Central  
Rail Road Company

At New Len. 1857

Writ of Error  
in the Supreme  
Court of the  
State of Illinois

I hereby certify myself as being  
for costs in the above styled  
Cause and acknowledge myself  
bound to pay or cause to be  
paid all costs which may  
accrue in this Cause either  
to the opposite party or to any of  
the officers of this Court in fees  
under of the laws of this State  
dated this the 7<sup>th</sup> day of May 1857

J. Dayberg

No.

Thomas Rodney  
by

Ill. Great Rail Road  
Company.

East - bond.

Given May 7. 1857.

A. Johnston Clerk

Received on Receipt  
\$5-00 by Col. Dougherty



Meritorius case 11 Ill 335  
3d com 72  
2 Sil 8

16 Priggs v Commonwealth Pa  
16 Piles 539

Eds v ~~Q~~ The People  
Howson 7 years ago

1 Penn - 380, 391

Story on Crafted of Lewis  
Dec 437 to 443

12 Mich 532 12 Mich 516 528  
311

The Supreme Court Nov. 1837  
 Thomas Radney } Error to  
 vs } Shipman  
 The C R R Co

1 The acts related to by the  
 The several Courts in Talbot's Declaration  
 are sufficient in law. See 1 Chyple  
 p 374

2 Defendants liable to be sued in Case & Trower  
 and for this purpose the acts of their  
 agents are regarded as the acts of self.  
 See 1st Chyple p 374 + note 3 2<sup>d</sup> Kent's Com  
 p 393

3 If a Rail Road Company take  
 a negro on its Cars, without the consent,  
 or knowledge of the owner and he  
 be injured by negligence or otherwise  
 the Company will be liable though the  
 negro have a general pass. See of the  
 Georgia Reports, page 157. Macan vs Western,  
 R R Co vs Philip Heald,

4 A person assisting a negro slave on the  
 road flying from his master whereby  
 he escapes & is lost to the master, such  
 person is liable to the master for all damage  
 for the loss of the negro. See Nelson vs Wetmore  
 1 Richardsons Rep page 322 Also Mrs Harris  
 vs Malby 1 Dredells Law Rep 240

6  
The Constitution of the United States —  
recognizes negro slaves as property  
~~and the United States is bound to protect~~  
~~such property~~ See 19 Howards Rep p 425  
Dred Scott, vs Sanford

— Jurisdiction —

When a tort has been committed and the  
Congress has not provided a remedy  
The State Courts will entertain jurisdiction.  
See 7<sup>th</sup> Indiana Rep 321 Greenan vs Robinson  
2 Wallace Jr Rep 311

See 14<sup>th</sup> Howard p 15. Moore Ex of Eels vs State of Ill  
" Gregg Case explained 20 d  
" 4 Oregon 514 Eels vs Tappan  
" Brights Term Rep: Myers vs Dryden  
p 489 It makes no difference  
whether the contract was made  
by an agent or such Contractor  
I busby for p 489

Thomas Rodney  
W

W C R R Co

Tickets sold and

& Authorities

Approved  
Kinn

STATE OF ILLINOIS  
SUPREME COURT,

} SS.

THE PEOPLE OF THE STATE OF ILLINOIS;

WRIT OF ERROR.

To the Clerk of the Circuit Court for the county of *Alexander* GREETING,

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

*Thomas Rodney*

plaintiff, and *The Illinois Central Railroad*

*Company*

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

*Rodney* as we are informed by *his*

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

Mount Vernon, in the county of Jefferson, on the *1<sup>st</sup> Sunday after the 2<sup>d</sup> Monday of*  
*November* next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law:

*John D. Cator*

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

*Eighth* day of *October*  
in the year of Our Lord One Thousand Eight Hundred

and Fifty-*Seven*.

*Noah Johnston*

Clerk Supreme Court.

23

Thomas Rodney  
Plff in error

vs  
Elias of Error

Th. Coats & Co. Company  
Defrs in error

Issued & filed 8th Octr

1857.

N. Johnston Clk  
11

STATE OF ILLINOIS, }  
SUPREME COURT. } ss.

*1st Grand Division*

THE PEOPLE OF THE STATE OF ILLINOIS,

To the Sheriff of *Alexander* County,

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

and the *Illinois Central Rail Road Company*

defendant, it is said that manifest error hath intervened to the injury of said *Thomas Rodney*

as we are informed by *his* complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Mt. Vernon, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said *Illinois Central*

*Rail road Company*

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

*John D. Watson*

Witness, the Hon. ~~S. H. Fisher~~ Chief Justice of our said Court, and the seal thereof, at Mount Vernon, this *eighth* day of *October* in the year of our Lord, one thousand eight hundred and fifty-*seven*.

*Noah Johnston*

Clerk of Supreme Court.

Forward the invoice per fax by  
reading the same to Lyons & Son  
Agents & Attorney of the appendant steam  
-ors Central Rail Road Co at Station  
in Alexandria bearing the name in  
this the 20<sup>th</sup> day of October 1857  
Shipped for full amount \$207 C. C. Cole & Son  
per fax \$2.50 per copy  
J. Hadley  
of Alexandria  
Geo. M. G.

Thomas Botney  
Dpts in error  
in \$ Sci fu  
The Cent. R. R. Company  
Dpts in error

Returned & filed No. 10  
1857.  
A. Johnston M

25





Thomas Radney } In Supreme Court  
                  W } Jan Term 1857  
Miss C. K. Co } Error to Alexander

1                   Turns ruled on by Pliffs  
The several Counts in pliffs Declaration  
are sufficient in law. See 1 Chitty and H 376

3                   Defendants are liable to be sued in Case  
& Trover and for this purpose the acts  
of their agents are regarded as the acts  
of self - See 1 Chy H 376 + Mat 3-2 Hunt 383

3                   If a rail Road Company take a negro slave  
on its Cars without the consent or knowledge  
of the owner and he be injured by negligence  
or omission the Company will be liable  
though the negro has a General pass  
See Georgia Reports 157 Macan & Master Rail  
Road Co vs Philip Healt

4                   A person assisting a negro slave on the  
road flying from his master when he  
escapes and is lost to his master such  
person is liable to the master for all damages  
for the loss of the negro See Nelson vs Wetmore  
& Richardson Rep p 322 Also Mrs Scarris  
vs Mabry 1 Fredell Law Rep 246

5                   The Constitution of the United States,  
negro slaves as property see Bred  
Scott, vs Sanford 19 Howard 425-

## Jurisdiction

When a tort has been committed and the  
complainant has not presented a remedy  
the State Courts will entertain  
jurisdiction See 7<sup>th</sup> Indiana Rep 321

Greenan vs Kalmusaw 2 Wallace J. Rep 311

*I buy myself for  
self*

See 14 Howard p 15 - Moore Ex of Eels vs State of Ill

11 Trigg vs Tamm explained 20.

4 Idem 574 Eels the People

*I buy myself for self*

**IN THE SUPREME COURT:**  
**THOMAS RODNEY,** } **FIRST GRAND DIVISION,**  
 vs. } **NOVEMBER TERM, 1857.**  
**ILLINOIS C. R. R. CO.** }

This was an action on the case commenced by the Plaintiff against  
 the Defendant for carrying away from him his slave Joseph, a man  
 of color, whereby he lost his slave and his services. The declaration  
 filed in the Alexander Circuit Court, October term, 1855, and con-  
 tains eight counts. Seven of these counts charge in substance that  
 plaintiff is a citizen of the State of Missouri, and by the laws of that  
 State was entitled to the services and person of Joseph, and that at the  
 instance of defendant he fled from plaintiff to Cairo, in the State of  
 Illinois, and was by the defendant carelessly and negligently taken on  
 board of their cars on their road, and carried away from the plaintiff,  
 whereby he lost the services of his slave Joseph, they, the said defend-  
 ants, then and there knowing that the said Joseph owed service to the  
 said plaintiff, by means whereof the said plaintiff lost the services of  
 his said slave, to the damage of the plaintiff of \$3,000. The eighth  
 count is in trover for the conversion of the plaintiff's slave Joseph, at  
 the county of Alexander and State of Illinois. The defendant filed  
 his demurrer to this declaration, and rendered final judgment for costs  
 of suit in favor of the defendant, and this judgment is assigned for error.  
 This cause is brought to this court by writ of error.

J. DOUGHERTY, for Plff.

*Admny*

*m*

*W. C. R. R. Company*

*8544*

*Whitcomb*

*Nov Term 1857*

*Filed 16 Nov. 1857*

*A. Johnston*

ILLINOIS C. R. R. CO. NOVEMBER TERM 1857.

THOMAS ROBBEY.

FIRST GRAND DIVISION.

IN THE SUPREME COURT.

J. DOUGHERTY, for Plf.

This cause is brought to this court by writ of error.

of suit in favor of the defendant and the judgment is assigned for error.

his demurrer to this declaration, and rendered final judgment for costs.

the county of Alexander and State of Illinois. The defendant filed

count in in trover for the conversion of the plaintiff's slave Joseph, at

his said slave, to the damage of the plaintiff of \$3000. The eighth

said plaintiff, by means whereof the said plaintiff lost the services of

ants, then and there knowing that the said Joseph owed service to the

whereof he lost the services of his slave Joseph, they, the said defend-

board of their cars on their road, and carried away from the plaintiff.

Illinois, and was by the defendant carelessly and negligently taken on

injunctive of defendant he fled from plaintiff to Chicago in the State of

State was entitled to the services and person of Joseph, and that at the

plaintiff is a citizen of the State of Missouri and by the law of that

plaintiff's count. Given of these counts charge in substance that

filed in the Alexander Circuit Court October term, 1857, con-

of cost, when he lost his slave and his services. The objection

the defendant in carrying away from him his slave Joseph, a man

was an action on the case commenced by the Plaintiff against

Jonestown Ill Oct 5<sup>th</sup> 1847

Dear Nath

I thought send  
the record in case of  
Rathney vs Jers C R R Co  
please file & open the writ,  
I refer to the <sup>Alexander</sup> County  
deed to me, <sup>at this place on map</sup> and I mean  
will acknowledge the same  
else I will have it served  
in Alexander

I wish you would  
see your editor and have  
the following announcement,  
made in his paper till Election

"John Dougherty of Jonestown  
is a Candidate for the office of  
Supreme Judge in 1<sup>st</sup> Grand  
Division, to fill the vacancy occa-  
sioned by the resignation of Judge Sears,

And I wish you would  
in your circle of acquaint-  
ances occasionally speak  
of my being a candidate and  
if you believe me worthy &  
capable I should be  
greatly favored by your  
support,

Yours friend  
John Douglas

Wm Johnson

John 8<sup>th</sup> October 1857  
A. Johnston M



Rudny  
no

Ill C R R Co

Bomp



*action lies*

*1 Chitty Pl 376. 2 Kent Com 383  
1 Chitty Pl 377 - note 2  
7 Ind 15-20 321*

**IN THE SUPREME COURT:**  
**THOMAS RODNEY,**  
vs.  
**ILLINOIS C. R. R. CO. } FIRST GRAND DIVISION,  
NOVEMBER TERM, 1857.**

This was an action on the case commenced by the Plaintiff against the Defendant for carrying away from him his slave Joseph, a man of color, whereby he lost his slave and his services. The declaration filed in the Alexander Circuit Court, October term, 1855, and contains eight counts. Seven of these counts charge in substance that plaintiff is a citizen of the State of Missouri, and by the laws of that State was entitled to the services and person of Joseph, and that at the instance of defendant he fled from plaintiff to Cairo, in the State of Illinois, and was by the defendant carelessly and negligently taken on board of their cars on their road, and carried away from the plaintiff, whereby he lost the services of his slave Joseph, they, the said defendants, then and there knowing that the said Joseph owed service to the said plaintiff, by means whereof the said plaintiff lost the services of his said slave, to the damage of the plaintiff of \$3,000. The eighth count is in trover for the conversion of the plaintiff's slave Joseph, at the county of Alexander and State of Illinois. The defendant filed his demurrer to this declaration, and rendered final judgment for costs of suit in favor of the defendant, and this judgment is assigned for error. This cause is brought to this court by writ of error.

J. DOUGHERTY, for Pff.

*1254127*

*The Court*

*1254127*

Rodney

by

W. C. R. R. Company

Althaus

Filed 16. Nov. 1857  
A. Johnston Clerk

W. C. R. R. CO. NO. 1 ALTHAUS, NOV. 1857.

It is a well settled principle of law, that Slavery  
is a relation founded in force, not in natural right,  
existing, when it does exist, by force of positive law  
and not recognized as founded in natural right. See  
18 Pickering 193. = 10 Wheat. 120. *Harvey vs. Decker*, N. H.  
Mass. Rep. 36 = 14 Wheat. 404. Story's Conflict of laws, Sec. 96, page  
164, 165, 166. & note

Thomas Reading

Plaintiff in error

vs.

Illinois Central Rail

road company

}  
3  
}

Case to Alexander

Brief

Plas of the November

Term of the Supreme

Court. In the year

of Our Lord eighteen

hundred & fifty seven

Points for Defendant in error

First

The presumption in this State, and in all free States is in favor of liberty; and every person is supposed to be free, without regard to color. Therefore the Defendants in error were not guilty of any negligent or wrongful act in conveying the Negro in question upon their Cars, unless they had notice that he was a fugitive from Service or labor - See Stoutenborough vs. Haviland 3<sup>d</sup> Green's (N.Y.) Rep. 266 = Cottrell vs. Waring 14 John. (N.Y.) Rep. 191 = Lill vs. The South Carolina Railroad Company 4 Richardson (S.C.) Rep. 154. Herring vs. Cook. 3 Scam. Rep. 233. Bailey vs. Brownell Chit. 71 = 2<sup>d</sup> Gilman 6-7

Second

Clear proof of the knowledge of the Defendants by their own confession or otherwise; that they knew that the Negro in question was a slave and fugitive from labor is necessary to charge them with notice = See Jones vs. Van Landt 5 Newanc (N.S.) Rep. 215 = Gilman vs. Gotham 4<sup>th</sup> McLean's Reports (U.S.) 420. = Bristol vs. Parinto 3 McLean's Rep. (U.S.) 631 = Lill vs. The South Carolina Railroad Company 4 Richardson (S.C.) Rep 154. before cited



Third

Amounts for harboring and concealing a Slave in a free State, are not Recognized at Common Law; and to convey a Slave in a wagon or other vehicle for the purpose of aiding his escape, amounts to harboring and concealment. And in this State we have adopted the Common Law of England by Statute. See Jones vs. Van. Handt 2<sup>d</sup> McLean's Rep. (1853) 603. See cited. 215.

Fourth

The Defendants as common carriers were bound to receive and convey upon their cars all persons not personally and legally objectionable. And it is submitted in this case, that the Defendants were bound to receive the Negro in question, presuming him to be free and unexceptionable until the contrary was brought to their notice - And when so received convey him upon their cars. In paying his proposed freight - Vide 2<sup>d</sup> Kent's Commentaries 599, 601 - Story on Bailments - 2<sup>d</sup> edition 375. and authorities there cited.

Fifth

The Circuit Court had no jurisdiction of this case. The Plaintiff being confined to the remedy of "Civil Damages" amounting to ten thousand dollars, recoverable in an action predicated upon

the <sup>neg</sup> Fugitive Slave Law, passed by Congress in  
the year 1850, and on the 14<sup>th</sup> day of Sept of that  
year. Hence the Circuit Court, for this reason  
above, very properly sustained defendants decision  
to the plaintiffs declaration. = See <sup>neg</sup> Fugitive Slave  
Law passed Feb. 12<sup>th</sup> 1793, found in U. S. Statutes  
at large Vol. 1. page 305. Also <sup>neg</sup> Fugitive Slave Law  
passed Sept. 18<sup>th</sup> 1850 Sec. 7 - United States Statutes  
at large Vol. 9 page 464. *Hilton vs. Barker*  
4 McLean's Rep. 404. *Kauffman vs. Oliver*. 10. B. 514  
11. Ill. 335

Sixth The first count is erroneous for not avowing  
that the negr. Joseph was a slave, and secondly,  
because it does not avow that the "carrying away" was  
against his consent and knowledge

Seventh The second count of said Declaration does not  
avow that the "Carrying away" was against his con-  
sent and knowledge. = Does not avow knowledge  
sufficiently and is therefore defective

Eighth The third, fourth, fifth, sixth and seventh counts  
do not sufficiently avow knowledge on the part of  
defendants, and is, therefore defective

Ninth The eighth count does not avow that the Plaintiff  
was entitled to the possession of Joseph, nor how he came  
into the possession of defendants

Seventh Some of the Counts in the declaration, except the 4<sup>th</sup>,  
ask that the negro was of any value, and if the  
Plaintiff seeks to recover the value of the negro as prop-  
erty, this is necessary -

Eighth The fifth count is bad for duplicity, = proceed-  
ing for the value of the negro, and also for his ser-  
vices. If he asks for the value of the property, they  
cannot for his services. And this rule applies to the  
several counts some being for the negro and some  
for the other

Ninth The first count avers that the negro Joseph  
owed service in Illinois, by virtue of the laws of  
Missouri which is bad

13<sup>th</sup> The second count avers that notes and bonds  
in Missouri

15 The fourth counts proceeds for the entire service  
of the negro. It should be for the term actually gone  
expressed by the words "from thence hitherto"

L. G. Simons

Plt's attorney

In the Supreme Court  
November Term A.D. 1857

Thomas Rodney

vs.

Alvin's Heirs at  
Railroad Company

---

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vs.

C. G. Lewis  
Plffs. Atty.



Thomas Radney } In the Supreme  
vs } Court. Jan  
The C. & N. Co } Jun 1857

The Defendant is liable  
to be sued in case of loss  
and for this purpose the acts  
of their agents are regarded as  
the acts of the Defendant;  
see 1 Chy Pl p 76 also note 3 & cases  
there cited 2<sup>d</sup> Kuls Case p 283

The several Counts in plffs  
Declaration are sufficient in law  
see 1<sup>st</sup> Chy pl p 376

23

Radney  
Ms  
Dus C R R Co

Brmf

23-

Thomas Rodney  
vs  
Dew C R R Co

James M. Rodan,  
attorney

Filed 30. Nov. 1857  
A. Johnston Clk

No 23

Nov. 1857

Thomas Rodney  
M

Illinois Central  
Rail R. Company

Letter to Alexander

Affirmation

8544