

No.

8672

Supreme Court of Illinois

Mary A. Robinson, Admx.

vs.

Ohio & Mississippi R.R.Co.

71641  7

State of Illinois
Union County

Plead and proceedings had
in the Circuit Court in and
for the County of Marion
State of Illinois in a
certain cause heretofore
pending wherein Mary
A. Robinson Administratrix
of the estate of David
Robinson deceased was
Plaintiff vs The Ohio
Mississippi Rail
Way Company Defendant

Be it Remembered that on the 21st day of
July A. D. 1865 the above named Plaintiff filed
in the office of the Clerk of the
Circuit Court of said Marion County her
precept for summons against the above named
Defendant in words & figures following to wit
State of Illinois vs. Circuit Court Marion County
County of Marion March Term A. D. 1865

Mary A. Robinson
Administratrix of the estate of
David Robinson decd

The Ohio Mississippi Rail
Way Company

In a plea of Trespass
on the case
damages \$5000

The Clerk of said

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Went will issue summonses in above entitled cause to the Sheriff of Marion County to execute =

J. O. Chance Esq
Clerk

W. Watson & Avery & Wood
Attys for Peffs

Whereupon summonses issued in words & figures following to wit

State of Illinois } ss The People of the State
Marion County } of Illinois to the Sheriff
of said County greeting

We command you to summon the Ohio & Mississippi Rail Way Company if to be found in your County to appear before the Circuit Court of Marion 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 March next to answer Mary A. Robinson administratrix of the estate of David Robinson Decd in a plea of Trespass on the Case to her damages \$5000 as she says & hereof make due return to our said Court as the law directs

seal

Witness Jacob O. Chance Clerk
of our said Court & the seal
thereof at Salem this 5th day of
September A. D. 1867

Stamp
50c

J. O. Chance Clerk

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Enclosed by the Sheriff as follows =
"I have duly served the within summons
by delivering a true copy of the same
to James B. Wait agent of the Chicago
Mississippi Railway Company = President
not found Sept 7th 1864" S. R. Barrigan
Sheriff

And afterwards to wit -" on the 4th day
of March A. D. 1865 said Plaintiff filed her
Declaration herein in words and figures
following to wit"

Circuit Court of Marion County
March Term A. D. 1865

State of Illinois



ss.

County of Marion

Mary Ann Robinson administratrix
of all and singular the goods and chattels
rights and credits which were of David
Robinson deceased at the time of his death
who died intestate, the Plaintiff in this suit
by W. Watson & Avery and Wood her attorneys
complains of the Ohio and Mississippi Rail Way
Company a corporation existing and doing busi-
ness under and by virtue of the laws of the
State of Illinois who has been summoned
to answer said Plaintiff in a plea of trespass
on the case. For that whereas at the time
of the committing of the grievances hereinafter
described heretofore to wit, on the first day of
October A. D. 1862 to wit- at the County of Marion
aforesaid, the defendant was a common carrier
of goods, chattels and passengers for hire
to wit- from Salem in said State to Lawrence-
ville in said State to wit- at the County aforesaid
and the said defendant was then and there
the owner and proprietor of a certain Rail Road
which said Rail Road was used and operated
in the County and State aforesaid- and a
certain locomotive Rail Road Engine and
certain Rail Road cars for the carriage

and conveyance of goods and Passengers
from Salem aforesaid to Lawrenceville aforesaid
= said = And the said Defendant being
such owner and Proprietor of the said Rail Road
And the said locomotive Rail Road Engine
and the said Rail Road cars = the said David
Robinson deceased in his life time to wit = on
the day and year to wit, at the County aforesaid
at the special instance and request of the said
defendant went upon one of the said defend-
= ants Rail Road cars as a Passenger
to be conveyed upon a certain journey to wit
from Salem aforesaid to Lawrenceville in
said State, through the Counties of Marion
Richland, Wey, and Lawrence in said State
for a certain reward by the said defendant
in that behalf received And the said defendant
then and there to wit, at the County of Marion
aforesaid received the said David Robinson
as aforesaid as such passenger, and thereupon
it then and there became and was the duty of the
said defendant to use due and proper care that
the said David Robinson as aforesaid should
be safe and secure while thus a passenger
upon the said Rail Road to wit and the said
Rail Road of the said defendant. And pro-
= ceeding upon his said journey to wit = from
Salem aforesaid to Lawrenceville aforesaid

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Get the said defendant not regarding his
duty, although well knowing the premises
did not use due ^{and} proper care that the
said David Robinson as aforesaid should
be safely and securely carried and conveyed
upon the said Rail Road car ^{and} along ^{and}
upon the said Rail Road of the said de-
fendant upon the said journey from ^{the}
aforesaid to ^{the} aforesaid but wholly neg-
lected so to do, and suffered ^{and} permitted
the said Rail Road car upon which the
said David Robinson as aforesaid ~~was~~
being carried ^{and} conveyed as such passenger
to be so decayed, rotten and insufficient that
the same then ^{and} there to wit at the town of
Bridgeport in the county of Lawrence in said
State to wit at Marion County aforesaid, whilst
proceeding and being drawn along ^{and} upon
the said Rail Road of the said defendant
by the aforesaid locomotive ^{Rail Road} Engine in rapid
motion, broke, crushed, and fell to pieces ^{and}
the same was then and there overturned and thrown
from ^{and} off the track of the said Rail Road
^{and} by means whereof the said David Rob-
inson as aforesaid without any negligence
or want of care upon the part of ^{him} the said
David Robinson was greatly bruised
injured ^{and} wounded in so much that he

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the said David Robinson as aforesaid
then & there became & was & is & shall be
in his body & in his limbs & so remained
until to wit the eighth day of March A. D. -
Eighteen hundred & sixty three - when by reason
of the wounds injuries & bruises so received by
him as aforesaid he the said David Robinson
died. And the said plaintiff avers that at the
time when the said injuries, ^{and bruises} & bruises so causing
the death of the said David Robinson as
aforesaid were by him received to wit on the first
day of October A. D. Eighteen hundred and sixty
two to wit at the County of Marion aforesaid
he the said David Robinson was using all
due care & ordinary prudence & that while
so in the exercise of such care and prudence
he was injured as aforesaid, and that by reason
thereof he the said Robinson died on to wit
the 6th day of March A. D. 1863. And the said
plaintiff further avers that the said David
Robinson at the time of his death left him
surviving one Mary A. Robinson his widow
& Harrietta Robinson & Ed. Jane Rob-
-inson his children, to whom the damages
recovered can be distributed as by statute
in such case directed, and said plaintiff
further avers that afterwards to wit on the
twentieth day of September A. D. Eighteen

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Hundreds and Sixty Four at Effingham -
county in said state the said Plaintiff was
duly appointed by the County Court of said
County Administrator of all and singular
the goods and chattels rights & credits
which were of the said David Robinson
deceased at the time of his death - And
the said Plaintiff brings here into Court, the
letters of administration which give suffi-
-cient evidence to the Court here of the grant
of administration to the Plaintiff aforesaid -

^{2nd} Court And whereas also at the time of the com-
-mitting of the grievances hereinafter mentioned
to wit on the first day of October A. D. 1862
to wit at the County of Marion aforesaid the
defendant was a body corporate and was the
owner and proprietor of a certain Rail Road
extending through and from Salem in said
State to Lawrenceville in said State - which
said Rail Road also extended through and
was used and operated in the County of Marion
and State of Illinois - And the said defendant
was then and there the owner and proprietor of
a certain train of Rail Road cars running
upon and along said Rail Road of the
said Defendant for the carriage and conveyance
of goods and chattels and passengers for
hire to wit from Salem aforesaid to Lawrence-
ville

aforesaid to wit^e at the County aforesaid
 And that to wit^e on the day ^{and year} and at
 the County aforesaid = And that to wit^e
 on the day ^{and year} and at the County aforesaid
 the said David Robinson deceased in his
 life time, at the special instance ^{and request}
 of the said defendant went upon one of the
 Rail Road cars of the defendant aforesaid
 train of Rail Road cars as a passenger
 to be safely ^{and} securely carried ^{and conveyed} upon a certain
 journey to wit^e from Salem aforesaid to Lawrence
 ville aforesaid through the Counties of
 Marion Richland Clay ^{and} Lawrence in
 said state for a certain reward by the
 said defendant in that behalf received
 And the said defendant then ^{and there} to wit^e
 at the County of Marion aforesaid received the
 aforesaid David Robinson as such passenger
^{and thereupon it then} ^{and there} became ^{and was} the duty
 of the said defendant to use due and proper
 care that the said David Robinson as
 aforesaid should be safe and secure while
 this a Passenger upon the said Rail Road
 car ^{and} the said train of Rail Road cars
^{and} the said Rail Road of the said defendant
^{and} proceeding upon his said journey = and there
 upon it then ^{and there} became ^{and was} the duty
 of the said defendant to keep the train of

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the said Rail Road and the switches connect-
ed therewith in good repair and to keep the said
switches securely locked and fastened so that no
accident or injury might occur to the said
David Robinson as aforesaid by reason of
neglect on the part of said defendant to keep
the aforesaid Rail Road switches locked
and fastened as aforesaid. Yet the said de-
fendant not regarding his duty in this behalf
although well knowing the premises did not
use due and proper care in locking and securely
fastening the said switches attached to the
tracks of the said Rail Road of the said
defendant as aforesaid but wholly neglected
so to do and the said defendant carelessly
left a switch at a part of the track of their
said Rail Road at to wit the town of Bridgeport
in the county of Lawrence to wit at the county
of Marion aforesaid loose and unlocked
and unintended and not watched by any person
and by reason whereof afterwards to wit on
the day and year aforesaid and whilst the said
Rail Road car upon which the said David
Robinson as aforesaid was then and there a
passenger was connected with and forming a
part of the aforesaid train of Rail Road
cars of the said Defendant and proceeding
with rapid motion upon and along the said

Rail Roads of the said Defendant—the
 said last mentioned Rail Roads car upon which
 the said David Robinson was then a Passenger
 was then and there thrown from the track of
 the said Rail Roads and overturned and broken
 in pieces, and the said David Robinson was
 thereby cut, crushed, bruised, mangled and wounded
 in such a manner that shortly afterwards to wit on the 8th
 day of March A. D. One thousand Eight hundred
 and Sixty three the said David Robinson
 as aforesaid died. And the said Plaintiff
 avers that at the time when the said David
 Robinson as aforesaid received the wounds
 injuries and bruises, by reason of which he died
 as aforesaid to wit— On the 1st day of October
 A. D. 1862 to wit— at the county of Marion
 aforesaid he the said David Robinson was
 using all due care and ordinary prudence and
 that while so in the service of such care and
 prudence he the said David Robinson was
 fatally injured and wounded as aforesaid
 and that by reason thereof died on to wit— the
 Eighth day of March A. D. One thousand
 Eight hundred and Sixty three— And the said
 Plaintiff further avers that the said David
 Robinson left him surviving one Mary A.
 Robinson his widow and Harrietta Robinson
 and Ida Jane Robinson his children to whom

the damages recovered can be distributed, to wit on the twentieth day of September A. D. Eighteen hundred and sixty four at Effingham County the said Plaintiff was by the County Court of said County duly appointed administrator of all and singular the goods and chattels rights and credits which were of the said David Robinson deceased at the time of his death - as by the letters of administration now produced and shown to the Court is fully shown"

3rd Count And whereas also the said defendant at the time of the committing of the grievances hereinafter mentioned to wit On the first day of October A. D. Eighteen hundred and sixty two to wit - at the County of Marion aforesaid was a common carrier of goods and chattels and Passengers for hire to wit from Salem in said State to Lawrenceville in said State to wit at Marion County aforesaid And the said Defendant was then and there the owner and Proprietor of a certain Rail Road which said Rail Road was used and operated in the County of Marion and State of Illinois And a certain locomotive Rail Road Engine and certain Rail Road cars for the carriage and conveyance of goods and passengers from Salem aforesaid to Lawrenceville

aforesaid - and the said Defendant being
 such owner and Proprietor of said Rail Road
 and said Locomotive Rail Road Engine and
 said Rail Road Cars thereupon, heretofore
 to wit: On the day and year and at the County
 aforesaid the said David Robinson deceased
 in his lifetime at the special instance and
 request of the said Defendant went upon
 one of the aforesaid Rail Road cars and
 upon the said Rail Road of the said Defendant
 as a passenger to be conveyed upon a certain
 journey to wit - from Calumet aforesaid to Law-
 renceville in said state, through the Counties
 of Marion, Richland, Wey and Lawrence
 in the State aforesaid for a certain re-
 ward by the said Defendant in that behalf
 received - and thereupon it then and there
 became and as the duty of the said Defendant
 to use due and proper care that the said David
 Robinson as aforesaid should be safe and
 secure while thus a passenger upon the said
 Rail Road and upon the said Rail Road
 of the said Defendant proceeding upon his
 aforesaid journey - and whereas at the time
 of the committing of the grievance hereinafter
 mentioned to wit - on the day and year to wit
 at the County of Marion aforesaid the said
 Rail Road car of the said Defendant

upon which the said David Robinson was then and there as aforesaid, and the other aforesaid Rail Road Cars of the said defendant were connected together and were in rapid motion and being drawn along and upon the said Rail Road of the said defendant by the aforesaid Locomotive Rail Road Engine of the said defendant under the guidance directions and control of by the servants of the said defendant the said defendant, yet the said defendant well knowing the premises then and there he has and conducted in so negligent careless and unskillful a manner in and about the loading management and control of the said Rail Road car so drawn along and upon the said Rail Road of the said Defendant by the aforesaid Locomotive Rail Road Engine and in and about the driving guidance and government of the said Locomotive Rail Road Engine that by and through the carelessness unskillfulness by the then servants of the said defendant and negligence of the said defendant in that behalf and for want of due care and proper attention thereof the said Rail Road car wherein the said David Robinson as aforesaid was then and there a Passenger as aforesaid was then and there thrown from and off the said Rail Road of the said

Defendant; to, upon, and against the earth with
 great force and violence and the same was
 then and there overturned and broken in pieces
 by me and whereof, the said David Robinson
 was then and there greatly crushed, ^{cut} mangled
 bruised and wounded in so much that he
 the said David Robinson shortly afterwards
 to wit" on the Eighth day of March A. D.
 Eighteen hundred and Sixty three to wit" at
 the County aforesaid died and by reason
 as said Plaintiff avers of the wounds
 and injuries received by him the said David
 Robinson as aforesaid = and the said
 Plaintiff avers that at the time when the
 said David Robinson as aforesaid re=
 = ceived the wounds injuries and bruises
 causing the death of the said David
 Robinson as aforesaid = he the said David
 Robinson was using all due care and
 ordinary prudence and that while so in
 the exercise of such care and prudence
 he the said David Robinson as aforesaid
 = said was fatally injured and wounded
 as aforesaid to wit" on the 1st day of
 October A. D. 1862 to wit" at the County
 of Marion aforesaid" And the said
 Plaintiff further avers that the said
 David Robinson as aforesaid left him

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surviving on Elvay A Robinson his
 widow and Ida Jane Robinson ^{and Barrietta}
 Robinson his children to whom the damage
 recovered can be distributed - and that
 afterwards to wit - On the twentieth day
 of September A. D. 1863. at Effingham
 County in said State the Plaintiff ^{as set}
 by the County Court of said County duly
 appointed administrator of all ^{and} in-
 -gular the goods and chattels rights ^{and}
 credits which were of the said David
 Robinson deceased at the time of his
 death. as by the letters of administration
 which the said Plaintiff here brings ^{and}
 produces to this Court is made fully to
 appear" To the damage of the said
 Plaintiff Five Thousand Dollars"
 Wherefore Plaintiff brings suit - &c"

W. Watson &
 Avery and Wood
 Attorneys pro. Plaintiff

And afterwards to wit" on the 4th day of
March A. D. 1865 said Plaintiff filed here
letters of administration which are in words
and figures as follows to wit"

Letters of Administration
State of Illinois }
 } set
Effingham County }

The People of the State
of Illinois to all to whom these Presents
shall come greeting = Know Ye that whereas
David Robinson Robinson of the County
of Effingham and State of Illinois died
intestate as it is said on or about the eight-
day of March A. D. 1863 having at the time
of his decease personal property in this state
which may be lost destroyed or diminished in
value if speedy care be not taken of the same
To the end therefore that said property may be
collected and preserved for those who shall appear
to have a legal right or interest therein we do
hereby appoint Mary Ann Robinson of the
County of Effingham and State of Illinois
Administratrix of all and singular the goods
and chattels rights and credits which were of
the said David Robinson at the time
of his decease with full power and authority
to secure and collect said property and debts
wheresoever the same may be found in this state

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And in general to do and perform all other acts which now are or hereafter may be required of her by law =

Witness D. Rinehart - Clerk of County Court - in and for the said County of Effingham at his office in Effingham this 20th day of Probate seal of said Court hereunto affixed September A. D. 1864 and, D. Rinehart

(Circular stamp: D. Rinehart, Clerk of Court, Effingham, Ga., 1864)

Clerk of the County Court

And afterwards to wit on the 22nd day of March A. D. 1865 Defendant filed Plea in words and figures as follows to wit

State of Illinois vs. Inamion Circuit Court Inamion County March Term 1865

The Ohio and Mississippi Rail Way Company
vs
Mary A. Robinson Adams
Est David Robinson Dec

(Vertical wavy line)

Trespass on the case

And the said Defendant comes and says that this Court ought not to have or take further cognizance of the action aforesaid because it says that the ^{said} supposed causes of action and every of them (if any such have occurred to the Plaintiff) occurred to the said Plaintiff

out of the jurisdiction of this Court - that is to say at and in the County of Lawrence in the State of Illinois and at or in the County of Marion aforesaid, or elsewhere within the jurisdiction of this Court and defendant answers that there is a Circuit Court regularly held in and for said County of Lawrence as required by law having complete cognizance of the action aforesaid, and that defendant had at the time of the commencement of this suit and from thence hitherto have had agents in said County of Lawrence, on whom service can and could be had in due form of law and that the said defendant is ready to verify wherefore the said defendant prays judgment whether this Court can or will take further cognizance of the action aforesaid"

The Ohio & Mississippi
Rail Way Company, By
H. P. Buxton atty in fact

State of Illinois
Marion County

Harvey P. Buxton attorney
for above named defendant

being duly sworn deposes and says that the above plea and facts therein stated are true in substance and fact"

Harvey P. Buxton

subscribed and sworn to before me
this 22nd day of March 1860
H. H. Moore Clerk
By J. C. Chace sept

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And afterwards to wit" on the 30th day of March
A. D. 1865 Plaintiff filed Demure to Plea in
words and figures following to wit"

State of Illinois ss. Circuit Court of
County of Marion, Marion County March
Term A. D. 1865

Mary Ann Robinson
adm of Est of David
Robinson dec'd

v

The Ohio & Mississippi
Rail Way Company

Case

And the said Plaintiff
says that he is not bound to answer the said plea
of the said Defendant because he says that
the same and the matters and things therein al-
leged are not sufficient in law to prevent
the Court here from having cognizance of the
action aforesaid. Wherefore said Plaintiff
prays judgment that the Court here may
have cognizance of the action aforesaid and
that the said Defendant may answer over &c

Avery & Wood

Attys for Plff

Whereupon the following
And afterwards to wit" order appears of Record
to wit"

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Way A. Robinson administrator
 of the Estate of David Robinson
 vs
 The Ohio & Mississippi
 Rail Way Company

Transposed
 the case
 No 97

And now at this day
 To wit Friday March 31st A. D. 1865 comes the
 Plaintiff by Avery & Woods her attorneys and
 the Defendant having been duly served with process
 herein more than ten days before the sitting of
 this present term of this Court - also comes
 the Defendant by Geo. P. Burston Esq its
 attorney and said defendant by its said at-
 = torney having heretofore to wit on the 22nd day
 of March A. D. 1865 filed Plea herein -
 Plaintiff by her attorneys now demurs -
 thereto and the Court heard argument on said
 demurer and takes this case under advise-
 = ment &c =

And afterward to wit at
 the August Term A. D. 1865 the following
 order appears of records to wit

Wednesday August 23rd 1865 Cause
 called and ordered that it stand continued
 until the next term of this Court awaiting de-
 cision of like cause in Supreme Court

and afterward to wit" at the March Term
A. D. 1866 the following order appears of
records to wit"

Wednesday March 28th 1866 this
cause is called ^{and} the Court having at the
previous Term heard arguments of counsel
on Plaintiffs demurrer to plea ^{and} having
tailed same under advisement doth now
give judgment for the Defendant = ^{and}
Plaintiff elects to stand by their demurrer =
Whereupon the Court gives judgment for the
Defendant for waste = It is therefore ordered
and adjudged by the Court that said De-
fendant do have ^{and} recover of ^{and} from
said Plaintiff their costs in this behalf expended
^{and} that execution may issue therefor &c"

State of Illinois } ss. J. C. Moore
Marion County } Clerk of the Circuit
Court in ^{and} for said
County ^{and} State do certify that the foregoing
is a true and correct copy of the Pleas ^{and}
Proceedings had in the above entitled cause
as the same appears of Record in my office
given under my hand ^{and} seal
of Office at Salem in said Marion
County ^{and} State aforesaid this 3 day
of October A. D. 1866



H.C. Moore Clerk

In Supreme Court

To the November Term A.D. 1866

State of Illinois
County of Effingham

Mary A. Robison Adminis
of David Robison dec'd

vs

The Ohio and Mississippi Rail
Way Company

Assignment of
Errors

And now comes

the said Mary A. Robison Plaintiff in error and
says that there is manifest error in the records and
proceedings aforesaid in this to wit

I The Court erred in overruling answer
to Plea in abatement

II The Court erred in quashing writ
and abating suit

III The Court erred in rendering judgment
in favor of defendant against plaintiff

IV The Court erred in awarding execution
for costs against plaintiff

By reason whereof the said
plaintiff prays that said judgment may be reversed

Leason Wood

Atty for Plaintiff in Error

Mary A. Robinson Admrx

75

The O. W. R. N. C.

Record

\$ 6.50

Filed, Oct. 23-1866-

St. Johnston Ck

Paid by B. Wood \$5.00

\$ 6.50

Effingham Illinois

October 20th 1866

Abraham Johnston Esq.
Mount Vernon Ills.

Dear Sir

I sent you in
this mail records in two cases to wit

Samuel Arnold vs Ohio & Miss C. M. Co. &

Mary A. Robinson vs " " " " "

also printed abstracts accompany each case
also enclose two dollars (\$10.)

I desire that you issue the writs
and send them to the Sheriff of Marion Co. so
that he can execute them by Friday next.

Sickness has prevented me from getting the cases
ready sooner. and it would oblige me if you could issue
the writs immediately.

Truly Yours

Benson Wood

STATE OF ILLINOIS,)

SUPREME COURT,)

First Grand Division.) ss.

The People of the State of Illinois,

To the Sheriff of Marion 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 Marion county, before the Judge thereof between Mary A. Robinson Adm^r of the estate of David Robinson dec^d

plaintiff and The Ohio and Mississippi Railway Company

defendant it is said that manifest error hath intervened to the injury of said Plaintiff

as we are informed by her 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 MOUNT 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 Ohio and Mississippi Railway Company

that they be and appear before the Justices of our said Supreme Court; at the next term of said Court, to be holden at MOUNT VERNON, in said State, on the first Tuesday 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 Ohio & Mississippi Railway Company notice together with this writ.

WITNESS, the Hon. P. H. Walker Chief

Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this twenty third day of October in the year of our Lord one thousand eight hundred and eighty six

Clerk of the Supreme Court.

I hereby return the within writ having served the same by reading to James R. Waite Station Agent of the Ohio & Mississippi Rail Way Company at Salem Marion County also by leaving with said James R. Waite a true copy of this writ as required by Law this October 24th 1868 the president of said Ohio & Mississippi Rail Way Company not being found in Marion County

Done at
Marion
Oct 24th 1868

Joel K. Griley
Sheriff Marion County

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SUPREME COURT.

FIRST GRAND DIVISION.

Henry A. Robinson
Attorney of the State of
David Robinson
PLAINTIFF IN ERROR.

The Ohio & Mississippi
Railway Company
DEFENDANT IN ERROR.

Scire Facias.

Filed
1868
FILED
Mar 4th 68

Wm. Johnston
Attorney



A B S T R A C T.

MARY A. ROBISON, Adm'x of DAVID ROBISON dec'd., vs. THE OHIO & MISSISSIPPI RAIL-WAY COMPANY.	}	PLAINTIFF IN ERROR. Error to Marion. DEFENDANT IN ERROR
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Placita & Precipe.	Page 1
Summons directed to Sheriff of Marion County, returnable to March Term, A. D. 1865, Marion Circuit court.	2
Return of Sheriff of Marion County served on Agent of said Company.	3

DECLARATION that Deft. was Corporation owning and running Railroad trains through Marion and Lawrence Counties; that deceased at Marion County became a passenger, and at Lawrence County was killed by negligence of Defendants, etc. Page. 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 & 17

COPY of Letters of Administration 19 & 20

PLEA In Abatement by Defts. that the supposed causes of action, and each and every one of them (if any such have accrued to said Plaintiff) accrued to said Plaintiff within the jurisdiction of this Court; that there was a Circuit Court in Lawrence County having cognizance of said causes of action, and that Defendant had agent in Lawrence County, on whom service could be had. Filed March 22, 1865.

17 + 18
20 & 21

Plaintiff's demurrer to Defendant's plea and joinder. Filed March 30, '65. Order of Court, March Term, 1865. Case taken under advisement.

19 22
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Order of Court, March Term, 1866. Judgment for Defendant on demurrer, and Plaintiff standing by demurrer. Judgment for Defendant against Plff., for Costs and Execution awarded

20 + 1

Assignment of Errors.

That Court erred in allowing amended plea in abatement to be filed; in overruling demurrer to plea in abatement; in quashing the writ and abating the suit; in rendering judgment in favor of Defendant vs. Plaintiff for costs and awarding Execution therefore vs. Plaintiff.

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BRIEF.

Session Laws 1853. Page 65.

Illinois Central Rail-Road Company vs. Swearingen, 33d Ill. Page 289.

BENSON WOOD,

Attorney for Plff. in Error.

Effingham Gazette Print.

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Mr. A. Robinson - Ark

My

C. & M. Railway Co.

Abstract and brief of
papers re -

Filed Oct-23-1866.

St. Johnston Mo

State of Illinois,
SUPREME COURT,
First Grand Division.

} SS

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Marion 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 Marion county, before the Judge thereof between Mary A. Robinson Administratrix of the Estate of David Robinson deceased plaintiff and The Ohio and Mississippi Railway

Company defendants it is said manifest error hath intervened to the injury of the aforesaid Plaintiff

as we are informed by her complaint, and we being willing that error, if any there be, should be corrected 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 our Supreme Court the record and proceedings of the plaint 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 first Tuesday in the month 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.

WITNESS, the Hon. P. H. Walker Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this twenty-third day of October in the year of our Lord one thousand eight hundred and Sixty Six.

Asah Shuster

Clerk of the Supreme Court.

SUPREME COURT.
First Grand Division.

Mary A. Robinson
Admin^r of the Estate of
David Robinson
Plaintiff in Error,

vs.

The Ohio & Mississippi
Railway Company
Defendants in Error.

WRIT OF ERROR.

Issued & FILED. Cert.

23rd. 1866.

N. Johnston cly
" "

State of Illinois
First Grand Division
Supreme Court

In the Court of the Grand Court for the County of Cook, State of Illinois
The People of the State of Illinois

Be it remembered that on the 23rd day of February 1866, the following case was argued and heard in the Grand Court of the State of Illinois, to-wit: The case of Mary A. Robinson, Admin^r of the Estate of David Robinson, Plaintiff in Error, vs. The Ohio & Mississippi Railway Company, Defendants in Error.

[Faint, mostly illegible handwritten text, likely a transcript of the court proceedings.]

Witness my own hand and the seal of the Court at Chicago, Illinois, this 23rd day of February, 1866.
N. Johnston, Clerk



A B S T R A C T.

MARY A. ROBISON, Adm'x of DAVID ROBISON dec'd., vs. THE OHIO & MISSISSIPPI RAIL WAY COMPANY.	}	PLAINTIFF IN ERROR. Error to Marion. DEFENDANT IN ERROR
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Placita & Precipe,	Page 1
Summons directed to Sheriff of Marion County, returnable to March Term, A, D, 1865, Marion Circuit court.	" 2
Return of Sheriff of Marion County served on Agent of said Company,	3

DECLARATION that Deft. was Corporation owning and running Railroad trains through Marion and Lawrence Counties; that deceased at Marion County became a passenger, and at Lawrence County was killed by negligence of Defendants, etc.	Page. 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 & 17
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COPY of Letters of Administration

19 & 20

PLEA In Abatement by Defts. that the supposed causes of action, and each and every one of them (if any such have accrued to said Plaintiff) accrued to said Plaintiff within the jurisdiction of this Court; that there was a Circuit Court in Lawrence County having cognizance of said causes of action, and that Defendant had agent in Lawrence County, on whom service could be had. Filed March 22, 1865.

20 & 21

Plaintiff's demurrer to Defendant's plea and joinder. Filed March 30, '65.

22

Order of Court, March Term, 1865. Case taken under advisement.

23

Order of Court, March Term, 1866. Judgment for Defendant on demurrer, and Plaintiff standing by demurrer. Judgment for Defendant against Plff., for Costs and Execution awarded

24

Assignment of Errors.

That Court erred in ~~allowing amended plea in abatement to be filed; in overruling demurrer to plea in abatement; in quashing the writ and abating the suit; in rendering judgment in favor of Defendant vs. Plaintiff for costs and awarding Execution therefore vs. Plaintiff.~~

25

BRIEF.

Session Laws 1853. Page 65.

Illinois Central Rail-Road Company vs. Swearingen, 33d Ill. Page 289.

BENSON WOOD,

Attorney for Plff. in Error.

Effingham Gazette Print.

M. A. Robinson - Adm^r

by

O & M Railway Co.

Abstract and Prof^g
of the

Filed, Oct. 23 - 1866 -

Mr. Johnston City

Robinson - Adm^r of
Robinson - Staff in am
by
C. S. M. Railway
Sept in am.

Even to Marine

Dismissed by Agreement -
at Cost of Staff in am

Controll on Day 18. of
Julock "B"

Nothing issued herein

[Handwritten signature in blue ink]