

Jefferson County Circuit Court
Case Files - Civil
April 1869

Box 23 Folder 1

Cowen, John Epes

vs.

St. Louis & Iron Mountain Railroad

Appeal

Defendant appealed from JP H.M.
Parker on \$89.75 account for building
fence; depositions; bill of exceptions;
Supreme Court

St Louis & Iron Mountain
Rail Road Company
To J. E. Cowan

Dr

For building 266 yards of fence on the
west side of the Rail Road at
Rockport, viz:

To 2000 feet fencing plank	\$50.00
" 20 lbs nails	2.00
" 20 new posts, 25 cts each	5.00
" Hauling the materials	5.00
" Resetting posts & nailing up fence at 35 cts per pannel	17.50
	<u>\$79.50</u>

For Repairing fence on east side
of Road at same place

To work	\$4.00
" 250 feet fencing plank	6.25
Total	<u>\$89.75</u>

J. E. Cowan

(No. 5.)
(A)

Account

of

J. E. Cowan
against

J. M. R. R. Co

Filed Nov. 27 - 1868

H. M. Parker
J. F.

20 parts @ 18 ^{cts} =	3.60	00	5.00
1800 ft. fencing @ 25 ^{cts} per m	45000	00	50.00
2 boards @ 50 ^{cts}	1.00	00	5.00
18 lbs nails @ 8 ^{cts}	1.44	00	2.00
39 pounds fence @ 30 ^{cts}	11.70	00	17.50
rebar			
one work fence		00	4.00
one material fence		00	6.25
			<u>89.75</u>

72.74

89.75

89.75

The State of Missouri
To any constable of Little
Rock Township in Jefferson County,

Greeting. — We command you to —
summon St. Louis & Iron Mountain
Rail Road Company to appear before
the undersigned, one of the Justices of
the Peace of Little Rock Township
in Jefferson County, on the 18th day
of December A.D., 1868 at 10 o'clock
in the forenoon, at his office in
Sulphur Springs Little Rock
Township, to answer the complaint
of J. Eber Cowan (And: Claimed \$9.75)

Given under my hand this 27th day
of November A.D., 1868

H. M. Parker
Justice of the Peace.

~~Registered this writ in the Township of Little
Rock and in the County of Jefferson by Proctor
the same to the Western Union Railroad Co.
St. Louis & Iron Mountain Railroad Co.
November the 30th 1868
Jesse H. Hager
Constable~~

At the request and risk of Plaintiff I
 authorize Jacob Hager to execute
 and return this writ as the Law
 directs. - Lehl Co. Mo. Nov. 27. 1868

H. M. Parker
 Justice

Summ 11118.
 J. Ches Cowan
 vs.
 M. Davis & Son
 M^r. Rail Road
 Company
 Returner Dec 18/68
 Amt^r Claimed \$87.75
 A. L. Fees - 85
 Court Fees - 1.35

November 30
 15 Days

Executed this within writ in the Township of
 Little Rock and Lehl Co. Mo. by reading the
 same to M. W. Greene Station Agent
 at Sulphur Springs Lehl Co. Mo. for St Louis
 and Iron M^r. Rail Road Company this the
 30th day of November A.D. 1868.

Jacob Hager
 J. Dep. Constable

THE STATE OF MISSOURI,
COUNTY OF St. Louis } ss.

To John C. Graham and J. H. Scott
and George Nicholas

You are hereby commanded, that, all excuses and delays being set aside, you personally
be and appear before the undersigned, a Justice of the Peace within and for the Township of
Wine Street, in the County of St. Louis, on the 15 day of December 1868,
at the hour of 10 o'clock, P. M., at his office in said Township, to testify on the trial of
a case wherein J. Hey Coonan is
plainiff, and A. Lewis & Dan McDaniel, &c. dependant,
on the part of the Plaintiff and of this you are not to fail at your peril.

GIVEN Under my Hand, this

16 day of December 1868

W. M. Parker
Justice.

SUBPOENA

FROM

H. M. G. Miller

Sta. Rucy

JUSTICE OF THE PEACE FOR ST. LOUIS TOWNSHIP.

No. *Coover* 18

vs.
Rail Road

VERSUS

Returnable Dec 18 - 1868

Justice Fee *38*

Executed this Writ in St. Louis

L. M. Rock ^{*Township*} this *16* day

of *December* 18*68* by reading

the same to the within named

John W. Gaharo

George Mitchson

F. H. Beck

Jacob Hoeger

Constable

THE STATE OF MISSOURI, } SS.

COUNTY OF ST. LOUIS

Jefferson

To

You are hereby commanded, that, all excuses and delays being set aside, you personally
be and appear before the undersigned, a Justice of the Peace within and for the Township of
St. Louis, in the County of St. Louis, on the day of 186
at the hour of o'clock, ... at his office in said Township, to testify on the trial of
a case wherein *John & John M. M. et al.* vs *John M. M. et al.*
Plaintiff, and defendant,
on the part of the *Plaintiff* and of this you are not to fail at your peril.

GIVEN Under my Hand, this

day of *December* 1868.

H. H. Fowler Justice.

SUBPŒNA

FROM

H. M. Parker
Lulu H. H. H.

JUSTICE OF THE PEACE FOR ST. LOUIS TOWNSHIP.

No. 1
Cowan

18

vs
Boile H. H. H.

VERSUS

Justice Fee

35

Executed this Writ in St. Louis

this _____ day

of _____ 18 _____, by reading

the same to the within named _____

THE STATE OF MISSOURI,
COUNTY OF ST. LOUIS. } ss
W. H. H. H.

To John W. Graham, Capt. U. S. Army
and Geo. Michels -

You are hereby commanded, that, all excuses and delays being set aside, you personally
be and appear before the undersigned, a Justice of the Peace within and for the Township of
St. John, in the County of St. John, on the 15th day of January 1868,
at the hour of 8 o'clock, A. M., at his office in said Township, to testify on the trial of
a case wherein J. E. Carver is
Plaintiff, and St. Louis & San M^o Rail Road Company defendant,
on the part of the Plaintiff and of this you are not to fail at your peril.

Given Under my Hand, this 28th day of December, 1868.

He. Parker
justified

I am hereby sworn to execute
and I do swear
Jan 15 1868
J. E. Cowan

SUBPOENA

—FROM—

He M^r Parker

JUSTICE OF THE PEACE FOR ~~St. Louis~~ TOWNSHIP.

Returnable Jan 15 - 1868
at 8 o'clock A.M.,
J. E. Cowan

VERSUS

W. L. J. M. R. R. Co.

Justice Fee

Executed this Writ in ~~Jefferson~~
Con Mo this 6 day
of January 18 69 by reading
the same to the within named

John W. Graham.
Cap J. H. Beckett.
Geo. Michelson.

Jacob Maeger
Dept Constable
C. H.

THE STATE OF MISSOURI,

COUNTY OF ~~St. Louis~~ *St. Louis*,

SS.

To *Franklin Rogers, John Laughlin*

You are hereby commanded, that, all excuses and delays being set aside, you personally
be and appear before the undersigned, a Justice of the Peace within and for the Township of
~~St. Louis~~ *St. Louis*, in the County of ~~St. Louis~~ *St. Louis*, on the ~~10th~~ *13th* day of ~~January~~ *January*,
at the hour of ~~10~~ *10* o'clock, A. M., at his office in said Township, to testify on the trial of
a case wherein *J. Ches Eaves* is
Plaintiff, and *A. Lewis & Son M^r & N. Co.* are defendant,
on the part of the Plaintiff and of this you are not to fail at your peril.

Given Under my Hand, this *12th* day of *January* 1869

H. M. Parker
Justice.

SUBPOENA

—FROM—

He M. Ramm

JUSTICE OF THE PEACE FOR ~~St. Louis~~ TOWNSHIP.

No.

18

J Ches Coman

VERSUS

St Louis & Dear A. R. Co

Justice Fee

35-

Executed this Writ in *St. Louis*

Township Jeff. this 13 day
of *January* 1869 by reading
the same to the within named

John Slaughter.

Franklin Baborg

Jacob Haege

Dept Constable

*This is to certify that the within
Subpoena was served on me this day January 1869
J. Ramm*

THE STATE OF MISSOURI,

COUNTY OF ST. JOSEPH.

SS.

To *W P Hunt & Geo. McElhannon*

You are hereby commanded, that, all excuses and delays being set aside, you personally be and appear before the undersigned, a Justice of the Peace within and for the Township of *Litchell*, in the County of *Adair*, on the *15th* day of *January* 1869, at the hour of *8* o'clock, *A. M.*, at his office in said Township, to testify on the trial of a case wherein *J. Ches Covain* is plaintiff, and *St. Louis & San Antonio, Co.* are defendants, on the part of the *Plaintiff* and of this you are not to fail at your peril.

GIVEN Under my Hand, this *13th* day of *January* 1869

H. M. Parker Justice.

SUBPOENA

—FROM—

JUSTICE OF THE PEACE FOR ST. LOUIS TOWNSHIP.

I acknowledge
Service of The
within Subpoena
W. D. Hunt

18

~~VERBS~~
Geo. E. Mitchell

Justice Fee

Executed this Writ in St. Louis
this day
of 18 , by reading
the same to the within named

THE STATE OF MISSOURI,

COUNTY OF ~~St. Louis~~

SS.

To John C. Wreghem Capt. T. H. Scott
George Wickham Es. T. Hunt & J. E. Cowan

You are hereby commanded, that, all excuses and delays being set aside, you personally be and appear before the undersigned, a Justice of the Peace within and for the Township of ~~St. Louis~~ in the County of ~~St. Louis~~, on the - 23rd - day of January 1869, at the hour of 10 o'clock, A. M., at his office in said Township, to testify on the trial of a case wherein J. E. Cowan is Plaintiff, and W. Hunt & J. E. Cowan are defendant, on the part of the Plaintiff and of this you are not to fail at your peril.

GIVEN Under my Hand, this - 15th - day of January 1869

H. M. Fowler
Justice.

SUBPŒNA

—FROM—

H. M. Parker J. P.

JUSTICE OF THE PEACE FOR ^{Rock} TOWNSHIP.

Returnable Jan 23-1869
No. 18

J. Ches Coman

VERSUS

Iron Mt. R. R. Co.

Justice Fee — ,35

Executed this Writ in ^{Little Rock} St. Louis

County, ~~Jeff~~ Co. this 15. day
of January 1869, by reading
the same to the within named

John W. Graham & Capt.
J. H. Baskett &

George Wicksen &

W. S. Hunt, ~~H. J. S.~~
Coman,

Jacob Haeger.
Dept. Constable.

As the request herein of Pcty. Lanthorne Decided
H. M. Parker J. P. writ-Sept.
H. M. Parker J. P.
Co. No. Jan 15-1869

Notice of setting aside Nonsuit.

J. Ehez Cowan

— vs. —

A. Louis & Iron Mt.

Rail Road Company

} Before H. M. Parker
Justice of the Peace.

To Defendants:—

Take Notice, That the
Judgement of Nonsuit entered in
this case, has been set aside by
the Justice, and that said cause
will be tried on the 23rd day of
January A.D. 1867 at 10 o'clock
A.M. at the Office of the undersigned
in Sulphur Springs, Little Rock
Township, Jefferson Co., Mo.

Witness my hand, this 15th day
of January A.D. 1867.

H. M. Parker
Justice of the Peace.

— H —

recorder this partition exists - & believing as I
do, while the houses of M. Co, Green
Hwy & At-Allen having left Co, by law as to
I have not R.R. Co, this is only a journey to
1869 and that the ~~land~~ ~~of the~~
and the nature of the ~~land~~ ~~of the~~
the said County and County for several
thousand.

James H. Rogers
Deputy Comptroller

At the request of Mr. J. J. Danthorne
to agree to execute the same this sub-
scribed Jan. 15-1869

H. B. Danthorne
Jr.

Notice of setting aside
Nonsuit

J. Ches Cowan
— vs. —

St. L. & Iron Mt. R.R. Co.

Trile set for January
23^d 1869.

D. C. Fees — .35

State of Missouri }
County of Jefferson }

The State of Missouri
to the Court of Little Rock Parish
in the County of Jefferson

Greeting.

We Command you to Summon
Six Lawful Men of said County
qualified to serve as Jurors in the
Circuit Court of said County and
who are not of kin to either
party to appear before me the
undersigned Justice of the Peace
within the Parish of Little Rock Parish
Jeff. Co. Mo. at my office in Sulphur
Spring Jeff. Co. Mo. on the 23rd day
of January A.D. 1867 at 10 o'clock
in the fore noon of that day to make
a Jury in the action between J. Ches
Cowden vs St. Louis & Iron Mt. R.R. Co.
as well the said Plaintiff as the
said Deft have put themselves
on the County for trial and
have & are then & there this
writ.

Witness my hand, this 15th day
of Jan. 1867.

H. M. Pardee
Justice of the Peace.

In obedience to this writ - I have summoned
as Jurors ~~Antony~~ ~~for~~ ~~by~~ ~~George~~ ~~Holmes~~ ~~John~~ ~~Engelbrecht~~
John Leida, Henry Stahl and T. B. Moil, Joseph Landolt,
and Antel.

Good and Lawful Men, of the County of Jefferson
Mo. Jan 23rd 1869. to appear on the Jan 23rd 1869
at the office of H. ~~in~~ ~~at~~ ~~the~~ ~~office~~ ~~of~~ ~~H.~~
Jury.

Jacob Hargen
Dept Constable

Devised for Jury.
J. Ches Cowan

vs. —

J. H. & Jean M. H. H. Co

Returnable Jan. 23-1869

James H. H.

John Epps Cowan } Before Justice
 vs } H. M. Parker
 The St Louis and Iron } Justice of the
 Mountain Rail Road Co } Peace.
 January 18th 1869.

Now comes the plaintiff in the above
 entitled Cause and moves the Court to
 set aside the verdict in the above entitled
 Cause and grant the said plaintiff a
 new trial for the following reasons.

1. Because the Justice dismissed
 the suit at eight o'clock in the morning
 of said day, when the Cause was set for
 trial at eight o'clock, A.M.

2. Because the plaintiff was sick and
 unable to be here at the time set for
 trial, or at all the Cause he is a material witness.

3. Because the Cause was called
 and dismissed in the absence of
 the plaintiff's witnesses, and because
 sufficient time was not allowed
 the plaintiff's witnesses to be present.

P. P. P. Atty for
~~The Rail Road Co.~~
 The P. P. P.

J. E. Cowan
St. L. & I. M. R. R. Co

Motion for New
trial

Filed Jan 15-1869

H. M. Paves
J. B.

Exhibit "B"

J Esq Cowan

vs

The St Louis and
Iron M. R. R. Company

Before H. M.
Parker Justice
of the Peace

To the above named defendant
You will take notice, that depositions of
witnesses, to be read in evidence, on the
part of the plaintiff, in the trial of the
above cause, will be taken at the
residence of the plaintiff near Kimsurich
in Jefferson County Missouri, on the 22nd
day of January 1869, between the hours of
8 in the forenoon and six in the afternoon,
and that the taking of said depositions, if
not completed on that day will be continued
from day to day at the same place and
between the same hours until completed

J Esq Cowan

I executed the Within Notice by Reading
and delivering a true copy of the Within Notice
to F. D. Waters Agent for Defendant. this 18th
day of January 1869.
Subscribed and sworn to } Cicero McMillen
Before me this 18th day of Jan. 1869 }
Robert V. Hunt
Notary Public

For Jeff Co. Mo-

Cicero McMillen

Depositions of Witnesses produced sworn and examined at the residence of John Eper Conan near Kinnasick in Jefferson County Illinois of ~~said John Eper Conan~~ before me Robert A. Hunt a Notary Public in a ~~certain~~ Cause now pending before St. M. Parker a Justice of the Peace within and for the said County of Jefferson between the said John Eper Conan plaintiff and the St Louis and Iron Mountain Rail Road Company defendant on the part of the plaintiff

John Eper Conan of lawful age being produced sworn and examined Deposes and says, that he is now sick has been confined to his to his room for five weeks and is wholly unable safely to attend the trial in the above entitled Cause, that he is plaintiff in said Cause, that some time in the latter part of Nov 1867 or the first part of December of said year the said defendant wanted wood put on the road near the borrowing pit on plaintiffs land, that the road master Mr Brant authorized Mr Roberg to break the fence at the borrowing pit so as to haul the wood to the road provided I did not object & agreed to put up the said fence again as soon as the road could be taken by the Cars and to repair

the other part of the fence. Eight or ten months
afterwards he came and said he was instructed
to build a fence fifty feet from the Rail
road, this was a new fence on a new line from
ten to fifteen feet west of the old fence and over
on my land instead of putting up and repairing
the fence pulled down by Raborg. To this
new fence appropriating more of my land & the
R. R. Company I objected. The Road Master left
without putting up the fence or repairing any
part of the fence pulled down by Raborg.
^{at the request of said Company}
After the Cars had killed as many as three
of my cattle over at once and broke the hind
leg of one in three places, and killed a
fine work ox for which they had paid me
 $\frac{3}{4}$ of the appraised value I put up the fence
on the same line for the cost and value of
which I sued the Company.

The old fence was made by the original Company
never had but four poles to the panel except
what I put on it and was never at any time
repaired by either of said Companies but has all
the time been kept up by me at my own
expense. The Company never acquired title
to any portion of my land by purchase by
condemning as the law required nor otherwise
and never paid for any part of it but since
the payment of damages over up to this date

when I repaired and put up the fence with new plank I used such of the old fence as was fit & patch up the fence on the eastern side of said road but made no charge for plank for the same in my account, and further this deponent saith not.

J. Epes, Corrosee

I Robert S. Hunt Notary Public do hereby certify that John Epes Conan the deponent whose place of residence is near Krimmisch Jefferson County Missouri, was by me sworn to testify the whole truth of his knowledge touching the matter in controversy in the cause of said and that his deposition was reduced to writing and subscribed by him in my presence on the 22nd day of January 1869 between the hours of eight o'clock in the forenoon and six o'clock in the afternoon at the residence of said John Epes Conan the plaintiff, in the County and State of Missouri whereof my hand and official seal this 22nd day of January 1869.

Robert S. Hunt
Notary Public

J. E. Corvan

vs

St Louis an J. M. P. P. Co

Notary fee R. N. Hunt \$1.50

Cont. " C. McMillan .35
\$1.85

Filed before me Jan.
23^d 1869.

J. M. Parker
— " J. P.

Wadsworth

J Ches Carver

- 1851. -

H Harris & Lean M^{rs}

N. H. Co,

Shut-herone Justice

H. M. Parker

are the day, since for the Plain
-list in the sum of \$7500

Wm. R. Co. & Co. Test. Foreman
Sept. Co. No. Jan 28th 1851.

Verdict of
Jury
Cowan
- vs -

R. R. Campbell
Jan 28/1869

J Eps Cowan } Plaintiff

VS.

St Louis Iron
Mountain Rail Road Company } Defendant

Before Justice

H. M. Parker

THIS DAY personally before *H. M. Parker*
a Justice of the Peace in and for the County of *Jefferson*, in the State of Missouri, *James*

A Billings atty for *def*

who being duly sworn upon *his* oath, say that the application for an appeal, in the above entitled case, is not made for vexation or delay, but because *he* believe the applicant *is* injured by the judgment of the Justice.

Sworn to and subscribed before me, this

30th day of *January* 186*9*

H. M. Parker
Justice of the Peace.

J A Billings
att for *St Louis Iron RR Co*

WE, the undersigned, *St Louis Iron Mountain Rail Road Company*
and *Jas A Billings & M W Green*
acknowledge ourselves indebted to *J Eps Cowan*

in the sum of *three hundred*
dollars, to be void upon this condition: WHEREAS, *the said defendant*

has appealed from the judgment of

H. M. Parker a Justice of the Peace, in an action
between *J Eps Cowan* plaintiff,

and *St Louis Iron Mountain Rail Road Company* defendant;

Now if, on such appeal, the judgment of the Justice be affirmed, or if, on the trial anew in the *Circuit*

Court of Jefferson County,

judgment be given against the appellant, and he shall satisfy such judgment, or if *this*
appeal shall be dismissed, and he shall pay the judgment of the Justice, together with the costs of
appeal, the recognizance shall be void.

Attest, this *30th* day of
January 186*9*

H. M. Parker Justice.

The St Louis Iron Mountain
Rail Road Company

J A Billings
att for

M. W. Green



App & Appeal
Bond —

J. Ches Cowan
— vs. —

St. Louis & San M & R.
Co. —

Reba Justice H. M. Parker

Filed Jan. 30 - 1869

H. M. Parker
81

Appeal granted

J. Epes Cowan
vs.
St. Louis & S.M.R.R
Company

An acct for \$89.⁷⁵/₁₀₀

Plaintiff filed for suit November 27th 1868, an account for building & furnishing material for Ferry due Pltff by Def'ts. to the amount of \$89.⁷⁵/₁₀₀ (+ as set forth in Bill of items marked (it)) and ordered a summons to issue which is done and delivered to Deputy Constable Jacob Hager made returnable December 18th 1868, my regular law day.

H. M. Parker. J. P.
DEC: 18th 1868. the summons issued in above cause is this day returned executed as the law directs. And the case being called both parties the Plaintiff & Defendant by Mr. J. A. Billings Atty. appeared, and by agreement of both the Pltff & def'ts consider the case continued to January 15th 1869 at 8.0'clock the last hour in the forenoon of that day, my regular law day - H. M. Parker. J. P.

Non Suit

Statute
not in

713

Sec 17

And on this 15th day of January. A. D. 1869, the case being called Mr. Billings appears for R.R. Co. (Def'ts) and the Plaintiff J. Epes Cowan being called comes not therefore it is ordered that Non Suit be entered at this 8 1/2 o'clock this forenoon of Jan: 15th 1869 - H. M. Parker

And on this 15th day of January A. D. 1869
Pltff by his Counsel Phillip Pipkin Esq, filed
a motion for a new Trial set for Jan 23rd
1869, at 10 o'clock, in the forenoon of that
day at his Office in Sulphur Springs Jeff. Co.
Mo, & notice to that effect - Issued and
delivered to Deputy Constable Jacob Hager
returnable Jan 23rd 1869 at 10 o'clock A. M.
H. M. Parker J. P.

And on this 23rd day of January A.
D. 1869 come the parties Phillip Pipkin
Esq for Pltff - and J. A. Billing for Defen-
Jan. 23rd 1869 Deposition filed by Pltff, taken
before R. W. Hunt Esq, Notary Public -
A Jury being ordered the following were
sworn in to try the case - John Seider, Hen-
ry Stahl, T. B. Moser, Joseph Landolt & Wm
Bastels Five good and lawful men
which the Pltff and Defendant agreed should
try the case, Deposition of J. Esq Cow-
an Read to Jury by Pltff's Counsel P. Pipkin
Esq -
And the Jury having heard the evidence,
And the Jury having returned their verdict - as
follows - "We the Jury find for the Plaintiff
in the sum of \$75 - Dollars -"
(Signed) Wm R. Bastels
Foreman

Whereupon it is adjudged by the Justice that the
Plaintiff recover of Defendant the Damages
so assessed by the Jury together with
his Costs, & have execution thereon. H. M. Parker J. P.

And on this 30th day of January, A.D. 1869,
comes the said defendant, by their atty,
J. N. Billings Esq, & files his (their) affidavit
& Bond for appeal, with M. W. Greene, as
security, which is granted by the Justice -
H. M. Parkes, J.P.

Fee Bill -
Cowan

vs
St. L. & I. M. R.R. Co.

Justice Fees - Surtin
Surtin Entering suit 10
Nov: 27, 1868 -

" " (Summons) 35-

Fees R. N. Hunt, Notary - 1.85-

J. P. Fees - .70

" " Continuance .50

Suit Jan 15th / 1869. 3 Subpoena's 1.50

Judgmt Non Suit - .50

Suit Jan. 23/69 - 1 Subpoena - .35

" " " " Venise for Jury .35

Sucreamy to an Questions .25

Sucreamy Jury .35

7 Oaths .35

1 Subpoena .35

Rendering Judgment .50

Affg of App Bond - \$ 1.00

Transcript - \$ 2.50

Constable Hager's Fee's - Summons -

" Jan 15th / 69 - 4 Subpoena's \$ 1.00

Jan 23rd / 69 - 3 Subpoena's \$.75-

" " / 69 - 5 " " 1.25-

" " / 69 - sewing venise 1.00

\$ 5.35 -

Juries sworn Jan 23/69 -
 John Geider - 50 Jan 18th 1869 -
 Henry Stahl - 50 Jan 23rd /69 -
 G. B. Moser - 50 " 23/69 -
 Joseph Landolt 50 - " "
 Wm Bastele - 50 - " "

5 by agreement of Pltffs & Deft
 Paid by P. Pepkin for Pltff \$2.50.

Pltff's witness, John W. Grahamer Jan 15/69 - 50.50
 Jan 23 - 1869 - J. H. Beckelt 50.50
 " " " Geo. Michelson - 50.50
 W. P. Hunt - 50.50
 Frank Raborg Jan 23/69 - 50
 John Slaughter - 50
Total - 5.00

Summary of Fees -

Justice Parker's Fees -	\$9.20
Hunt's Notary Fees	1.85
Constable Hager's "	5.35
Witness "	5.50

Jury Paid by Pltff's	2.50
	<u>\$24.40</u>

Brant Jan 15 th /69	- 30
Galvin " " "	- 50
R. Murphy	- 50

\$1.50
 24

State of Minnesota }
County of Deppelton } act

I, H. M. Parker
Justice of the Peace within & for Hennepin
County, do certify the foregoing to be a full
true, & complete transcript of the entire
& proceedings in the case of J. Eves
Cowan vs St Louis & San Francisco Co,
on the same are of record on my
Docket, & that the papers therein
attached are all the original papers
on file in my office.

Witness my hand this 28 day of
March A.D. 1869.

H. M. Parker
Justice of the Peace,
—

Transcript
of Mrs Cowan
- vs. -
St Louis & Leon M^{rs}
Rail Road Company

Appeal.

Filed April. 6 1869
Elias F. Hinckley

In Circuit Court
D. E. Loran Plaintiff

against
St Louis & Iron Mountain
Rail Road Company Defendant

Motion to dis-
miss

Now comes the defendant and moves
the court to dismiss the above entitled
cause for the following reason
that it appears upon the return of the
Justice in said cause that the Justice
had no jurisdiction over the subject matter
In this that a new suit was rendered agst
the plaintiff and said ~~new~~ suit
was set aside and a new trial granted
without by the Justice without having
complied with the Statute allowing the same
That the Justice granted a new trial with-
out the required notice and without re-
quiring the plaintiff to pay the costs &
that the costs were taxed in said judg-
ment against the defendant -

For Defendant

Leif Othy

(645)
680
64
720
71

In Circuit Court

L E Clewman
Plff

vs
L. L. Garrison & Co W-
RR - Defts

Motion to dis-
miss cause for
want of jurisdiction

J. A. Leonard
Defts Atty

Filed May 11 1869

E. F. Hooley clk

By L. H. Hays D.C.

J. E. Cowan,
 v.
 St. L. & I. M. R. R. Company } In the Jefferson
 Circuit Court,
 May Term
 1869.

Now at this day comes the Plaintiff
 in the above entitled Cause & moves
 the Court to set aside the order of this
 Court dismissing this suit for & grant
 him a hearing upon the merits of the
 Case for the following reasons.

1. Because the law does not declare
 that the payment of costs shall be a
 condition precedent to the setting aside
 of a non suit & granting a new trial by
 the Justice.
 2. Because there is nothing in the transcript
 which negatives the idea that the costs
 were not paid by Cowan at the time the
 non suit was set aside.
 3. Because the Court erred in dismissing
 this suit and sustaining the motion filed
 by Defendant.
 4. Because said motion contains no good
 ground for dismissing the Cause of action.
- Pipkin & Thomas
 for Plaintiff.

J. E. Cavan
in
S.L. & J. M. R. Rho

Motion for new
trial.

Filed May 12 1869.

No. 5. } Docket Entries 1868.
 Dec 18-1868 } Suellem Springs Sept. Co. Ins.
 Term. } J. Ches Cowan
 vs
 St. Louis & Iron Mt.
 Rail Road Company } An acct. for
 \$89.²⁵/₁₀₀

Plaintiff filed for suit November 27th
 1868. an account for building & furnishing
 material for Fence due Pltg. by Sept.
 to the amt. of \$89.²⁵/₁₀₀ (as set forth in
 Bill of Items marked (A) And ordered
 a summons to issue which is done
 & delivered to Sept. Cor. Jacob Hoefer
 made return on December 18th 1868.
 My regular law day

H. M. Parker J. P.

Continued Dec. 18-1868 The summons in above
 to Jan 23 1869 at 8 o'clock the last hour
 Cause is this day returned & entered
 as the law directs. And the case
 being called both parties the Plaintiff
 & Defendant by Mr. J. N. Billings Atty. appeared
 and by agreement of both the Pltg. & Sept.
 Council the ^{case} is continued to January 15th
 1869 at 8 o'clock the last hour in the
 forenoon of this day My regular law
 day -

H. M. Parker J. P.

Non Suit And on this 15th day of January A. D.
 1869. The case being called Mr. Billings
 appears for R. N. Co. (Deft.) & the Plaintiff
 J. Ches Cowan being called comes, not
 therefore it is ordered that nonsuit

he entered at this 8 1/2 o'clock this
fore noon of Jan. 15, 1869

H. M. Parker J.D.

Set Aside And on this 15th day of January A.D. 1869. P. M. by his Counsel Philip Pipkin Esq. filed a motion for a new trial, ^{in the case of} which is granted by the Justice and trial set for Jan. 23rd 1869 at 10 o'clock in the forenoon of that day at his office in Sulphur Springs. Dep. Co. Mo. & notice to that effect issued & delivered to Dep. Co. Jacob Hager returnable Jan 23rd 1869 at 10 o'clock A.M. -

H. M. Parker J.D.

And on this 23rd day of January A.D. 1869. Came the Parties, Philip Pipkin Esq. for Plt. - and J. A. Billings Esq. for Defs. - Jan 23rd 1869. Depositions Filed by Plt. Taken before R. N. Hunt Esq. Notary Public. - & Jury being ordered ~~the same is~~ the following were sworn in to try the Case John Geider Henry Stoll T. B. Moss Joseph L. and all & Wm. Castelle Five good & lawful men (which the Plt. & Defs. agreed should try the Case) Deposition of J. Ches. Cannon Read to Jury by Plt. Counsel Philip Pipkin Esq.

And the Jury having heard the evidence,
returned their verdict as follows. —
"And the Jury find for the Plaintiff,
in the Sum of \$75 ^{Dollars} ^{sign Wm. R. Connel Foreman}
whereupon it is adjudged by the Justice
that the Plaintiff recover of Defendant
the Damages so assessed by the Jury,
together with his costs, & have execution
thereon. —

He. M. Parker J. P.

And on this 30th day of January AD 1869
Came the said defendant, ^{by their attorney J. R. Kelley Esq.} & filed his (their)
Affidavit & Bond for appearance, with
M. W. Greene — as security, which is
granted by the Justice. —

He. M. Parker
Justice of the Peace,

~~Transcript - Made and sworn to March 2/1869~~
~~& on oath Judged & Affirmed that~~
~~& sent to Circuit Court in Hills~~
~~Sept 20/69~~ He. M. Parker
J. P.

State of Missouri }
County of Jefferson }

I, the undersigned Justice
of the Peace hereby certify that the foregoing
contained on four Pages is a true & correct
Transcript as the same appears on my
Docket - which has not been changed
or altered since the original Entry
(which were made at the various times
of the different trials) & that they are true
& correct Entries of the facts in the case
of J. E. Cawman vs J. M. R. R. Co & appeal
by the R. R. Co, - & that the Papers hereto
attached are all the ^{original} papers in said
Suit -

Witness my hand May 17-1869.

Jep

H. M. Parker
Justice of the Peace

Filed May 17-1869
Clk Wm. J. Montgomery
By J. H. Cuyler

~~In default, verdict~~
J O Clowan Plaintiff

against
St Louis & Iron Mountain
Rail Road Company deft

Motion to dis-
miss -

Now at this

day comes the defendant and moves the Court to dismiss the above entitled cause for the following reasons that it appears upon the return transcript returned, by the justice therein that the justice had no jurisdiction over the subject matter

In this that a new suit was rendered against the plaintiff which was a final judgment therein and that the same was set aside and a new trial granted by the justice without having complied with the Statute allowing the same

That the justice granted a new trial before said new judgment of new suit was disposed of before and the costs ^{were} paid ~~as required~~ by the plaintiff as required by the Statute in granting new trials, and further that the costs of new suit were taxed against the defendant -

And further that the record shows a final judgment against the plaintiff of new suit undisposed of before the new trial was granted - Ira Edwards

In Circuit Court

J E Curran
Plff

vs
St Louis & Iron Mountain
RR Co def

11
Motion to dismiss
Cause for want of juris-
diction

19
Tra E Leonard
Def's Atty

Filed May. 1878/69

Elias H. H. H. H.
By S. H. H. H.

J. Eas Cowan

vs
St Louis & Iron
Mountain Rail Road
Company

In the
Jefferson
Circuit Court

J. T. Waters Esq.

Take notice, that on the ~~first~~ ^{second} day
of November, A. D. 1869, between
the hours of eight o'clock in the
forenoon and six o'clock in the afternoon
of that day, at ^{the N. E. & S. E. D. B. B. B.} the Station house
in the town of Kimswick,
County of Jefferson, State of
Missouri, Depositions will
be taken to be read ~~on~~ the tri-
al of the above entitled suit
on behalf of the plaintiff; and
that the taking of the said
depositions, if not completed
on that day, will be continued
from day to day, and between
the same hours, until

completed.
To J. D. Waters
J. E. Cowan
Plaintiff

I acknowledge service of the within notice
this 30th day of Oct 1867

J. D. Waters Agt
St. L. & N. O. R. Co.

Deposition of witness
produced, sworn and ex-
-amined, at the St Louis &
Iron Mountain Rail Road
Station, in Himswick, Jeff-
erson County, Missouri,
before me, the undersigned,
Robert N. Hunt, a notary Public
duly commissioned, within and
for said County of Jefferson,
in a certain cause now pend-
-ing in the Jefferson Circuit
Court, State of Missouri,
between J. Epes Cowan, plain-
tiff, and the St Louis &
Iron Mountain Rail Road
Company, defendant, on the
part of the plaintiff.

Franklin Rahorg, of law-
ful age, being sworn and
examined on the part of
the plaintiff, deposeth and
saith.

That he ~~is~~ ^{am} acquainted
with J. Epes Cowan the
plaintiff, and that some
time in the fall of the year
1867 or early part of December

I sold wood to the Iron
Mountain St Louis & Iron Mountain
Rail Road Company,
which they ~~would~~ not receive
south of Cowan's land on the
Rail Road in consequence of
the high embankment, I
therefore got permission from
Mr Cowan to pull down the
fence along the side of the
Rail Road anywhere south
of the bridge opposite his
house, and to haul and
deliver my wood to the said
company; on the condition
however, that the Rail Road
company would ~~put up~~ ^{& believe} and
make the fence good, imme-
diately after my wood was
delivered to them.

To this the Road Master
Mr Brant, agreed, I then
during the winter, delivered
my wood to the Rail Road
Company on Cowan's land

To put my wood on the
Rail Road, I pulled the fence
down from near the Southern

end of ^{the} cut to the Southern
side of the borrowing pit.

The said fence was not
put up or rebuilt till the
latter part of the summer
or early part of the fall of
1868. when I believe it was
rebuilt by Mr Cowan

Sworn to & Subscribed, Franklin Raborg

to Before me Nov 2^d 1869.

Robert N Hunt
Notary Public

I Robert N Hunt a Notary public do hereby certify
that Franklin Raborg, deponent whose Residence is in
Jefferson County in the State of Missouri, was by me
Sworn to testify the whole truth of his Knowledge
Touching the matter in Controversy in the Cause a
For said that his deposition was Reduced to
Writing and Subscribed by him in my presence
on the 2^d day of November A.D. 1869 at the
at Station House of St Louis & I.R.M.P.R. in
Jefferson County State of Missouri.

Robert N Hunt
Notary Public

Depositions

J E Cowan

St Louis ^{vs} & M R R

Noted Fees \$1.00
paid By Plaintiff

Recd by the hands of
Philip Piptin

opened and

Filed Nov. 15/1869

Elias, P. Honey et al.



Served the within on the 13th day of November 1869
at Jefferson County Mo & residing the same
the the within named Frank Halsey and
He the Partner Frank J Smith, George
Arnold, Thoma Beckel and Lewis Mc
Millen and Peter their acknowledgements of service

per 350

For the undersigned
Sherry

SUBPOENA

To Jefferson Circuit Court.

Nov 2 1869
2925

Cowan
vs
R. R. Co

Sherry

COUNTY OF JEFFERSON,

The State of Missouri,

To

John E. Brunk

YOU ARE HEREBY COMMANDED, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the

1869

at Hillsboro, then and there to testify, and the truth to say in a certain

matter of controversy, now pending in our said Court, wherein *John E. Brunk*

Plaintiff, and

Defendant, on the part of

fail.

*Lewisohn Mountain Fall Road
Defendant, and herein you are in no wise to*

Witness, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office

this 12 day of *Nov*

A. D. 1869

Clerk.

Thos. A. Adams

SUBPOENA

To Jefferson Circuit Court.

November Term 1869

John E. Lewan

vs. J. M. R. Rood

witnesses for self

~~George Mitcheum~~

~~J. M. Rood~~

John C. Braut

The within Subpoena was served on the 15th Day of Nov^r & reading
the same to the within named John C. Braut at Jefferson
County Mo

Dec 30

For your Emegies I send
by Jesse D. W. W. W.
H. H. H. H. H.

COUNTY OF JEFFERSON,

The State of Missouri,

To George M. McKee, Jr. Graham

YOU ARE HEREBY COMMANDED, That setting aside all manner of excuse and delay, you appear

before our Circuit Court for the County aforesaid, on the 1869 day of March

at Hillsboro, then and there to testify, and the truth to say in a certain

matter of controversy, now pending in our said Court, wherein

Plaintiff, and

Defendant, on the part of

fail.

Witness, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office

this 16 day of November A. D. 1869

Clerk

E. F. Honey
By J. H. Honey

SUBPOENA

To Jefferson Circuit Court.

~~George Michelson~~
~~John G. Grayman~~

Cowan
vs
R. R. Co

The within named John G. Grayman can not be found in my County of Jefferson
directly or indirectly the within to George Michelson on the 20th day of November
A.D. 1869 at Jefferson County Mo.

fees \$10

I find Subpoena or Sheriff
W. D. Stewart
Sherriff
Jefferson County

J. E. Lewis

St Louis & I. M. R. Company

In the Court
Court of
Jefferson
County Mo
July Term 1870

Now comes the plaintiff and moves
the Court to take the cost of
this term against the defendant
because the cause was continued
by ~~him~~ the said defendant, for
the want of witnesses, and
because the said plaintiff
was ready and willing and
anxious for a trial of said
cause.

R. P. Phipps
for plaintiff

J. E. Corran

²⁴
St. L. & O. M. R. Co.

Motion to stay
Costs

Filed, July 24th 1870
E. H. Honyack
By L. H. Ayres

COUNTY OF JEFFERSON,

The State of Missouri.

To Leora McAllen Jacobson

Answered

You are Hereby Commanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the 2nd Day

of February at Hillsboro, then and there to testify, and the truth to say in a certain matter of controversy, now pending in our said Court, wherein I do appear

Plaintiff, and Al Lewis & Son Missouri is Defendant and herein Defendant, on the part of Plaintiff you are in no wise to fail.

WITNESS, Elias F. Honey, Clerk of our said Court, with the seal thereof hereto affixed, at office, this 14th day of January A. D. 1870

Alvin F. Honey Clerk.
By A. McAllen

Served the within this 27th day of January A. D. 1864
by reading the same to the within named persons that
shall and those named and each of them
in their hearing and presence at Joppa and County of
15

Dec 8/510

Read Rush Lemay ex
of said County

Deposits

Cowan
vs
RR Co

COUNTY OF JEFFERSON,

The State of Missouri.

To *George Melrose John Mahan and J. Prister*
Attys. *J. Le Brant Cicera Mellevier, Florence*

You are Hereby Commanded, That setting aside all manner of excuse and delay,
you appear before our Circuit Court for the County aforesaid, on the *2^d* day

of *February* 1870 at Hillsboro, then and there to testify, and the truth
to say in a certain matter of controversy, now pending in our said Court, wherein

John E. Levan

Plaintiff, and *George John Mountain* *Real Recd*

Defendant, on the part of *Plaintiff* and herein
you are in no wise to fail.

WITNESS, Elias F. Honey, Clerk of our said Court, with

the seal thereof hereto affixed, at office, this *14th* day of

May A. D. 1870 *Oliver P. Newman* Clerk.

By J. A. Gendall

Served the within this 27th day of January A. D. 1864
by meeting the same to the with named George
Philpots and John M. Graham and J. D.
Bovill in those hearing and presence at Johnson Court
me

To each such money or shanty
by Henry Bonafon.

Dec 8 1860

J. D. Bovill

2925
February Term 1870

J. E. Brown

vs

St Louis & New Mountain RR

George Mitchem
John W Graham
J. H. Brown

COUNTY OF JEFFERSON,

The State of Missouri.

To

George Witeo or John W Graham
+ John C Brack

You are Hereby Commanded, That setting aside all manner of excuse and delay,
you appear before our Circuit Court for the County aforesaid, on the 1st

Monday of March at Hillsboro, then and there to testify, and the truth

to say in a certain matter of controversy, now pending in our said Court, wherein

Plaintiff, and

Johnist McRae

Defendant, on the part of Defendant and herein

you are in no wise to fail.

WITNESS, Elias F. Honey, Clerk of our said Court, with

the sub thereof hereto affixed, at office, this 3rd day of

July

A. D. 1870

E F Honey

Clerk.

Engel & Ward

Evening riding on the within named John W Graham
and George Williamson and John Brown as at
left to Mr. in the 6th day of February 1845
see p 155

Wm. W. Adams or Son
by Adams & Son

Wm. Adams

In the Jefferson Circuit
Mar Term 1846

J. C. Cowan

^{vs}
St Louis Iron
Mountain Rail Rd
Company

for Deft

George Mitchem
J. C. Branch
John H. Graham

COUNTY OF JEFFERSON,

The State of Missouri.

To

J. Piester Cecil McMillan &
Thomas Smith

You are Hereby Commanded, That setting aside all manner of excuse and delay,
you appear before our Civil Court for the County aforesaid, on the 22nd
of March 1870 at Hillsboro, then and there to testify, and the truth
to say in a certain matter of controversy, now pending in our said Court, wherein

J. E. Lemmon

Plaintiff, and

Paul Reed Smith

Defendant, on the part of Plaintiffs and herein

you are in no wise to fail.

WITNESS, Elias F. Honey, Clerk of our said Court, with
the seal thereof hereto affixed, at office, this 22 day of

July A. D. 1870 E. F. Honey Clerk.

By J. McComb, St.

Severed by visiting to the within named
Jacob Trester Vice of the Abbeville
Florens Summit at Jefferson to me.
on 4 day of March at 1870

Dec 8 1870

Free Dutchman Sheriff
by Jacob Trester
Jm Dept

March Term 1810

J. E. Cowan
Sims & M. R. Co

for Ref

J. Pruster. liars
M^cMullen + Florence +
Arnold

COUNTY OF JEFFERSON,

The State of Missouri.

To

George Mitchell & M. Graham

J. C. Brack

You are Hereby Commanded, That setting aside all manner of excuse and delay,

you appear before our Circuit Court for the County aforesaid, on the

Legals

of March

at Hillsboro, then and there to testify, and the truth

to say in a certain matter of controversy, now pending in our said Court, wherein

J. E. Curran

Plaintiff, and

James M. R. R.

Defendant, on the part of

Self

and herein

you are in no wise to fail.

WITNESS, Elias F. Honey, Clerk of our said Court, with

the seal thereof hereto affixed, at office, this

22

day of

Aug A. D. 1870

E. F. Honey

Clerk.

Capl. H. A. F. R. R.

Served by reciting to the within named John
W. Graham at Jefferson Co., Mo., on the
5 days of March at \$18.70

Per \$1.50

John Lucktenberg & Co.
by Jacob Hager
The Sept

2925-

March Term
1870

J. E. Cowan
vs

Louis M. R. R. Co

George M. Teeson Jr
Graham & McBratton
for Defendants

Case of
Cowan vs Rail Road

- ✓ 1 G. J. Hoar
- 2 George McNamee
- ✓ 3 Noah Row
- ✓ 4 Edward Ryan,
- 5 Philip Hetherbrand
- 6 Richard Maupin
- 7 Jerome B. Dover
- 8 Henry Heltrink
- ✓ 9 John Deming
- 10 M. Carroll
- 11 R. P. Byrne
- 12 Meredith Rogers

Cowan
to
Paid Road
Jm

Refused

The Court instructs the Jury
that the defendant had no
right to build a fence on
any other line than that
of the old fence unless
the said Company had
condemned the land to the
use of the Company, ^{or the same had been relinquished} and
it is the duty of the said
Company to prove to the
satisfaction of this jury that
fifty feet of land on each
side of said road had
been condemned ^{or relinquished} before the
defendant can claim the right
to build a fence fifty feet
from the centre of said
road

Refused

Clairmont
Rail Road Company

Filed March 10 1870
E. H. Honey C. K.

The Court instructs the jury at the defendants request:

First: The law requires a rail-road company to erect and maintain good and substantial fences on the sides of the road where the said road passes through, along or adjoining inclosed or cultivated fields or uninclosed prairie lands, and that said fence shall be at least five feet high: and it further provides that if any rail road company shall fail, neglect or refuse ~~for~~ to erect or keep up fences along its line where said line passes through, along or adjoining such lands, then the owner or proprietor of said lands may erect and keep up such fences: and if said land owners do put up and keep up said fences, they may sue and recover from the Rail Road company, the full value of said fences: but, before such owner can recover for putting up and keeping ~~up~~ said fences, he must show, first, that ~~at~~ ^{at} the place or places where he put up or repaired them, the rail road, ^{line} passed through, along or adjoining inclosed or cultivated fields, or uninclosed prairie lands: second, that the fence put up by him was a good and substantial fence, and that it was of the height of at least five feet: third

Second: If the jury believe from the evidence that

the fence put up by plaintiff in this case was not put up on or along the side ~~of~~ and line of defendants road, but was put up by plaintiff entirely on his own land, and not on the line ^{or between} between his land and the land of defendants, ^{plaintiffs land & the} they will find for defendants.

Third. If the jury believe from the evidence that the plaintiff by his acts prevented and hindered defendant from putting up a fence on the line between plaintiff and defendant, they will find for defendant.

Fourth:

Current
at
Rail Road Co
Refused

File Mch 9/86
E. J. Hines @

1 If the jury find from the evidence that the rail road fence spoken of by the witnesses was torn down under an agreement between the plaintiff and defendant that said defendant would rebuild the same, and that said defendant refused to build said fence on the old line of said fence, for three months, ~~then~~ then the plaintiff had a right to build said fence and recover of the ~~defendant~~ the value thereof, and the jury will so find.

2 If the jury find from the evidence that the repairing of the fence on the east side of said road was necessary to protect stock from the road, ^{the plaintiff's crops} and that said fence was not kept up in good repair for three months at one time then the plaintiff had a right to build repair the same and recover the value thereof, ~~the jury~~ will so find provided the jury further find that at the place or places

where plaintiff repaired said fence
was on the side of the railroad and that
said road passed through along or adjoining
inclosed or cultivated fields or uninclosed
prairie lands and that said fence
when repaired was a good and substan-
tial fence of the height of at least five
feet.

Leeman
v
R. R. Co
Plffs
vs

Filed March 1876
E. J. Mcmurry

overed the spring further proof that at-
the place or places where slanting
but not any fence was on the
side of the rail road and that the sand
road passes through slacks or adjoining
meadow or cultivated fields or unim-
proved waste lands and that said
fence was a good and substantial
proof of the height of at least five feet

We the jury find for the Plaintiff
the sum of seventy eight dollars
& sixty five cents.

Wm. Herine Attorney

John E. Cowan *Plff.*
St Louis & I.M. P. R. Co. *vs.* } In Circuit
County Mo. March
1870 Term -

Defdt. moves the Court to set aside the
verdict in the abov cause and to grant
a new trial therein - for the following
reasons: -

1st: Said Verdict is contrary to the law:

2nd Said Verdict is contrary to the evidence

3rd Said verdict is contrary to the law and
the evidence -

4th Said verdict was rendered for
Plaintiff when it should have been
rendered for Defendant.

Billings & Reynolds
attys for defts -

John E. Curran

vs

St Louis & Iron Mt. RR.

Motion for new trial
and to set aside
verdict.

Bellings & Pugh vs
Ally for drifts.

Filed March 14/1870
E. J. Kinner cly

J. E. Cowan
 vs
 St Louis & IMRR Co.

In Court
 Bant. Diff. Co
 No 20 March 1870
 Term

Deft moves in arrest of judgment
 in above cause - for the reason -

That the judgment is against the
 law:

That the judgment ~~was~~^{is} contrary to
 the law

That the judgment ~~was~~^{is} for the
 plaintiff, when it should have been for
 deft.

That the judgment is against the
 law and the evidence.

Recurs & prays
 a new trial.

J. E. Cowan

at

St. Louis + I. M. R. R. Co.

Motion in suit of
fraudulent

J. L. Marsh 1870
E. F. Kenney at

John Eps Cowan plff. }
 vs }
 St. Louis and Iron Mountain }
 Rail Road Co. def. }

Be it remembered that on the 27th of November 1868, John Eps Cowan filed his account before H. M. Parker, a justice of the peace in and for Rock Township, Jefferson County Mo. against the Saint Louis and Iron Mountain Rail Road Company, which account is in the following words & figures (check her copy account) whereupon said Justice issued a summons directed to &c &c (check her copy summons) which was returned with following return (her copy return) and afterwards tried on the 18th of Dec. 1868 (check her copy transcript and docket entries of Squire Parker, as the same is returned by him and of record) and afterwards, tried on the 11th day of ~~November~~ ^{May} 1869, the same being the day of the May term¹⁸⁶⁹ of this Court. The defendant appeared in Court and moved the Court to dismiss the cause & which motion is as follows, (check will her copy motion to dismiss) and said motion being announced by the Court, the same was, on the 16th day of

~~May~~ November
November 1869 by the Court ~~over-ruled~~ ^{over-ruled} ~~over-ruled~~
to which action of the court, in over-
ruling said motion the deft. at the
time objected and excepted.

And afterwards ^{being the 3rd day of the March term} ~~tried on~~
the 10th day of March 1870, ^{this came}
coming on for trial, (the same
being the 3rd day of the - March term
1870, of said this Court) and a jury
being empaneled &c &c - the
plaintiff offered the following evidence,
in support of his action:

First, ^{the} deposition of Franklin Raborg,
^{which deposition & certificate is as follows: Clerk her copy deposition}
to the admission of which ^{off} deposition
in evidence the defend^t ^{there & there} objected, for the reason
that said ^{intended} deposition was not certified
to as required by law: that the certificate
of the officer who took the same did
does not show that it had been taken at the
place and between the hours named in
the notice: that the notice to take
the same was not served on the
defend^t as required by Statute, &
that the certificate ^{United States} a revenue stamp
had not been affixed to the certificate
of said depositions, nor to the deposition:
which objections were by the court over-
ruled ^{& the said deposition read to the jury} to which action of the court in

over-ruling said ~~objections~~ objections, and in
admitting said deposition to be read in
evidence the defendant at the time objected
and excepted.

John Epes Cowan, witness on part of plaintiff, sworn,
testified as follows, in substance: Am the
plaintiff in this case: in the fall or winter of 1867
I allowed Franklin Raborg to pull down
part of my fence, ~~and make way~~ on the condition that
the Rail Road Company would put it
up again as soon as the wood which
Raborg was to deliver to the Road, was removed.
~~Mr. Raborg had to pass through my enclosure to deliver the wood~~
by them; Mr. Brant the agent and
fence contractor of the Rail Road
told me that he would rebuild the fence &
~~give me to understand that as soon~~
~~as the wood was removed, they the~~
~~R.R. Co. would put it up again~~
~~at the only place there where they could receive the wood~~
~~on the same place.~~ The fence remained
down six or seven months; Mr.
Brant the agent of the Rail Road Co.
came, after I sent them word to put
up the fence, with men, tools and
plank & posts to put up the fence,
and told me he had instructions to
put it up on a line fifty feet
from the centre of the rail road
track. I would not permit
this, ^{as it was not according to the agreement to rebuild the fence} The Rail Road had no

land there, nor had they any ever
condemned and set apart to them:
I claim all the land over which the
track runs, ^{the company also claims it} and was not willing
to allow them to put up a fence
any place but where it had been
before - The land on which the fence
stands is mine; ^{It has never been condemned} The old line of the
fence, and the line on which I claimed
the new fence should be put up as, was
in some places twenty-five feet from
the track and at others forty-five
feet; - and was rather irregular: the
rail road has been running through
the tract of land some 10 or 12
years; I put up $46\frac{1}{2}$ panels of
new fence, 16 feet to the panel, on
the West side of the road; also 20
oak posts; I bought 2500 feet of
plank for the fence; and paid
25 dollars per thousand for it.
I also paid 10 cents a pound for nails;
also 25 cents for the posts each;
the other work as charged in my
account, was done as stated in the
said account, and was paid for
and worth about the amount charged.
I also repaired the fence on the

east side of the road. the work was worth the amount I have charged in my account.

C. M. Miller sworn on part of plff.

I examined ~~the~~ fence on the line of the rail road, as pointed out to me by Mr Corvan: I ~~think~~ ⁱⁿ the ~~year 18~~ think such plank was worth 25 dollars per 1000 - I do not know what amount of nails it would take for that fence; - ~~the~~ posts were worth in 1868, 15 to 18 cents; hauling was worth 50 cents a load at that time. The fence was of an average of about $4\frac{1}{2}$ feet.

Isaac Priester sworn on part of plff.

There were $46\frac{1}{2}$ panels of fence: an average of 5 planks to a panel 23 oak posts; - This fence was worth from 45 to 50 cents a panel to put it up; ^{It was a good fence} It would take from 16 to 18 pounds of nails; nails worth 8 cents a pound.

— Graham sworn on part of plff. Know this fence: saw it when it was first put up. It is of an average height of $\approx 4\frac{1}{2}$ feet - some places more some less. The oak posts

were 5 or 6 inches through. I would
put up such a fence for 35 cents per
furnish ^{for the work}; I am a Carpenter.

Plaintiff here rested.

Defendant then introduced John C.
Boant, who being sworn said,
Am in the employ of the defendant; in
1867 & 1868 I had charge of fence building
or for the defendt. I do not recollect of
ever having any conversation with
~~def~~ ^{pl} in 1867 about putting up the
fence or on any other matter connected
with it, before the old fence was torn
down. Did not tell ^{pl}. I would put up fence on
~~after~~ the same place or line.

After Mr. Cowan sent me word
to put up the fence, I went to his
place ^{as agent of the Deft.} with material and men to
put up the fence; I commenced to
measure the line for the fence —
measuring 47 feet from the outer
rail — The ^{pl} told me he
wanted me to put up the fence
on the line of the old fence. I told
him my orders were to put up
the fence on a line 50 feet
from the center of the track &
that I could not and would

not put it up any place
else. He said I should not
put it up when I wanted to.
I then left with my men &
materials. I have seen the
fence put up by the plff. at
the place he now claims for.
I do not consider it worth any-
thing: it answers the purpose of
turning stock in places - but I
as a fence inspector would not
receive it at all. In some
places it is 5 planks high: in
some places 4 planks high: and
in a couple of places two or
three planks high. I counted
the panels: there were 38 panels.
The posts were nothing more than
oak fence rails. I never made
any arrangement with Mr. Cowan
in reference to putting up the
new fence when the old one was -
or any other - the ground was irregular, some places
^{high & others low}
Defendant here testified.

The above was in substance
all the testimony in the case.
Whereupon, at the request of
plff - the court gave the

following instructions to the jury
(here copy the instructions) to the
giving of which instructions, the
def't at the time objected ~~and~~
which objection was by the court over-
ruled — to which action of the court in
giving said instructions, the defendant
at the time objected & excepted.
The defendant thereupon ~~so~~ asked
the court to give the following instructions
(here copy the instructions offered &
asked by def't. as well those given as
those refused) and having considered said
instructions, the court gave the first and
second, but refused to give the third —
to which action of the court, in refusing
to give the third instruction asked, the
def't at the time objected — which objection
was overruled, and therefore the refusal
only ~~is~~ excepted —

Thereupon the cause being submitted
to the jury, they found as follows (here
copy the verdict of the jury)

Thereupon ~~the~~ afterwards
on the 14th day of March 1870, the same
being the 6th day of the March term of this
court, defendant moved the court
tho to set aside the verdict in this

cause, and for a new trial
 therein ~~for which~~ motion is as
 follows (clerk here copy motion
 for new trial and to set aside
 verdict) which motion being
 heard & considered by the court
 the same is by the court ^{on the 18th day of March 1870} over-ruled
 to which action of the court, in over-
 ruling said motion for a new trial
 and ~~in~~ to set aside the verdict, the
 defendant at the time, ^{objected &} excepted -
 And afterwards to wit on the 18th
 day of March 1870, the same being
 the 18th day of the March 1870 term of this
 court, the defendant made their motion
 in arrest of the judgment in this cause
 which motion is as follows (clerk
 here copy motion in arrest of
 judgment) and the same motion
 being heard and duly considered
 by the court, the same was by the
 court over-ruled - to which action
 of the court in over-ruling said
 motion in arrest of judgment
 the defendant at the time
 objected and excepted -

And thereupon comes the
 defendant - and in open

court, tenders this, his bill
of exceptions, and prays the
hon. the ^{judge of the} court that the sign, seal and
attest the same and cause
them to be made part of the
record in the cause - Which
is by the ^{judge} ~~court~~ done in open
court this the 19th day of March
1870 -

J. H. Vail, Judge.



2925

John E. Leaven

Louis & McRae

Dec 8 '81

Filed March 1918
E. J. Hanyard

J Eps Cowan
vs
The St Louis & Iron
Mountain Rail Road
Company deft

In the Circuit Court
of Jefferson County Mo

We the St Louis Iron Mountain Rail
Road Company as principal and Charles S
Rankin and James A Billings as securities
acknowledge ourselves to owe and be indebted unto
J Eps Cowan the above named plaintiff in the
sum of three hundred dollars to be void on
the following conditions Whereas the St Louis &
Iron Mountain Rail Road Company have taken
an appeal from the judgment of the Circuit
Court of Jefferson County Missouri rendered
at its March Term 1870 wherein J Eps
Cowan is plaintiff and the St Louis Iron Mountain
Rail Road Company is defendants wherein
said plaintiff recovered against said defen-
dant the sum of seventy eight dollars & cents
together with his costs of suit which said
Appeal was allowed said defendant by said
Circuit Court for the second judicial district
of the State of Missouri returnable to the next
term thereof now if said appellant shall
prosecute said Appeal with due diligence to a
decision in said district Court and shall
perform such judgment as shall be given
by said district Court or such as the said
district Court may direct the Circuit Court

to give or if the judgment of the said Circuit
Court on any point thereof be affirmed and if
the defendant shall comply with and perform
the same so far as it may be affirmed and
pay all damages and costs which may be
awarded against the appellant, by said
district court, then this Bond shall be void
otherwise it shall remain in full force and
effect - Given under our hands & seals
this 22^d day of March AD 1870

Approved
J. H. Ad. Judge

The H. S. Co. then Treasurer,
Rail Road Company is
in attesting etc. B. A. B. A. B.

Chas. D. H. H. H.
J. H. A. B. B. B.

B. A. B. B.
B. A. B. B.

Jefferson Circuit Court

J Eps. Cowan
vs

The St Louis & Iron
Mountain Rail
Road Company

Bond

Filed March 23 1870
E. F. Hancock

The State of Missouri.
To the Clerk of the Circuit Court of Jefferson
County in said State ~~~~~ Greeting

Whereas in the record & proceedings in a certain cause now pending in the District Court for the Second District of Missouri wherein John E. Cowan (Plff) is Respondent and St. Louis & Iron Mt. Railroad Company (Defn) is Appellant (said cause having come by appeal to said District Court from said Jefferson County Circuit Court) it appears to the satisfaction of the Judges of said District Court that the transcript in said cause is incomplete & imperfect - There are therefore to Command you that you send to us, said Judges of said District Court, Certified under your seal the record & proceedings in said cause fully & completely as the same remain of record before you and that you have the same before us at our District Court for the Second District of Missouri at a time to be begun & held at the Court House in the City of Cape Girardeau on the Second Monday of Feb'y next; in order that our said Judges may cause to be further done therein what of right and according to law ought to be done.

Wm Leonard Dargament
Chief of our civil district courts
with official office in the City of Dallas
Grandson who got away of 1870
1870. Leonard Dargament
Chief

John E. Lawan
vs.
J. M. R. R.

Order for new
Transcript

In the Supreme Court of Mo.
October Term 1871

John E. Cowen Resp.
vs.
St. Louis & Iron Mountain
Railroad Co. Appl.

Appeal from
Jefferson Circuit Court.

Opinion of the Court.

None of the objections urged for a reversal of the judgment in the case were brought to the attention of the court below in a motion for a new trial. No opportunity was allowed for the court to correct its errors, if any it committed. The points now made are that the court erred in admitting a deposition to be read in evidence and also in giving instructions. The only reasons assigned in the motion for a new trial are, that the verdict is contrary to the law and the evidence and that the same was for the plaintiff when it should have been for the defendant. The questions raised here were not submitted to the circuit court. Judgment affirmed. The other judges concur.

DAVID WAGNER.

State of Missouri, ss.

I, FRANCIS MINOR, Clerk of the Supreme Court, held at St. Louis, of the State of Missouri, certify that the above and foregoing is a full, true and complete copy of the opinion delivered in the above entitled cause, as fully as the same remains on file in my office.

Witness my hand, with the seal of said Court hereto affixed,
at office in the City of St. Louis, this 20th
day of December one thousand eight
hundred and seventy one.

Francis Minor Clerk.

For Jost, Davis & Co.

In the Supreme Court, held at St. Louis, of the State of Missouri,

October Term, 1871

November 20, 1871

John E. Cowan, Respondent
vs.
St. Louis and Iron Mountain
Railroad Company
Appellant

Appeal from
Jefferson Circuit Court

Now again come the parties aforesaid, by their respective attorneys, and the Court being now sufficiently advised of and concerning the premises, doth consider and adjudge that the judgment rendered herein by the said Jefferson Circuit Court be in all things affirmed and stand in full force and effect, and that the said Respondent recover of the said Appellant his costs and charges herein expended, and have execution therefor. Opinion filed.

STATE OF MISSOURI, SS.

~~Francis Minor~~
F. O. Y. FISHBACK, Clerk of the Supreme Court, held at St. Louis, of the State of Missouri, certify that the above and foregoing is a full, true and complete copy of the judgment rendered in the above entitled cause, as fully as the same remains of record in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at office in the City of St. Louis, this fourth day of December A. D. eighteen hundred and seventy one.

Francis Minor, Clerk.
Per J. H. Baker, Secy.

411

2925 or
— 2679

Supreme Court of Missouri.

Mr. E. Cowan

vs. Resp.

St. Louis & Iron Mountain
Railroad, App.

MANDATE.

JUDGMENT OF

Jefferson Circuit Court

AFFIRMED.

Filed Dec 22 '87,

W. S. P. or clerk
By D. H. Shouse dep. m

Cowan vs R R Co.

E H Honey.

cont. ²⁵ 2 cont ³⁰ motion ²⁰ jury ³⁰ (verdict) ³⁵ Judge ³⁰ 2.30

motion ²⁰ rule ²⁰ motion ²⁰ Bill Ex ³⁵ .95

affo ²⁵ Bond ³⁰ 75

11 files 53

Jury 1800 4.55

J Luckenmeyer. shff. Nov 1. 69 18.00

July 70 9 sh as 4.50

Mar 170 6 " 3.00

6 " 3.00

23.05
14.90
24.40
9.00
37.00
108.35

Boyce CLK 14.90

H M Parker. 9.20

B N Hunt Notary 1.85

Jake Hager 5.35

Witnesses before Justice 5.50

Jury fee 2.50

Nov 1 1869

Arnold 9- 9.00

July 1 1870

M Graham 3-45 6.60

Jacob Preister 3-44 6.52

Mar 70 Cicero McMullen 2-40 5.20

Jacob Preister 3-42 6.36

M Graham 3,40 6.20

Alonzo Arnold 3,48 6.84

31.72

John Elewan } In the Circuit Court.
St Louis ^{vs} J. M. R. B. Co } Jefferson Co Mo.

Aggregate costs in said cause. \$ 108.35

Lowan
vs
RR Leo

Free Bill

Money.

11 files ³⁰ / 2 cont ³⁰ / 3 motions ⁶⁰ / rule ²⁰ /

Jun ³⁰ / vero ²⁵ / Judgt ³⁰ / Bill Ex ³⁵ / aff ²⁵ / Bond ⁵⁰ / 3 Lias ¹²⁵ / \$8.245

Parker Justice

nov 27 1868 Doc ¹⁰ / Sum ³⁵ / 2 Lias ⁷⁰ / Cont ³⁰ / ~~3 Lias~~ ¹⁰⁰

Jan 15 1869 3 Lias ¹⁰⁰ / non quit ⁵⁰ / +8

11 23

15 Lias ³⁵ / venire ³⁵ / 120 ails ⁶⁰ / 15 Lias ³⁵ / Judgt ⁵⁰ / aff ⁵⁰ / Bond ¹⁰⁰

Trans ^{2.50} /

Boyce J 13 ¹⁰ / missing fee bill ^{1.75} /

1.85

aggregate \$145.72

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7. 35/ 36, 69, 78, 94, 98, 116.
Cont²⁵ Cont²⁵ motion²⁰ -
July⁵⁰ vend³⁵ Ind⁵⁰
motion²⁰ rule²⁰ motion²⁰
Bill Ex³⁵ affd²⁵ Bond⁵⁰

J. Eses Cowan plff.

vs.

In the Circuit Court of
Jefferson County
The St. Louis & Iron Mountain Rail Road Company def^t State of Missouri

Plaintiff states that on the first day of September 1867 he was entitled to the following described real estate situate in the County of Jefferson and State of Missouri to wit: All of United States Survey number two thousand and five (2005) in township 42 north of range 6 east except fifty eight acres on the westmost part of said Survey belonging to one Seeman Forsythe and except 30 acres belonging to the heirs of Wm H Bell deceased situate in the northern part of said Survey and lying east and adjoining the northern part of said land of said Forsythe the said part of the said Survey to the possession of which the plaintiff was and is entitled being bounded on the west by the land of said Forsythe and that of said Bell's heirs on the east by the Mississippi on the north by the northern line or boundary of said Survey and on the south by the southern line of said Survey containing one hundred and sixteen & 1/2 acres more or less. Also the south half of 40 acres of Land situate in the south corner of United States Survey twenty hundred and nine (2009) in the Township and range aforesaid containing twenty acres more or less being bounded on the east by the Mississippi River on the north by a tract of twenty acres belonging to the heirs of Wm H Bell deceased on the south by the southern line of said Survey and being so entitled to the possession thereof that the defendant a corporation created by the laws of the State of Missouri afterwards to wit on the second day of September 1867 entered into such premises and unlawfully with holds from the plaintiff the possession thereof to his damage in the sum of five thousand dollars whereof plaintiff prays judgment for the recovery of said premises and for his damages as aforesaid and for the monthly rents and profits of said premises.

A True Copy of the petition

Attest with seal of Court
John Lewis Clerk

Erving & Holliday

Attys for the plaintiff

Conrad

25

St Louis & Iron M.R.R.

Fee \$1 ²⁵ post