

State of Tennessee

Be it remembered. On November 4th 1886
a notice was filed in the Circuit Court of
Montgomery County, Tennessee which is in words
and figures following to-wit;

Notice

To A L & J E Trice

Take notice

On the 40th day of
November 1886, The Indiana Alabama
& Texas Rail road company will file a
petition in the Circuit Court of Montgomery
County, asking that a right of way over
and through your lands be set apart and
damages ascertained by a jury appointed to
assess same, and lay off right of way
for their rail road.

The Indiana Alabama & Texas Rail road Co

by Luck & Savage Attys

Endorsed. Came to hand same day issued
and executed by reading the within notice
to A L & J E Trice and left copy with J E
Trice.

This Nov^r 4. 1886.

C. W. Statton Shff.

And on November 10th 1886 a

Petition was filed in said Circuit Court which is as follows to-wit:

To the Honble Arthur H. Mansford
Judge of the 10th Judicial Circuit of the State
of Tennessee.

Petition

The Indiana Alabama & Texas
Rail road Company

vs

A L & J E Trice citizens of Montgomery
County Tennessee

Complainant, The Indiana
Alabama & Texas Rail road Company, a corpora-
tion regularly chartered under the laws of the
State of Tennessee and authorized to build
and operate a rail road from Clarksville
Tennessee in a westerly direction to Princeton
in the State of Kentucky, respectfully states
to your Honor, that defendants own a tract
of land in Civil district No 6 Montgomery
Co, and bounded as follows; on the North
by Brown and Wornowether, on the East
by Brown and Cox, on the South by Cox
Johnson and Taylor, and on the West by
Dudley and Wornowether, that it is necessary

to the construction of said rail road to cross said land, and complainant has surveyed a line through defendants' land above described as follows; Beginning in Jos Cox's line fifty feet distant from the Indiana Alabama & Texas rail road center line at right angles, Thence N. $39^{\circ} 50'$ W. and parallel with said rail road's center line to the commencing of a three degree curve to the left. Thence with this curve and parallel with center line of said rail road to the point of tangent. Thence N. 80° W. and parallel with center line of said rail road to Chas Merriweather's line. Thence about South with Merriweather, crossing the rail road to a point fifty feet from its center line at right angles. Thence S. 80° E. and parallel with said rail road's center line to the point of a three degree curve to the right. Thence conforming with this curve and parallel with said rail road's center line to the tangent point. Thence S. $39^{\circ} 50'$ E. and parallel with the center line of said rail road to Jos Cox's line. Thence about East with Cox's

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line crossing said rail road to the beginning
Containing $6\frac{7}{10}$ acres.

It is necessary to the
construction of said rail road that the
right of way as above described be set apart
to complainant, and that the land be
condemned for the purposes of said road,
the above described right of way is a part
of the line surveyed for said rail road.

Principles considered, complainant
prays that the regular process be issued to
make defendants named, the defendants
to this suit. That the clerk of your Honor's
Court appoint five disinterested freeholders
to go upon said land and estimate the dam-
ages that will be done defendants, and that
they lay off a right of way as described
above, and that they report as is required
by law.

Leech & Savage attys.

We are security for costs.

Leech & Savage

Endorsed. Filed Nov 10. 1886 L&D Railway case

Therefore a writ of enquiry was
issued from said court as follows to-wit

Writ of
enquiry

The State of Tennessee

To the sheriff of Montgomery County

Whereas on the 10th day of
November 1886, The Indiana Alabama
and Texas Rail road Company filed its
petition in the Circuit Court of Montgomery
County Tennessee against A L & J E Trice
asking that a certain portion of the lands
of said A L & J E Trice lying in civil
district No 6. of said County shall be decreed
to said rail road company to be used as
its road way, and set apart by notes and
bounds: Notice of the filing said petition
was given to said A L & J E Trice by
said rail road company on Nov^r 24. 1886

Now therefore, as it is provided
by the statutes of the State of Tennessee, You
are hereby directed to summon a jury
who will go upon the said tract of land
and enquire and assess the damages
to said land as the law directs, and to lay
off that part of the same which may be

required for the proposed improvement by
metes and bounds, and to make report thereof
according to law. Witness my hand at
office this 11th day of November 1886.

C. D. Bailey Clerk

Endorsed- Issued Nov^r 11. 1886. C. D. Bailey Clerk
Came to hand when issued and executed by
summoning the jury as herein commanded
and filed their report with the Circuit Court
Clerk. This January 1st 1887

C. W. Statton Shff

On November 19th 1886 the jury
filed their report in said Court which
is as follows to-wit:

Report of
jury

We the undersigned
summoned as a jury by the Sheriff of
Montgomery County Tennessee to assess the damage
to the land of A. L. & J. E. Trice sought to be
condemned by the Indiana Alabama and
Texas Rail road company met on the day
named, 19 November 1886, met on the
premises and after being sworn by the Sheriff
as by law provided, examined the ground
and heard testimony of witnesses and assessed

the damages one hundred and fifty dollars for the portion of land shown by survey hereto appended which is a part of a tract of land in district No 6 of Montgomery County Tenn bounded north by Saml Bonner and Merriweather East by Sam Bonner and Jno Cox, South by Cox and West by J H Bonner, 168³/₄ acre tract. We agree that 6⁷/₁₀ acres taken by the I A & T R R Co through A L & J E Trice's land in district No 6. of Montgomery County has been damaged the amount of one hundred and fifty dollars and is the verdict of the jury.

(Signed) J F Bellamy. D H Chennutt, J H Willoughby. Chas Bonner. H D Marshall.

Endorsed. Filed Nov^r 19. 1886. C D Bailey Clerk

Appeal to Also endorsed. From the above finding of the Circuit Court. jury the Indiana Alabama Texas Railroad Company pray an appeal to the Court, and and demands a jury to try this appeal.

(Signed) Indiana Alabama Texas Railroad Company
by Leech & Savage attys

And defendants A L & J E Trice doth the like.

(Signed) Quachy & Daniel attys.

On November 19th 1886 the said Railroad Company entered into bond ~~and~~ ^{with} security for said appeal as follows to-wit.

Bond for

appeal from
report filed
by plaintiff

W^{he} the Indiana Alabama and Texas Rail road Company and F P Gracey security hereby bind ourselves to A L & J E Trice in the sum of Fiftyne hundred dollars to be void on condition the said Rail road company shall abide and perform the final judgment of the Circuit Court of Montgomery County in matters of appeal from the report of jury of inquest made and filed Nov^r 19th 1886 upon the petition of said rail road company to have land of the said Trices condemned for the use of said company; and to pay such costs as may be awarded in said cause, otherwise to remain in full force and effect.

Nov^r 19. 1886.

The Indiana Alabama & Texas Rail road Company

by Leech & Savage

F P Gracey Security

Approved & filed Nov^r 19. 1886

C D Bailey Clerk

And at a regular term of said Circuit Court held for Montgomery County at the Court House in Clarksville on the first Monday in May A.D. 1887 when being present and presiding the Honble A. H. Mumford Judge &c the following proceedings were had in said cause and entered of record in said Court to-wit:

Continuance

This cause is continued to the next term of this Court upon the application of plaintiff, And by consent of parties the Court ordered that this cause be set for trial on the first Thursday after the first Monday in September 1887

Order fixing trial.

And at a regular term of said Court held for said County at the Court House in Clarksville on the first Monday in September A.D. 1887 when being present and presiding the Honble A. H. Mumford Judge &c the following proceedings were had and entered of record in said Court (in said cause) to-wit; Entry on Minutes September 6th 1887.

This day came the parties by attorneys and thereupon came a proof of good and lawful men citizens of

Jury

Montgomery County to-wit, J P Daley J M Ligon
J N Burney, Thos Oual, S C Batson, George
Smith, L F Moore, G Smith, Wm Powell, M
A Williams, W L Lewis and W F McBride
who being duly elected tried and sworn
well and truly to assess defendants damages
in this cause took their seats in the jury box,
and it appearing to the court that there is
not time to finish the trial of this cause today

Continuance

by consent of parties the further trial thereof
is continued until tomorrow morning at

Order

half past eight o'clock, and the court ordered
that the jury be permitted to disperse until
that hour.

Entry on Minutes September 27th 1887.

This day came again

Motion &
judgment.

the parties by attorneys, and plaintiffs' attorney
moved the court to strike the appeal bond
filed by defendant from the files, which motion
was overruled by the court. Thereupon again
came the jury heretofore empanelled in this
cause to-wit, J P Daley J N Burney, J M
Ligon, Thos Oual, S C Batson, George Smith,

Verdict

L F Moon, G Smith, Wm Powell, M A Williams
 W L Lewis and W F McBride who upon their
 oaths do say they assess the defendants' damage
 at Seven hundred and seventy five dollars
 as follows, for the value of the land taken
 Two hundred and fifty dollars and for in-
 cidental damages Five hundred and twenty
 five dollars.

Judgment

Wherefore it is considered
 by the court that the defendants A L & J E
 have recovered of the plaintiff and F O Gray
 surety on the appeal bond the said sum of
 Seven hundred and seventy five dollars, and
 also the costs in this behalf expended and
 that execution issue.

The appeal bond filed by defendant
 is in words and figures following to-wit

Bond filed
 by defendant.

We acknowledge ourselves bound and
 indebted to the Indiana Alabama & Texas
 rail road company in the sum of Two
 hundred and fifty dollars to be void on
 condition that A L & J E true who this day
 in the Circuit Court of Montgomery County
 Tennessee commenced their action against

the said Rail road company by appeal from the report of the jury of inquest made and filed in said court in the case of the I. & N. W. RR Co vs A L & J E Trice shall prosecute said appeal with effect or pay such costs and damages as may be awarded against them by said court. And also to pay said costs on failure of defendant if convicted

Given under our hands this 6 day of September 1887

Signed W B Dunlap

Entered - Filed Sept 26. 1887. C. D. Bailey Clerk

Entry on Minutes Sept 24th 1887

Motion for new trial & in arrest

This day came the parties by attorneys, and plaintiffs attorneys moved the court to grant a new trial in this cause, which motion was overruled by the court. The plaintiffs' attorney moved the court in arrest of judgment, which motion was also overruled by the court to all of which action of the court plaintiff excepts.

Entry on minutes September 26. 1887

This cause came on to

Decree vesting title be heard on this 26th day of September 1887 before the Hon. A. H. Mumford Judge, and it appearing to the court that the judgment rendered by this court in this cause on September 7th 1887 in favor of A. L. & E. Trice against the Indiana Alabama & Texas Railroad Company for the sum of \$775⁰⁰/₁₀₀ and costs suit, was damages assessed by the jury as due to the said A. L. & E. Trice by reason of said Railroad Company having located and constructed its rail road over and upon the lands of said A. L. & E. Trice lying in civil district No. 12 of Montgomery County Tennessee, and that the lands so appropriated by said rail road company are bettered and bounded as follows to-wit, Beginning at John Cox's line fifty feet from the Indiana Alabama & Texas rail road center line at right angles, thence N. 39° 50' W. and parallel with said rail road's center line to the commencing of a three degree curve to the left, thence with this curve and parallel with center line of said rail road to the point of tangent, thence N. 80° W. and parallel with center

line of said rail road to Chas Merrimethers line, thence about South with Merrimethers, crossing the rail road to a point fifty feet from its center line at right angles. Thence S 86° E, and parallel with said rail roads center line to the point of a three degree curve to the right. Thence conforming to this curve and parallel with said rail roads center line to the tangent point. Thence S $39^{\circ} 00'$ E and parallel with the center line of said rail road to Jno Cox's line. Thence about East with Cox's line crossing said rail road to the beginning containing $6\frac{7}{10}$ acres.

Upon motion of Plaintiffs attorney it is adjudged and decreed by the court, that upon the satisfaction of the aforesaid judgment for seven hundred and seventy five dollars and costs of suit, the title to said six and seven tenth acres of land be, and it is hereby divested out of ~~all~~ the said A L & E Trice and is vested in the said Indiana Alabama and Texas Rail road company

Entry on Minutes September 28, 1887

Motions

Overruled

Order

Appeal

This day came the parties by attorneys and the plaintiff moved the Court to grant a new trial and in arrest of judgment in this cause, which motions were overruled by the Court. The plaintiff excepted to all the action of the Court in this cause and tendered its bill of exceptions which was signed by the Court and ordered to be made a part of the record. The ~~defendant~~ Plaintiff prayed an appeal to the next term of the Supreme Court of Tennessee to be held at Nashville and having entered into bond with F P Granger as security the appeal is granted.

The Appeal bond filed by Plaintiff is as follows to-wit:

Appeal

bond

We the Indians Alabama and Texas Railroad Company and F P Granger acknowledge ourselves indebted to F L & E E Trice in the sum of Sixteen hundred dollars, to be void if the said rail road company shall prosecute with effect an appeal in the nature of a writ ~~of error~~ of error to the next term of the Supreme Court of Tennessee

at Nashville, by it prayed from a judgment rendered against it in favor of the said L & J E Trice in the Circuit Court for Montgomery County, on the 7th day of September 1887 for the sum of seven hundred and twenty five dollars and costs of suit; or, if it fails so to do, shall pay and satisfy said debt and damages and costs and shall also satisfy the judgment of the Supreme Court in the premises. Given under our hands this 28th day of September 1887.

(Signed) ~~The~~ Indiana Alabama & Texas RR Co

by Leech & Savage attys
F D Grassy

The bill of exceptions filed by plaintiff is in words and figures following to-wit:

Testimony of
J E Trice

J E Trice witness for Trice & Trice said
I am a party to this suit,
I am claiming damage for rail road running over my land. The distance the road runs on my land is about 900 yards. The quantity of land actually taken is a fraction less than 7 acres. The road does not run

straight on the land but runs as indicated
 from South West to North east corner. There
 are four cuts and three fills on my land,
 the cuts range from 7 to 19 feet in depth,
 the best of my tillable land ~~is~~ run over
 and cut off from the improvements, so
 is the pond that furnishes water for my
 stock, the part across the road from im-
 provements is about 65 acres. The company
 has put a pipe or culvert under one of the
 embankments on the road, that changes the
 current or flow of water from the original
 direction so that it runs into my yard
 and I have built a dam to turn it away.
 There are two improvements on the place, I
 occupy one, my brother the other. There
 are three points at which I can cross
 the road on grade line going over my
 farm, formerly when cultivating the land
 or moving crops, I could travel any di-
 rection over my place, now of course I
 cannot, to reach my barn I have a much
 longer distance to go as I do in going to
 and from my work, in some places instead

of cultivating straight along I have to cultivate in short rows, the cultivation is more laborious and expensive. I live near Chung's station on the L & N RR, there is a switch I understand to be temporary on the North end of my land, but I have ~~have~~ to go a long way around to get to it, and again freight from this place to Clarksville is greater than I can have it hauled on wagons. The damage to the place considering the quantity of land taken the manner of cutting it through the place is at least \$1000⁰⁰/₁₀₀. I think the land taken worth that amount, taken in the manner it is taken out of the farm, to say nothing of incidental damage, I can't see any benefit I am to derive from the location of the road, I raise corn, wheat, tobacco &c and raise stock, to protect stock from the trains the road should be fenced. The land is my homestead and all I have, and I never wanted to sell at all, It is worth twenty five dollars per acre.

Cross examined

I don't know

whether I will fence the road or not, I don't know whether the station will be permanent, I don't know what the freight or passenger charges will be from that point. To turn the water out of my yard cost me about two dollars.

Testimony of
A L Price

A L Price next witness testified

I live upon the land over which the road passes, damage to which is sought in this case. There are two improvements on it, my brother lives in one; there is in the tract 168 acres. The road enters the place near the corner on the south side, runs in a curve across it and leaves it on the north side a distance above 900 yards. The quantity actually taken is about 7 acres, I think a fraction less, I think the land taken from the place in the shape and place where this is taken worth \$1000⁰⁰/₁₀₀. On the farm there are four cuts ranging from

about 7 to 24 ft in depth, and 3 fills, giving the farm an unsightly appearance and making it much more inconvenient to get to and from work in cultivating it, and it cuts off from the improvements the best part of the tillable land. The hauling and saving crops will be more expensive, because of the increased distance of haul. There are but three places to cross the road on the place. The pond which has been used for stock has been cut off from the improvements. I can't see any incidental damages to be obtained from the road. The fencing will be greater than before. Indeed it will necessary to fence the line of road to protect stock. In crossing the place the road crossed 7 fences. I think the damage fully the amount stated. The tract of land is worth I think, about \$25.00 per acre

Cross examined

I don't know whether we will fence the road or not. There is a spring on the side of the track next to house, A part

of the land run over by road is this land.
The line of road 2800 feet long. We paid
ten dollars per acre for the land in 1871.

Testimony of
H Marshall

Horace Marshall witness for de
fendants Trice & Trice said.

I am well
acquainted with the land of Trice and
Trice. was one of the commissioners who
valued land. This valuation was a com-
promise, amount we allowed was \$750⁰⁰
Land taken by R R is about 7 acres and is
taken out in the form of a half circle al-
most, and runs through land about 900 or
1000 yards, I think there are four cuts and
three fills on the land. Cuts are, some, nearly
20 feet deep and others not so deep, fills
about the same height. Land across R R
from house I would estimate at 65 or 70 acres.
This is in my opinion the best land. That
on the north being better than the land further
towards the lower side on the right hand side.
The R R also cuts off the pond for stock water
and runs through pasture. R R cannot be

crossed except at grade lines on account of steepness of hills and cuts. This would be to me, I think to any one, a great inconvenience in farming, cultivating and moving crops, raising crops. R R makes it inconvenient to do these things. It is the only obstruction to travelling on the land R R cuts in two the best field. Can see no advantage the R R would be to Trices. Would be a great inconvenience to me. Damage to place considering amount of land taken out in the way and in the shape it is taken I put at \$800⁰⁰ or \$900⁰⁰ at least, and in this estimate I do not include incidental damages. Land is fair average land for the locality, and is good for corn, wheat, tobacco and stock raising. For protecting stock I think it best to fence R R.

Testimony of
W B Dunlap

W B Dunlap witness for Trices said
I live in district No 6 of this county, am a farmer and stock raiser. Have a large farm which is divided by the R R. I have

him on Trice's farm since R R ran through it. R R runs through in a half moon shape about 900 yards and I think cuts off about 60 or 70 acres of land ~~from~~ on the side from the house, this is also the best land in the piece, part of it is excellent land and part is not so good. The part towards the north gate is the best, it is new ground, Land good for general farming purposes raising corn, tobacco, wheat and stock. I find it necessary to fence R R to protect stock from getting killed by R R, and always fence with a good fence, in my neighborhood we all fence, Land taken is about 75 acres, maybe not so much, and taken as it is in the shape and manner it is, I value it exclusive of incidental damage to rest of land at \$1000.00. Think road runs through pasture and crosses public road there and cuts off water pond.

In farming operations having to drive to crossing to cross rail road and back around to house is a great inconvenience and waste of time and labor. Crossings are

he had only at grade line between fills and cuts. Cuts are 3. and fills 4 in number. I think cuts 15 or 20 feet deep, and fills in proportion. land is worth \$25 or \$30 per acre

Testimony of
Jno Willoughby

Jno Willoughby witness for Trice said.

I was one of the commissioners who valued the land. To settle it we put it at \$750⁰⁰, but I think it was worth more than that. R R runs through ^{land} from S.W. corner to or near N.E. corner, not straight, but in a considerable curve - takes up nearly 7 acres of land - about 900 yards long - makes 3 cuts and fills - One cut, I think, is 23 feet deep, others not so deep and fills proportionally high - land fair average land. parts of it better than others - some new ground on both sides, this is the best - R R cuts off about 70 acres from house side, this the best farm land, it also cuts off pond for stock water and runs through pasture - have been on land since R R ran through it - it can be crossed with teams or vehicles only at grade lines - a great

inconvenience in farming to be compelled to go around as Mr. Trice has to do in carrying on his farming operations, dangerous to stock, for protection of which it is safest to fence R.R. I saw pipe in culvert under fill, that pours the water in such a shape that it overflows yard. There are only three points at which crossings can be made ~~conveniently~~ conveniently and they are so far out of the way as to be very inconvenient and thus make it much farther to go around. Land for cultivation is good for wheat, corn and tobacco and general productions of the locality and all is good for stock. Land taken in the shape and manner that it is, is worth more than the report of jury shows, \$750⁰⁰, this was a compromise, I think I know the value of lands up there, I ought to know it.

Testimony of
C. H. Peterson

C. H. Peterson witness for Trice said

I was not one of the jury of view to put price on land and assess damages. \$750⁰⁰ was the assessment

made. I think this is too small by a good deal. I would not take this money for the land condemned by the R R, but to avoid a lawsuit I would, and this is what I told Mr Savage an attorney for R R. Land is fair average land. Some parts better than others. R R runs through best field and ~~pasture~~ pasture, and cuts off stock water pond - there are several fills and cuts, don't remember exactly how many, but think there are three or four of each, they are good size, some 19 or 20 feet deep, R R can be crossed only at three places and then at grade lines when it is necessary to go a long way around to get from field to house and back to barn. This would be to me a great inconvenience and also dangerous in tending crops and crossing back and forth. I can see no advantage R R is to give. Land is taken out in a strip width of right of way and in a half circle shape almost, about 900 or 1000 yards long, taking nearly 7 acres lacking a small fraction of 7 acres. This

land taken in this shape manner and
 from I value at \$800⁰⁰ not including
 incidental damages. This is Trices' home-
 stead, and I think the only land he has.
 Land is good for stock, corn, wheat and
 tobacco, for protecting stock and keeping
 them from being injured or killed by R R,
 I consider it necessary to fence on sides
 of R R. Suppose the tract of land is
 worth \$25⁰⁰ per acre, In estimating
 damages I take into consideration danger
 to stock, in convenience and expense of
 fencing the road.

Testimony of
 Burns Peterson

Burns Peterson

Knows the land
 well, have been on it frequently before
 and after the building of road. Don't
 think the road any advantage to Trices,
 Would say the land taken, considering
 quantity shape and location worth \$450⁰⁰

Testimony of
 Chas Bonine

Charles Bonine

I was one of jury

of view. I think the damage to Trices for the land taken in shape and location it is amounts to \$450⁰⁰. It would cost \$180⁰⁰ to fence the road.

Testimony of

C. W. Richardson

C. W. Richardson

I am the division engineer of the I A & P R R, know the land in controversy, it is poor thin land generally. The survey crossed several fences, takes in all 6 7/8 acres. I made crossings whenever they asked me to, and told them (Trices) that I would put in all necessary cattle guards. The drain pipe in the little ravine they mention, is right where the water usually flows at the bottom of the ravine, and carries the water under the road bed into its natural channel on the opposite side. The land is worth not exceeding \$25⁰⁰ per acre, The road was built through this land in 1886 and runs 2800 feet on land.

Testimony of

C. T. Merrimath

C. T. Merrimath

I know the land in controversy,

own land adjoining it. It is thin land and not worth more than \$20⁰⁰ per acre. The road cuts off ^{none} ~~some~~ of Trice's improvements except one small pond. He has water on either side of the road, the pond referred to and a spring near his house. The land through which the road runs, except one small field is thin poor land. To pay Trice for the value of the land taken as it is, and the incidental damage resulting, I think \$75⁰⁰ per acre entirely sufficient, full compensation. I would be willing to settle at that price if it run through my land as it does through Trice's. There is a station on this land, within four hundred yards of Trice's house which will be an advantage to him.

Testimony of
J W Pellard

J W Pellard -

I know the land in dispute. It is thin land, I think \$550⁰⁰ would be ample consideration for the value of the land taken as it is, and for all damage to the remainder and the owner. I don't think

it will be necessary to fence the road on either side.

Testimony of
H. Whitfield

Henry Whitfield

I am acquainted with the land, know how the road runs, and think \$450⁰⁰ would be full compensation for the value of the land taken and all damage

Tax books.

When the tax books were introduced, the books for 1884, 1886 and 1887. In 1884 I set value his land for taxation at \$1175⁰⁰ in 1885 at \$1200⁰⁰ and in 1887 at \$1175⁰⁰. I am excepted to the introduction of tax books.

After the jury were empaneled and the witnesses put under the rule, the attorneys for A. L. & J. C. Trice stated that as there was some question as to which side had the opening and conclusion of the case, that they claimed the right to open and close the case, and that the attorneys for the Railroad claimed they were entitled to the opening and closing the case, that they were the plaintiffs.

Trices were given the opening and closing both of proof and argument, and the RR excepted.

A L and J E Trice when they were on the witness stand said, they did not know whether they would fence the road or not, that they would have to fence about 50 yards to remake their woods lot but did not know whether they would fence on one or both sides of the road all the way over their land. The court permitted over the objection of the Rail road subsequent witnesses for Trice to prove what it would be worth to fence the rail road on both sides, to which the I & N RR excepted.

This was all the testimony in the case

(Signed) A H Mumford Judge

Bill of Cost on following page

Bill of Cost

State Tax ^{2.50} County Tax ^{2.50} Rail road Tax ^{2.50} \$7.50

Clerk Filing petition 25. Docket 20. 3 Prosecution bonds 75. \$1.20

Writ 75. 2 Continuances 50. Order trial 25. Jury 10. 1.60

Order executions 25. 3 motions & orders 75. Judgment 75. 1.75

Deem for title 40. 23 subpoenas 2.30 21 Probate 1.05 3.75

Appraisal bond 75. Transcript 6.22 Seal 50. 7.45

Bill of cost on docket 50 \$16.25

Shff C W Staten Jury 15. Summoning 5 Commissioners 1.25 1.40

Executing notice 50. Executing 11 subpoenas 27.5 3.25 4.65

" J T Bellamy executing 1 do 25

" L W Bowling do 6 do 1.50

" C M Lorne do 3 do 75

" J F Rossow do 1 do 25

Witness C A Petersen 5 days 4 calls \$5.40 D H Chesnut 3 days 2 calls \$3.20 8.60

" J B Petersen 5 " 4 " \$5.40 A J Jones 3 " 2 " \$3.20 8.60

" C W Staten 3 " 2 " \$3.20 C M Lorne 4 " 4 " \$4.40 7.60

" J W Ballard 4 " 4 " \$4.40 C A Munnath 4 " 4 " \$4.40 8.80

" J F Bellamy 3 " 2 " \$3.20 H D Marshall 2 " 4 " \$2.40 5.60

" E B Ross 3 " 2 " \$3.20 J W Turner 3 " 4 " \$3.40 6.60

\$76.95

State of Tennessee

Montgomery County 3 I L O Bailey Clerk

of the Circuit Court of Montgomery County
do certify the foregoing to be a true and
perfect transcript of the record and the bill
of cost in the case of

The Indiana Alabama Texas Railroad Company

vs

A L & J E Trice

as the same appears in
my office.

Witness my hand and
official seal this Nov^r 4. 1884

C. D. Bailey Clerk

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	Peterson C H	25	Willoughby Jno	24
	Peterson Burns	27	Whitfield H	30.
	Pollard J W	29.		
	Richardson C W	28		

Verdict	11.
Writ of enquiry	5.

in
-l
usual
Filed Nov 4/87
N. Batten Clerk

Leech & Savage Attys for the Indiana Alabama
Texas Railroad Company

Dunbar & Daniel Attys for A L & J E Price

The Indiana Alabama & Texas R.R. Co
vs
A. L. and J. E. Fries

It is insisted by appellant that
the court erred in this case
by allowing the defendants, A.
L. and J. E. Fries the opening and
closing of the evidence and
argument in the trial of the
case before the jury in the
Circuit Court.

See Record pages 30, and 31.

Appellant filed a petition
in the Montgomery County
Circuit Court, which petition
was the commencement of this
action - Record page 2.

A writ of inquiry directed to the
sheriff was issued as provided by
law. Record page 6.

The jury appointed reported, and
from their report the Indiana
Alabama and Texas Rail-road
appealed to the court, and deman-
ded a jury to try the cause,
see Record 6 and 7.

Filed Dec 9/87

H. Parker Clk

On November 19th 1886, The jury ^{to} assess damages and set apart the land necessary for Appellants Railroad, made their report, which report was filed; see record page 6.

- On the 6th day of September 1887, two times of Court having intervened, and during the ^{third} time after the jury of view reported, A L and J E Fice filed their appeal bond and prayed an appeal to the Court, and demanded a jury; record pages 11 and 12,

- On the 7th day of September 1887 Appellants attorneys moved the Court to strike the appeal bond of defendants from the file, which the Court declined to do; see record page page 10.

The jury of view awarded the sum of \$750⁰⁰ as damage, record page 7. — And the judgment of the Circuit Court is for \$775⁰⁰, see record page 11.

A L. and J 2 Trice were the first witnesses ~~of~~ introduced, and they said they did not know whether they would fence the road or not, Record page 19 and 20. Cross examinations of A L and J 2 Trice.

The court afterwards permitted witnesses in fixing the damage to estimate cost of building fence; Marshal testimony, record page 22. Chas Bessmer page of record 28.

~~Appellants~~
~~Defendants~~ excepted to this, record page 31.

It is therefore insisted, that the court erred.

1st In giving to A L & J 2 Trice the opening and closing of argument and testimony

2nd The record shows that the R R filed the petition, appeal from the award of the jury, filed bond in proper time, and not until after the case was called for trial before the jury in the Circuit Court did

The Trice file then appeal bond,
and therefore the court erred
in this,

3rd That, The jury of view assessed
the damage at \$750⁰⁰ and the
defendants (Trice), not being
properly before the court by
appeal taken and perfected in
proper time the court erred
in permitting a judgment for
a greater sum than the
amount of the jury of view.

4th The court should not have
allowed witnesses to testify to
any amount of damage, such
as fencing, not claimed by
Trice.

Leed & Troop

Sols for appeal

Indiana Alabama
or Texas RR

as } Exceptions.
of
I a o r R R

A L o r E. Train