

Counsel for Plaintiff in Error.

MISSOURI *ex rel.* THE QUINCY, MISSOURI AND  
PACIFIC RAILROAD COMPANY *v.* HARRIS.

ERROR TO THE SUPREME COURT OF THE STATE OF MISSOURI.

No. 256. Argued March 29, 1892.—Decided April 4, 1892.

No Federal question is involved when the Supreme Court of a State decides that a municipal corporation within the State had not power, under the constitution and laws of the State, to make the contract sued on.

MANDAMUS, to compel the performance of an alleged subscription by Sullivan County, Missouri, to stock of a railroad company. The defence was that no valid subscription had been made under the constitution and laws of Missouri. The Supreme Court of the State, in rendering the judgment to which this writ of error was sued out, said, in its opinion:

“The power of the county court to subscribe to the stock of a railroad company was made by the constitution of 1865 and Gen. Stat., 1865, p. 338, § 17, to depend upon the fact that two-thirds of the qualified voters of the county at a regular or special election held therein should assent thereto. . . . Taking in this case the admission that the registration books offered in evidence contained the names of 1940 persons as qualified to vote in said county at said election, it is evident that two-thirds of the qualified voters of the county of Sullivan did not assent to said subscription, as only 1049 of said voters voted in favor of the subscription. Besides this, while there was evidence tending to show that the railroad company had complied with the conditions of the subscription, there was also evidence to show that it had not complied, and the trial court might on this ground have well denied the relief asked. The judgment, for the reasons given, is hereby affirmed.”

*Mr. John P. Butler* for plaintiff in error.

Syllabus.

*Mr. A. W. Mullins* for defendants in error. *Mr. D. M. Wilson* was with him on the brief.

THE CHIEF JUSTICE: The writ of error is dismissed because no Federal question is involved, upon the authority, among other cases, of *Railroad Co. v. Rock*, 4 Wall. 177, 181; *Lehigh Water Co. v. Easton*, 121 U. S. 388; *N. O. Water Works Co. v. Louisiana Sugar Refining Co.*, 125 U. S. 18, 30; and *Railroad Co. v. Todd County*, 142 U. S. 282.

*Writ of error dismissed.*

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GLASPELL *v.* NORTHERN PACIFIC RAILROAD  
COMPANY.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE  
DISTRICT OF NORTH DAKOTA.

No. 1330. Submitted March 14, 1892. — Decided April 4, 1892.

Upon the trial of this case in the District Court in Dakota, a verdict was returned, November 24, 1888, in favor of plaintiff for \$12,545.43, and judgment was rendered accordingly November 26, 1888. On November 28, 1888, the court made an order by consent extending the time for serving notice of intention to move for a new trial, for motion for new trial, and for settlement of a bill of exceptions until January 28, 1889, which time was subsequently extended by order of court for reason given, to February 28, and thence again "for cause" to March 28, 1889, upon which day the following order was entered: "The defendant having served upon plaintiff a proposed bill of exceptions herein, the time for settlement of same is hereby extended from March 28, 1889, to April 10, 1889, and the time within which to serve notice of the intention to move for new trial, and within which to move for new trial, is hereby extended to April 13th, 1889." The time was again extended to May 31, 1889, and on the 23d day of that month the following order was entered: "The date for settling the bill of exceptions proposed by the defendant herein is hereby extended to June 29, 1889. Defendant may have until ten days after the settling of said bill within which to serve notice of intention to move for a new trial, and within which to move for a new trial in said action." This was the last order of extension. On December 14, 1889, there was filed in the office of the clerk of the District Court a notice of motion for new trial, which was as follows: "Take notice that the motion for a new trial herein will be brought on for argu-