

L. R., M. R. & T. R'y Co. v. SHELTON & WELLS.

APPEAL from *Bradley* Circuit Court.
Hon. T. F. SORRELLS, Circuit Judge.

This was an action for damages for obstructing the passage from a street to the plaintiffs' livery stable abutting on the street, by excavating in front of it in making a grade for the railroad.

J. M. Moore, for Appellant.
McCain & Crawford and *B. C. Brown*, contra.

COCKRILL, C. J. This case is controlled by the decision in *Hot Springs Railway v. Williamson*, *ante*. No distinction can be drawn, for the purpose of maintaining the action, between obstructing the access to premises by the erection of an embankment in the street, as in that case, and by making a cut next to the plaintiff's premises, as in this. *Caledonia R'y v. Walker's trustees*, 35 *Moak*, 177, and cases collected in the note.

Affirm.