

12502


No. _____

Supreme Court of Illinois

Brown.

vs.

Paine.

71641  7

Smith A Brown
vs
E A Paine

The Bill of exceptions in this case at page 16 states that the defendant below prayed that the original deed from Raymond Williams to Oliver Williams dated May 1. 1854 might be sent up to the Supreme court for inspection

The Abstract at page 1 states that the said deed & the acknowledgment thereof was objected to because of interlineations & erasures therein & other reasons & that the original deed was by agreement to be produced & used in the Supreme court on the trial of this case

Now Submit the deed herewith & move that it may be inspected & considered as part of the record

Williams atty for plaintiff
Sept

76

Brown
vs

Paine

Motion

right
Motions
in the
court
of
the
Commons
in
the
year
1791
by
John
Paine
Esq
of
the
Middle
Temple
Esq
Attorney
at
Law
for
the
said
Brown
vs
Paine

Abstract

Smith A Brown, Plff in Error
vs
Eliaser A Paine Deft in Error

In the Supreme Court
June Term A.D. 1857.

Appeal from Warren Co

This was an action of Ejectment brought
by defendant in Error in the Warren
Circuit Court for the recovery of the
NW 32. 10 N 3 W. in Warren Co.

The case was tried before
John S Thompson Judge at the Sept
Term A.D. 1856, & a verdict & judg-
ment rendered for the plaintiff

defendant plead the General issue

On the Trial the possession of the defendant
was admitted

The plaintiff then introduced a
Patent from the United to Raymond Williams
dated April 3, 1854, in the usual form,
on which Patent was the following endorse-
ment

" General Land Office April 3, 1854

" The within Patent has issued in favor
" of the said Raymond Williams for the
NW 1/4 32. Township 10 North, Range 3
West in lieu of the NW 1/4 same Township

" and Range, which had been previously
 " patented and wrongously issued to
 " said Williams Dec 12, 1818 and on
 " Satisfactory evidence that the said
 " North West Quarter was originally do-
 " nated to him John Wilcox
 " Comptroller "

2 A Deed from Raymond Williams & wife to Oliver Williams dated May 1st 1854, which said Deed and the acknowledgment thereto was objected to because of ~~in~~ interlineations & erasures therein & other reasons, and by agreement, the original Deed is to be produced & used in the Supreme Court on the trial of this case

3 My next offered a Deed from Oliver Williams to the Plaintiff E A Paine dated 20th Dec 1854 & duly acknowledged.

4, The Plaintiff next offered in evidence ~~the follow~~ a Copy of the Monmouth Atlas a News Paper published at Monmouth in said County of Warren

dated Jan'y 13, 1854 containing the following Notice

Notice

" Is hereby given by the subscriber that
 " his Patent for services as a private in
 " Capt Grosvenors Company of the 20th
 " Regiment of Infantry War of 1812. for
 " the North East Quarter of Section 32, in
 " Township 10 North Range 3 West issued
 " in error and has been lost or destroyed
 " and that at or after the period of
 " six weeks from this date he will apply
 " to the General Land Office for the
 " purpose of having a New Patent issued
 " ed in his favor for the NW 1/4 of
 " Sec 32 Township 10 North Range 3 West
 " which was originally selected & drawn
 " in his name. Dated Dec 21, 1853

Raymond Williams "

which notice defendant admitted had been published 7 successive weeks the first dated Dec 21, 1853. To the introduction of all which in evidence & to each & every portion thereof the defendant on the trial of said cause objected, but the objections were overruled & Deft then & there accepted

This was all the evidence offered by the Plaintiff below

The defendant then offered in evidence
a judgment of the Circuit Court of
Warren, ^{County} at the May Term A.D. 1849 as
follows

Here copy the entire judgment
+ returns (21st page to 25th)

Also the collector's Report (25th & 26th p.)

Here copy entire Report

Also a Precept dated May 15, 1849

Here copy Precept entire
(27th to 30th + 31st incl)

Also the return of the officer

Here copy Return
(31st p.)

The Plaintiff below then admitted that
defendant was in possession of the premises
claiming under said Erastus Rise

Also an affidavit & notice sworn
to July 24, 1853

Here copy affidavit p 32

Also the notice referred to

Here copy notice p 33

Also a deed dated 24th July 1853
from the Sheriff of Warren Co to
Erastus Rise conveying the aforesaid
premises, which is in the usual
form of a tax deed & duly well
recognized, ^{which is as follows, to wit:} Here Copy Deed # 33,343 & 36 w

*

To all this evidence offered
by the defendant in the Court below
the Plaintiff there objected & the same
was excluded, to which the said
defendant there & there excepted
Judgt was rendered for Plaintiff
below & defendant appealed to this
Court

Am Read Attorney
for P^{ty} in Error

Smith A. Brown
vs
Eleazar A. Paine
Abstract

STATE OF ILLINOIS, SUPREME COURT,

TERM, A. D. 1857.

Appeal from Warren County.

SMITH A. BROWN, Plaintiff in Error, *vs.* ELEAZER A. PAINE,
Defendant in Error.

ABSTRACT OF THE RECORD.

THIS was an action of Ejectment, brought by defendant in error, in the Warren Circuit Court, for the recovery of the N. W. 32, 10 N. 3 W. in Warren county.

The case was tried before John S. Thompson, Judge, at the September Term, A. D. 1856, and a verdict and judgment rendered for the plaintiff. Defendant plead the general issue.

On the trial, the possession of the defendant was admitted.

The plaintiff then introduced a patent from the United States to Raymond Williams, dated April 3, 1854, in the usual form, on which patent was the following endorsement:

“GENERAL LAND OFFICE, April 3, 1854.

“The within patent has issued in favor of the said Raymond Williams, for the N. W. 1-4 32, township 10 north, range 3 west, in lieu of the N. E. 1-4, same township and range, which had been previously patented and erroneously issued to said Williams, Dec. 12, 1818, and on satisfactory evidence that the said North West Quarter was originally donated to him.

JOHN WILSON,

“Commissioner.”

2. A deed from Raymond Williams and wife to Oliver Williams, dated May 1st, 1854; which said deed, and the acknowledgment thereto, was objected to because of interlineations and erasures therein and other reasons; and, by agreement, the original deed is to be produced and used in the Supreme Court on the trial of this case.

3. Plaintiff next offered a deed from Oliver Williams to the plaintiff, E. A. Paine, dated 20th Dec., 1854, and duly acknowledged.

4. The plaintiff next offered in evidence a copy of the Monmouth *Atlas*, a newspaper published at Monmouth, in said county of Warren, dated January 13, 1854, containing the following notice:

“Notice

“Is hereby given by the subscriber, that his patent for services as a private in Capt. Grosvenor's company of the 20th regiment of infantry, war of 1812, for the North-East Quarter of Section 32, in Township 10 North, Range 3 West, issued in error, and has been lost or destroyed; and that, at or after the period of six weeks from this date, he will apply to the General Land Office for the purpose of having a new patent issued in his favor for the N. W. 1-4 of Sec. 32, Township 10 North, Range 3 West, which was originally selected and drawn in his name. Dated Dec. 21, 1853.

RAYMOND WILLIAMS.”

Which notice defendant admitted had been published seven successive weeks, the first dated Dec. 21, 1853. To the introduction of all which, in evidence, and to each and every portion thereof; the defendant, on the trial of said cause, objected; but the objections were overruled, and defendant then and there excepted.

This was all the evidence offered by the plaintiff below.

The defendant then offered in evidence a judgment of the Circuit Court of Warren county, at the May Term, A. D. 1849, as follows:

STATE OF ILLINOIS, }
Warren County, } ss. Pleas before the Honorable William A. Winshall, Judge of the fifth Judicial Circuit of the State of Illinois: At a Circuit Court began and held in Monmouth, Warren County, Illinois, on the first Monday in the month of May, (being the 7th day of said month,) A. D. 1849.

PRESENT the Honorable WILLIAM A. WINSHALL, Judge, &c.
 " ROBERT S. BLACKWELL, State's Att'y.
 " WYATT B. STAFF, Clerk.
 " JOHN BROWN, Sheriff.

Heretofore, to wit: On the second day of May, A. D. 1849, John Brown, Sheriff and *ex-officio* Collector in and for the county of Warren and State of Illinois, filed in the Clerk's office of the Warren Circuit Court a newspaper entitled the *Monmouth Atlas*, dated Friday, March twenty-third, 1849, containing the printed published list of Lands, Town Lots, and other real estate, situated in the county of Warren and State of Illinois, which taxes remain due and unpaid for the year A. D. 1848.

"A list of land and other real estate, situated in the county of Warren and State of Illinois, on which taxes remain due and unpaid for the year herein set forth:

Name of present Owner.	In whose name Patented.	Cost.	Am't of Tax.	Years' tax due.	Valuation.	No. acres.	Description.	County.
Unknown,	John Welch,	55	5.86	1848,	480	160	S W 31, 10 N, 3 W.	Warren.
"	John Lescoll,	"	5.86	"	480	160	S E 31, " " "	"
"	James McLean, . . .	"	5.86	"	480	160	N W 32, " " "	"
"	Wm. Bick,	"	4.18	"	480	160	S W 34, " " "	"
"	Daniel McNeil, . . .	"	4.18	"	480	160	S E 35, " " "	"

STATE OF ILLINOIS, }
Warren County, } ss. I, John Brown, Esq., Sheriff and *ex-officio* Collector in and for the county of Warren and State aforesaid, hereby certify, that the foregoing is a true copy of the List of Lands and Town Lots on which taxes remain due and unpaid for the year and years therein set forth, with the valuation, tax, and cost annexed, and to satisfy which I have been unable to find personal property to pay the same; I further state that those lands and town lots have been advertised as the law directs.

Given under my hand at Monmouth, this second day of May, A. D. 1849.

(Signed,)

JOHN BROWN,

Sheriff and ex-officio Collector of Warren County, Illinois.

STATE OF ILLINOIS, }
Warren County, } sct. WHEREAS, John Brown, Collector of said county, returned to the Circuit Court of said county, on the second day of May, A. D. 1849, the following tracts and parts of tracts of land as having been assessed for taxes by the assessor of said county of Warren, for the year

1848, and that the taxes thereon remain due and unpaid on the day of the date of the said Collector's return; and that the respective owner or owners have no goods and chattels within his county on which the said Collector can levy for the taxes, interest, and costs due and unpaid on the following described lands, to wit. *And whereas*, due notice has been given of the intended application for a judgment against said lands, and no owner hath appeared to make defence or show cause why judgment should not be entered against the said lands for the taxes, interest, and costs due and unpaid thereon, for the year or years herein set forth:

Therefore, it is considered by the Court, that judgment be, and is hereby, entered against the aforesaid tract or tracts of land or parts of tracts, in the name of the State of Illinois, for the sum annexed to each tract or parcel of land, being the amount of taxes, interest, and costs due thereon; and it is ordered by the Court that the said several tracts of land, or so much thereof as shall be sufficient, of each of them, to satisfy the amount of taxes, interest, and costs annexed to them severally, be sold as the law directs.

WM. A. WINSHALL.

May 8th, 1849.

Also, the Collector's Report, which is in the words and figures following, to wit:

List of land and other real estate, situated in the county of Warren and State of Illinois, on which taxes remain due and unpaid for the year herein set forth:

Name of present Owner.	In whose name Patented.	Cost.	Am't of Tax.	Year's tax due.	Valuation.	No. acres.	Description.	County.
Unknown,	John Welch,	55	5.86	1848,	480	160	S W 31, 10 N, 3 W.	Warren.
"	John Lescoll,	"	5.86	"	480	160	S E 31, " "	"
"	James McLean, . . .	"	5.86	"	480	160	N W 32, " "	"
"	Wm. Bick,	"	4.18	"	480	160	S W 34, " "	"
"	Daniel McNeil, . . .	"	4.18	"	480	160	S E 35, " "	"

STATE OF ILLINOIS, }
Warren County, } ss.

I, John Brown, Sheriff and *ex-officio* Collector in and for the county of Warren and State aforesaid, hereby certify, that the foregoing is a true copy of the List of Lands and Town Lots on which taxes remain due and unpaid for the year and years therein set forth, with the valuation, tax, and cost annexed, and to satisfy which I have been unable to find personal property to pay the same; I further state that those lands and town lots have been advertised as the law directs.

Given under my hand at Monmouth, this second day of May, A. D. 1849.

JOHN BROWN,

Sheriff and ex-officio Collector of Warren County, Illinois.

Also, a precept, dated May 15, 1849, which is in the words and figures following, to wit:

A List of Lands and other Real Estate, situated in the county of Warren and State of Illinois, on which taxes remain due and unpaid for the year herein set forth:

Name of present Owner.	In whose name Patented.	Cost.	Am't of Tax.	Year's tax due.	Valuation.	No. acres.	Description.	County.
Unknown,	John Welch,	55	5.86	1848,	480	160	S W 31, 10 N, 3 W.	Warren.
"	John Lescoll,	"	5.86	"	480	160	S E 31, " "	"
"	James McLean, ...	"	5.86	"	480	160	N W 32, " "	"
"	Wm. Bick,	"	4.18	"	480	160	S W 34, " "	"
"	Daniel McNeil,	"	4.18	"	480	160	S E 35, " "	"

STATE OF ILLINOIS, }
 Warren County, } ss.

I, John Brown, Sheriff and *ex-officio* Collector in and for the county of Warren and State aforesaid, hereby certify, that the foregoing is a true copy of the List of Lands and Town Lots on which taxes remain due and unpaid for the year and years therein set forth, with the valuation, tax, and cost annexed, and to satisfy which I have been unable to find personal property to pay the same; I further state that those lands and town lots have been advertised as the law directs.

Given under my hand at Monmouth, this second day of May, 1849.

JOHN BROWN,

Sheriff and ex-officio Collector, Warren County, Illinois.

STATE OF ILLINOIS, }
 Warren County, } set.

WHEREAS, John Brown, Sheriff and *ex-officio* Collector of said county, returned to the Circuit Court of said county, on the second day of May, 1849, the following tracts and parts of tracts of land as having been assessed for taxes by the assessor of said county of Warren, for the year 1848, and that the taxes thereon remained due and unpaid on the day of the date of the said Collector's return; and that the respective owner or owners have no goods and chattels within his county on which the said Collector can levy for the taxes, interest, and costs due and unpaid on the following described lands, to wit:

Name of present owner.	In whose name Patented.	Cost.	Am't of Tax.	Year's tax due.	Valuation.	No. acres.	Description.	County.
Unknown,	John Welch,	55	5.86	1848,	480	160	S W 31, 10 N, 3 W.	Warren.
"	John Lescoll,	"	5.86	"	480	160	S E 31, " "	"
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"	Wm. Bick,	"	4.18	"	480	160	S W 34, " "	"
"	Daniel McNeil,	"	4.18	"	480	160	S E 35, " "	"

And whereas, due notice has been given of the intended application for a judgment against the said lands, and no owner hath appeared to make defence or show cause why judgment should not be entered against the said lands for the taxes, interest, and costs due and unpaid thereon, for the year or years herein set forth:

Therefore, it is considered by the Court, that judgment be, and is hereby, entered against the aforesaid tract or tracts of land or parts of tracts, in the name of the State of Illinois, for the sum annexed to each tract or parcel of land, being the amount of taxes, interest, and costs due severally thereon; and it is ordered by the Court that the said several tracts of land, or so much thereof as shall be sufficient, of each of them, to satisfy the amount of taxes, interest, and costs annexed to them severally, be sold as the law directs.

STATE OF ILLINOIS, }
 Warren County, } set.

I, Wyatt B. Staff, Clerk of the Circuit Court within and for said county of Warren, do hereby certify, that the fore-

going is a correct list of land and town lots on which judgment was obtained at the May Term, A. D. 1849, of the Circuit Court, for the taxes, interest, and costs due thereon, for the year A. D. 1848, and also of the judgment ordered entered against said lands, as appears of record in my office.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of our said Circuit Court, at Monmouth, this 15th day of May, A. D. 1849.

WYATT B. STAFF, *Clerk.*

Also, the return of the officer thereon, dated June 2d, 1849, which is in the words and figures following, to wit:

STATE OF ILLINOIS, }
Warren County, } ss. I hereby certify, that by virtue of the annexed precept, or execution, I proceeded *agreeabel* to law and previous notice, to sell all the lands and town lots within named, which were not previously paid on or belonged to residents. Therefore I return this satisfied in full.

Monmouth, 2d June, 1849.

JOHN BROWN, *Sheriff,*
Warren County, Illinois.

Also, an Affidavit and Notice, sworn to Feb. 24th, 1853, which is in the words and figures following, to wit:

STATE OF ILLINOIS, }
Warren County, } ss. Erastus Rise, being duly sworn, says, that he, as assignee of Chancy Harding, who assigned the foregoing certificate of purchase to me for 160 acres, S. W. 32, 10 N., 3 W., caused the same to be advertised in the Monmouth *Atlas*, a weekly newspaper published in Monmouth, Warren county, Illinois, a copy of the same being herewith attached. The first advertisement being the date of the paper, on the 23 day of Jan'y, 1851; second, 31 day of Jan'y. 1851; third, on the 7th day of Feb'y, A. D. 1851. And this affiant further says, that said quarter of land was not occupied by any person, nor was it taxed in the name of any person living in the county of Warren and State of Illinois.

ERASTUS RISE.

Subscribed and sworn to before me, this 24th day of February, A. D. 1853.

WM. F. SMITH, *Clerk.*

Then follows the Notice in paper attached, which is as follows, to wit:

To James McLean and all others Concerned:

Take notice, that on the 29th day of May, A. D. 1849, I purchased, at Sheriff's sale, of lands for the taxes assessed for the year 1848, the following described tract of land, situated in the county of Warren and State of Illinois, to wit: The North-west Quarter of Section Thirty-two, in Township ten North, Range three West of the 4th principal meridian, containing one hundred and sixty acres; and the time of the redemption of said land on said sale will expire on the 29th day of May, A. D. 1851.

ERASTUS RISE,

Assignee of Chancy Hardin.

Monmouth, Warren Co., Ill., Jan. 23, 1851. (10.)

Also a Deed, dated 24th February, 1853, from the Sheriff of Warren County, to Erastus Rise, conveying the aforesaid premises, which is in the usual form of a Tax Deed, and duly acknowledged, which is as follows, to wit:

Know all men by these Presents, That WHEREAS, at the May Term, 1849, of the Circuit Court of Warren County, a judgment was obtained in said Court, in favor of the State of Illinois, against the following described tract of land, situated in said county of Warren and state of Illinois, viz., 160 acres, the North-West quarter of section 32, in Township 10 North, of Range 3 West of the 4th principal meridian, for the sum of six dollars and 41 cents, being the amount of taxes, interest, and costs assessed upon said tract of land for the year 1848: *And whereas*, on the twenty-ninth day of May, A.D. 1849, John Brown, Sheriff of the county aforesaid, by virtue of a precept issued out of the Circuit Court of the county aforesaid, dated the fifteenth day of May, A. D. 1849, and to the Sheriff of said county directed, did expose to public sale, at the door of the court house in the county aforesaid, in conformity with all the requirements of the statute in such case made and provided, the tract of land above described, for the satisfaction of the judgment so rendered as aforesaid; *And whereas*, at the time and place aforesaid, Chancy Harding, of the county of Warren and State of Illinois, having offered to pay the aforesaid sum of six dollars and forty-one cents for 160 acres, N. W. 1-4 of sec. 32, 10 N., 3 W., the tract of land above described, which was the least quantity bid for the said tract of land, was stricken off to him at that price.

And whereas, the said Chancy Harding did, by his endorsement, under his hand, written on the back of the certificate of purchase to him, executed by the Clerk of the County Court of said Warren county, for the tract of land so sold as aforesaid, at the time of said sale, and endorsement bearing date the third day of January, A. D. 1851, assign the said certificate of purchase to Erastus Rise, of the county and State aforesaid; Now, therefore, I, Charles L. Armsby, Sheriff of Warren county, for and in consideration of the said sum of six dollars and 41 cents, to the Sheriff of said county, as aforesaid, in hand paid by the said Chancy Harding, at the time of the aforesaid sale, and by virtue of the statute in such case made and provided, have granted, bargained, and sold, and by these presents do grant, bargain, and sell, unto the said Erastus Rise, as assignee of the said Chancy Harding, his heirs and assigns, the above described tract of land, viz.: the N. W. 1-4 of sec. 32, 10 N., 3 West of the 4th principal meridian, to have and to hold unto him, the said Erastus Rise, his heirs and assigns forever; subject, however, to all the rights of redemption provided by law.

IN WITNESS WHEREOF, I, Charles L. Armsby, Sheriff as aforesaid, by virtue of the authority aforesaid, have hereunto subscribed my name and affixed my seal, this twenty-fourth day of February, A. D. 1853.

CHARLES L. ARMSBY, [L. s.]
Sheriff of Warren County, Illinois.

STATE OF ILLINOIS, }
Warren County, } ss. I certify, that on this twenty-fourth day of February, in the year of our Lord one thousand eight hundred and fifty-three, personally appeared before me, William F. Smith, Clerk of the

County Court for the county aforesaid, Charles L. Armsby, Collector and Sheriff of said county of Warren, who is personally known to me, the said Clerk, to be the identical person whose name is subscribed to the foregoing deed, as having executed the same, and acknowledged that he executed said deed for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name
[SEAL] and affixed the seal of said court, the day above written.

WILLIAM F. SMITH, *Clerk.*

The plaintiff below then admitted that defendant was in possession of the premises, claiming under said Erastus Rise.¹

To all this evidence, offered by the defendant in the Court below, the plaintiff there objected, and the same was excluded; to which the said defendant then and there excepted.

Judgment was rendered for plaintiff below, and defendant appealed to this Court.

H. M. WEAD,

Attorney for Plaintiff in Error.

Filed March 3. 1857
S. Leonard
Clerk

Filed March 3. 1857
S. Leland
Clerk

hie tottelod, ydem A. A. wafalo, biewetol vinnu est tot tnoD ynnu
 est, nu ei wonn yllinnuq ei olw, muwa W. Jo ynnu bue Jo hwaD
 est ot bodwada ei enue enuW neyog loothu est ed ei, hwaD bue
 ed tadt bodwelonke bue, enue est bodwaxa gawed en, bueh ynnuq
 .bonniam niereh eowuq bue enu est tot bueh bue bodwaxa
 enu yu bodwada dinnurol ewal I, wozan W. tinnurol y
 .nohew ewda yab est, ynnu bue Jo hae est hoxha bue [142]
 .AWD, TTWA. I. MAITW
 Jo mawaw ei aaw tawugeth tadt hawilla nall wotol hinniq est
 .awil anuwa bue tawu ginnale .soinnuq est
 est, wotol tnoD est ei tawugeth est yd hawlo, .awehew aill ha ot
 bue est diew ot ; bebulex aaw enue est bue, hawille est hinniq
 .hewaxa ewal bue nall tawugeth
 .hewaxa tawugeth bue, wotol hinniq wot bodwax aaw tinnurol
 .DAW. M. II
 .wotol ei hinnurol wot ywotale
 .tnoD aill ot

Smith & Brown }
vs } In the Supreme
Elder & Paine } Court April T. 1857.

Brief of Plaintiff in Error

H M Read for Plff in Error

1st The Patent was improperly admitted
no foundation was laid showing
authority to give it

II The Deed from Raymond Williams &
wife to Oliver Williams was not
properly acknowledged Page 18, Record

1st The Recorder of Lake, Co Indiana
had not, by our Statute, authority to take
the acknowledgment

He was not an officer of a Court
of Record having a seal, & it was not one
of the officers authorized by our Statute
to take an acknowledgment

There is no certificate from the Clerk
of any Court of Record in Indiana &
no ~~judicial~~ seal Seal of any such
Court.

Purple's Statutes P 156. Sec 16
do do 162 Sec 1

2 It does not appear that the person taking the acknowledgment knew the persons who signed the deed.

Purple's Statute, P 157, Sec 20

~~Job vs Tibbets 4 Kelman 148~~

Russel vs Whitesides 4 Seain 7.

McCannell vs Reed 2 Seain 371

Wiley & al vs Bean & al 1 Gilman 302

III The evidence to prove a tax title in the defendant was improperly excluded. The Collector's return, judgment & Precept were all in due form and showed a complete & perfect title in the defendant. The Patent on the face of it shows that this quarter of land had been sold & patented, & the tax deed was prima facie evidence that the land was subject to taxation Purple St. P 888 & 73.

There is no valid objection to the sale for taxes.

Smith A Brown

12

Charles A Paine

Brief of Puff

Wood & Puff

STATE OF ILLINOIS, SUPREME COURT,

TERM, A. D. 1857.

Appeal from Warren County.

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Defendant in Error.

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Defendant plead the general issue.

On the trial, the possession of the defendant was admitted.

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“The within patent has issued in favor of the said Raymond Williams, for the N. W. 1-4 32, township 10 north, range 3 west, in lieu of the N. E. 1-4, same township and range, which had been previously patented and erroneously issued to said Williams, Dec. 12, 1818, and on satisfactory evidence that the said North West Quarter was originally donated to him.

JOHN WILSON,

“Commissioner.”

2. A deed from Raymond Williams and wife to Oliver Williams, dated May 1st, 1854; which said deed, and the acknowledgment thereto, was objected to because of interlineations and erasures therein and other reasons; and, by agreement, the original deed is to be produced and used in the Supreme Court on the trial of this case.

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“Notice

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RAYMOND WILLIAMS.”

Which notice defendant admitted had been published seven successive weeks, the first dated Dec. 21, 1853. To the introduction of all which, in evidence, and to each and every portion thereof, the defendant, on the trial of said cause, objected; but the objections were overruled, and defendant then and there excepted.

This was all the evidence offered by the plaintiff below.

The defendant then offered in evidence a judgment of the Circuit Court of Warren county, at the May Term, A. D. 1849, as follows:

STATE OF ILLINOIS, }
 Warren County, } ss. Pleas before the Honorable William A. Winshall, Judge of the fifth Judicial Circuit of the State of Illinois: At a Circuit Court began and held in Monmouth, Warren County, Illinois, on the first Monday in the month of May, (being the 7th day of said month,) A. D. 1849.

PRESENT the Honorable WILLIAM A. WINSHALL, Judge, &c.

" ROBERT S. BLACKWELL, State's Att'y.

" WYATT B. STAPP, Clerk.

" JOHN BROWN, Sheriff.

of said Court of Warren county

Heretofore, to wit: On the second day of May, A. D. 1849, John Brown, Sheriff and *ex-officio* Collector in and for the county of Warren and State of Illinois, filed in the Clerk's office of the Warren Circuit Court a newspaper entitled the Monmouth *Atlas*, dated Friday, March twenty-third, 1849, containing the printed published list of Lands, Town Lots, and other real estate, situated in the county of Warren and State of Illinois, which taxes remain due and unpaid for the year A. D. 1848.

"A list of land and other real estate, situated in the county of Warren and State of Illinois, on which taxes remain due and unpaid for the year herein set forth:

Name of present Owner.	In whose name Patented.	Cost.	Am't of Tax.	Years' tax due.	Valuation.	No. acres.	Description.	County.
Unknown,	John Welch,	55	5.86	1848,	480	160	S W 31, 10 N, 3 W.	Warren.
"	John Lescoll,	"	5.86	"	480	160	S E 31, " " "	"
"	James McLean, . . .	"	5.86	"	480	160	N W 32, " " "	"
"	Wm. Bick,	"	4.18	"	480	160	S W 34, " " "	"
"	Daniel McNeil, . . .	"	4.18	"	480	160	S E 35, " " "	"

STATE OF ILLINOIS, }
 Warren County, } ss. I, John Brown, Esq., Sheriff and *ex-officio* Collector in and for the county of Warren and State aforesaid, hereby certify, that the foregoing is a true copy of the List of Lands and Town Lots on which taxes remain due and unpaid for the year and years therein set forth, with the valuation, tax, and cost annexed, and to satisfy which I have been unable to find personal property to pay the same; I further state that those lands and town lots have been advertised as the law directs.

Given under my hand at Monmouth, this second day of May, A. D. 1849.

(Signed,)

JOHN BROWN,

Sheriff and ex-officio Collector of Warren County, Illinois.

STATE OF ILLINOIS, }
 Warren County, } sc. WHEREAS, John Brown, Collector of said county, returned to the Circuit Court of said county, on the second day of May, A. D. 1849, the following tracts and parts of tracts of land as having been assessed for taxes by the assessor of said county of Warren, for the year

1848, and that the taxes thereon remain due and unpaid on the day of the date of the said Collector's return; and that the respective owner or owners have no goods and chattels within his county on which the said Collector can levy for the taxes, interest, and costs due and unpaid on the following described lands, to wit. *And whereas*, due notice has been given of the intended application for a judgment against said lands, and no owner hath appeared to make defence or show cause why judgment should not be entered against the said lands for the taxes, interest, and costs due and unpaid thereon, for the year or years herein set forth:

Therefore, it is considered by the Court, that judgment be, and is hereby, entered against the aforesaid tract or tracts of land or parts of tracts, in the name of the State of Illinois, for the sum annexed to each tract or parcel of land, being the amount of taxes, interest, and costs due thereon; and it is ordered by the Court that the said several tracts of land, or so much thereof as shall be sufficient, of each of them, to satisfy the amount of taxes, interest, and costs annexed to them severally, be sold as the law directs.

WM. A. WINSHALL.

May 8th, 1849.

Also, the Collector's Report, which is in the words and figures following, to wit:

List of land and other real estate, situated in the county of Warren and State of Illinois, on which taxes remain due and unpaid for the year herein set forth:

Name of present Owner.	In whose name Patented.	Cost.	Am't of Tax.	Year's tax due.	Valuation.	No. acres.	Description.	County.
Unknown,	John Welch,	55	5.86	1848,	480	160	S W 31, 10 N, 3 W.	Warren.
"	John Lescoll,	"	5.86	"	480	160	S E 31, " "	"
"	James McLean, . . .	"	5.86	"	480	160	N W 32, " "	"
"	Wm. Bick,	"	4.18	"	480	160	S W 34, " "	"
"	Daniel McNeil, . . .	"	4.18	"	480	160	S E 35, " "	"

STATE OF ILLINOIS, }
Warren County, } ss.

I, John Brown, Sheriff and *ex-officio* Collector in and for the county of Warren and State aforesaid, hereby certify, that the foregoing is a true copy of the List of Lands and Town Lots on which taxes remain due and unpaid for the year and years therein set forth, with the valuation, tax, and cost annexed, and to satisfy which I have been unable to find personal property to pay the same; I further state that those lands and town lots have been advertised as the law directs.

Given under my hand at Monmouth, this second day of May, A. D. 1849.

JOHN BROWN,

Sheriff and ex-officio Collector of Warren County, Illinois.

Also, a precept, dated May 15, 1849, which is in the words and figures following, to wit:

A List of Lands and other Real Estate, situated in the county of Warren and State of Illinois, on which taxes remain due and unpaid for the year herein set forth:

Name of present Owner.	In whose name Patented.	Cost.	Am't of Tax.	Year's tax due.	Valuation.	No. acres.	Description.	County.
Unknown,	John Welch,	55	5.86	1848,	480	160	S W 31, 10 N, 3 W.	Warren.
"	John Lescoll,	"	5.86	"	480	160	S E 31, " "	"
"	James McLean, ...	"	5.86	"	480	160	N W 32, " "	"
"	Wm. Bick,	"	4.18	"	480	160	S W 34, " "	"
"	Daniel McNeil,	"	4.18	"	480	160	S E 35, " "	"

STATE OF ILLINOIS, }
Warren County, } ss.

I, John Brown, Sheriff and *ex-officio* Collector in and for the county of Warren and State aforesaid, hereby certify, that the foregoing is a true copy of the List of Lands and Town Lots on which taxes remain due and unpaid for the year and years therein set forth, with the valuation, tax, and cost annexed, and to satisfy which I have been unable to find personal property to pay the same; I further state that those lands and town lots have been advertised as the law directs.

Given under my hand at Monmouth, this second day of May, 1849.

JOHN BROWN,

Sheriff and ex-officio Collector, Warren County, Illinois.

STATE OF ILLINOIS, }
Warren County, } sct.

WHEREAS, John Brown, Sheriff and *ex-officio* Collector of said county, returned to the Circuit Court of said county, on the second day of May, 1849, the following tracts and parts of tracts of land as having been assessed for taxes by the assessor of said county of Warren, for the year 1848, and that the taxes thereon remained due and unpaid on the day of the date of the said Collector's return; and that the respective owner or owners have no goods and chattels within his county on which the said Collector can levy for the taxes, interest, and costs due and unpaid on the following described lands, to wit:

Name of present owner.	In whose name Patented.	Cost.	Am't of Tax.	Year's tax due.	Valuation.	No. acres.	Description.	County.
Unknown,	John Welch,	55	5.86	1848,	480	160	S W 31, 10 N, 3 W.	Warren.
"	John Lescoll,	"	5.86	"	480	160	S E 31, " "	"
"	James McLean, ...	"	5.86	"	480	160	N W 32, " "	"
"	Wm. Bick,	"	4.18	"	480	160	S W 34, " "	"
"	Daniel McNeil,	"	4.18	"	480	160	S E 35, " "	"

And whereas, due notice has been given of the intended application for a judgment against the said lands, and no owner hath appeared to make defence or show cause why judgment should not be entered against the said lands for the taxes, interest, and costs due and unpaid thereon, for the year or years herein set forth:

Therefore, it is considered by the Court, that judgment be, and is hereby, entered against the aforesaid tract or tracts of land or parts of tracts, in the name of the State of Illinois, for the sum annexed to each tract or parcel of land, being the amount of taxes, interest, and costs due severally thereon; and it is ordered by the Court that the said several tracts of land, or so much thereof as shall be sufficient, of each of them, to satisfy the amount of taxes, interest, and costs annexed to them severally, be sold as the law directs.

STATE OF ILLINOIS, }
Warren County, } sct.

I, Wyatt B. Staff, Clerk of the Circuit Court within and for said county of Warren, do hereby certify, that the fore-

going is a correct list of land and town lots on which judgment was obtained at the May Term, A. D. 1849, of the Circuit Court, for the taxes, interest, and costs due thereon, for the year A. D. 1848, and also of the judgment ordered entered against said lands, as appears of record in my office.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of our said Circuit Court, at Monmouth, this 15th day of May, A. D. 1849.

WYATT B. STAFF, *Clerk.*

Also, the return of the officer thereon, dated June 2d, 1849, which is in the words and figures following, to wit:

STATE OF ILLINOIS, }

Warren County, } ss. I hereby certify, that by virtue of the annexed precept, or execution, I proceeded *agreeabel* to law and previous notice, to sell all the lands and town lots within named, which were not previously paid on or belonged to residents. Therefore I return this satisfied in full.

Monmouth, 2d June, 1849.

JOHN BROWN, *Sheriff,*
Warren County, Illinois.

Also, an Affidavit and Notice, sworn to Feb. 24th, 1853, which is in the words and figures following, to wit:

STATE OF ILLINOIS, }

Warren County, } ss. Erastus Rise, being duly sworn, says, that he, as assignee of Chancy Harding, who assigned the foregoing certificate of purchase to me for 160 acres, S. W. 32, 10 N., 3 W., caused the same to be advertised in the *Monmouth Atlas*, a weekly newspaper published in Monmouth, Warren county, Illinois, a copy of the same being herewith attached. The first advertisement being the date of the paper, on the 23 day of Jan'y, 1851; second, 31 day of Jan'y. 1851; third, on the 7th day of Feb'y, A. D. 1851. And this affiant further says, that said quarter of land was not occupied by any person, nor was it taxed in the name of any person living in the county of Warren and State of Illinois.

ERASTUS RISE.

Subscribed and sworn to before me, this 24th day of February, A. D. 1853.

WM. F. SMITH, *Clerk.*

Then follows the Notice in paper attached, which is as follows, to wit:

To James McLean and all others Concerned:

Take notice, that on the 29th day of May, A. D. 1849, I purchased, at Sheriff's sale, of lands for the taxes assessed for the year 1848, the following described tract of land, situated in the county of Warren and State of Illinois, to wit: The North-west Quarter of Section Thirty-two, in Township ten North, Range three West of the 4th principal meridian, containing one hundred and sixty acres; and the time of the redemption of said land on said sale will expire on the 29th day of May, A. D. 1851.

ERASTUS RISE,

Assignee of Chancy Hardin.

Monmouth, Warren Co., Ill., Jan. 23, 1851. (10.)

Also a Deed, dated 24th February, 1853, from the Sheriff of Warren County, to Erastus Rise, conveying the aforesaid premises, which is in the usual form of a Tax Deed, and duly acknowledged, which is as follows, to wit:

Know all men by these Presents, That WHEREAS, at the May Term, 1849, of the Circuit Court of Warren County, a judgment was obtained in said Court, in favor of the State of Illinois, against the following described tract of land, situated in said county of Warren and state of Illinois, viz., 160 acres, the North-West quarter of section 32, in Township 10 North, of Range 3 West of the 4th principal meridian, for the sum of six dollars and 41 cents, being the amount of taxes, interest, and costs assessed upon said tract of land for the year 1848: *And whereas*, on the twenty-ninth day of May, A. D. 1849, John Brown, Sheriff of the county aforesaid, by virtue of a precept issued out of the Circuit Court of the county aforesaid, dated the fifteenth day of May, A. D. 1849, and to the Sheriff of said county directed, did expose to public sale, at the door of the court house in the county aforesaid, in conformity with all the requirements of the statute in such case made and provided, the tract of land above described, for the satisfaction of the judgment so rendered as aforesaid; *And whereas*, at the time and place aforesaid, Chancy Harding, of the county of Warren and State of Illinois, having offered to pay the aforesaid sum of six dollars and forty-one cents for 160 acres, N. W. 1-4 of sec. 32, 10 N., 3 W., the tract of land above described, which was the least quantity bid for the said tract of land, was stricken off to him at that price.

And whereas, the said Chancy Harding did, by his endorsement, under his hand, written on the back of the certificate of purchase to him, executed by the Clerk of the County Court of said Warren county, for the tract of land so sold as aforesaid, at the time of said sale, and endorsement bearing date the third day of January, A. D. 1851, assign the said certificate of purchase to Erastus Rise, of the county and State aforesaid; Now, therefore, I, Charles L. Armsby, Sheriff of Warren county, for and in consideration of the said sum of six dollars and 41 cents, to the Sheriff of said county, as aforesaid, in hand paid by the said Chancy Harding, at the time of the aforesaid sale, and by virtue of the statute in such case made and provided, have granted, bargained, and sold, and by these presents do grant, bargain, and sell, unto the said Erastus Rise, as assignee of the said Chancy Harding, his heirs and assigns, the above described tract of land, viz.: the N. W. 1-4 of sec. 32, 10 N., 3 West of the 4th principal meridian, to have and to hold unto him, the said Erastus Rise, his heirs and assigns forever; subject, however, to all the rights of redemption provided by law.

IN WITNESS WHEREOF, I, Charles L. Armsby, Sheriff as aforesaid, by virtue of the authority aforesaid, have hereunto subscribed my name and affixed my seal, this twenty-fourth day of February, A. D. 1853.

CHARLES L. ARMSBY, [L. s.]
Sheriff of Warren County, Illinois.

STATE OF ILLINOIS, }
Warren County, } ss. I certify, that on this twenty-fourth day of February, in the year of our Lord one thousand eight hundred and fifty-three, personally appeared before me, William F. Smith, Clerk of the

County Court for the county aforesaid, Charles L. Armsby, Collector and Sheriff of said county of Warren, who is personally known to me, the said Clerk, to be the identical person whose name is subscribed to the foregoing deed, as having executed the same, and acknowledged that he executed said deed for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name
[SEAL] and affixed the seal of said court, the day above written.

WILLIAM F. SMITH, *Clerk.*

The plaintiff below then admitted that defendant was in possession of the premises, claiming under said Erastus Rise.¹

To all this evidence, offered by the defendant in the Court below, the plaintiff there objected, and the same was excluded; to which the said defendant then and there excepted.

Judgment was rendered for plaintiff below, and defendant appealed to this Court.

H. M. WEAD,

Attorney for Plaintiff in Error.

Smith A Brown
vs

Cleazer A Prime
Abstract

Reversed by Consent
of Defendant

Filed March 3. 1857
S. Seland
Clerk

to this Court.

Judgment was rendered for plaintiff below, and defendant appealed
defendant then and there excepted.

To all this evidence, offered by the defendant in the Court below, the
the premises, claiming under said Eustace Lise.

The plaintiff below then admitted that defendant was in possession of

[Seal] and affixed the seal of said court, the day above written.

In Testimony Whereof, I have herewith subscribed my name
executed said deed for the uses and purposes therein mentioned.

said Clerk, to be the identical person whose name is subscribed to the
Sheriff of said county of Warren, who is personally known to me; the
County Court for the county aforesaid, Charles L. Armbrist, Collector and

Witness for Plaintiff in Error.

H. M. WEAD,

WILLIAM F. SMITH, Clerk.

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Smith A Brown

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Gleazer A. Paine

12502

1857