

No. 14603

Supreme Court of Illinois

Charles

vs.

Waugh

STATE OF ILLINOIS,
Appeal from Circuit Court
SUPREME COURT,
THIRD GRAND DIVISION.

13. June 1864
No. 231

J. W. Middleton & Co., Stationers, 196 Lake St.

Col. Lusk
25
Nov.
1864
X

George Alkales } Supreme Court Third
vs } Grand Division April
Andrew Waugh } Term AD 1864
} Appeal from Stap

And the said appellant by
his attorneys comes and says that
in the record and proceedings aforesaid
and in the ^{of the judgment} verdict aforesaid there is
manifest error for that the judgment
was rendered in favor of the appellee
and against the appellant when by
the law it should have been in favor
of the appellant and against the
appellee wherefore he prays that the
said judgment may be reversed

And said appellant assigns
the following special errors

1. The court erred in refusing to give
a new trial
- 2 In excluding evidence offered by the
appellant Douglas Powell
for appellant

In Mills est Errorum

J. H. Post
Atty for Appellee

State of Illinois }
Knox County } February Term A.D. 1863

Shas before the Hon. Charles B.
Lawrence Judge of the Sixth Judicial Circuit of the
State of Illinois at a Court begun and held at
the Court House in the City of Knoxville in said
County on Monday the 16th day of February A.D. 1863
being the third Monday of said month
Present.

Hon Charles B. Lawrence Judge

James H. Stuart States Attorney

John H. Ellis Clerk

J. Calvin Corcoran Sheriff

Court opened by proclamation

State of Illinois,

IN THE *House* Circuit Court,

COUNTY OF *House* Of *J. February* Term, in the year of
our Lord One Thousand Eight Hundred and Sixty *Three*

Plaintiff, by *Douglas W. Craig* Attorney, come and complain of

Defendant, who *was* notified by notice and copy of declaration according to the statute, in a plea of Ejectment.

For that Whereas, The said Plaintiff *George W. Charles* on the *12th* day of *February* in the year of our Lord One Thousand Eight Hundred and *Sixty Three* possessed of *a* certain *Tract of Land* with the appurtenances, situate in *House County Illinois* in the said County, and known, designated and described as follows, viz:

The North half of the South West 1/4 of Sec No thirty five (35) In Township 4 North Range two (2) East of the 1st principal meridian

Which said premises, the said Plaintiff *George W. Charles* claims *in fee simple absolute* and the said Plaintiff *George W. Charles* being so possessed thereof, the said Defendant *Andrew J. Daugh* afterward, to wit, on the *13th* day of *February* in the year of our Lord One Thousand Eight Hundred and *Sixty Three* entered into the said premises, and ejected the said Plaintiff *George W. Charles* therefrom, and unjustly withhold from the said Plaintiff *George W. Charles* the possession thereof, to the damage of said Plaintiff of *One Thousand* dollars; and therefore he bring suit, etc.

Douglas W. Craig Attorney for Plaintiff.

To *Andrew J. Daugh*

the above named defendant:

You are Hereby Notified, That the Declaration, with a copy whereof you are now herewith served, and to which copy this notice is subjoined, will be filed in the *Circuit* Court of *House County* on the *14th* day of *February* 186*3*, being the *fourth* day of the *February* Term 186*3*, of the said *Circuit Court of House County & State of Illinois*

That upon filing the same a rule will be entered requiring you to appear and plead to the said Declaration within twenty days after the entry of such rule; and that if you neglect so to appear and plead, a judgment by default will be entered against you, and the Plaintiff will recover possession of the premises specified in the said Declaration.

Dated this *14th* day of *February* A. D. 186*3*.

Douglas W. Craig Attorney for Plaintiff.

State of Illinois }
 Boone County }
 I, J. Douglass being duly sworn says that
 on the 15th day of February 1863 I delivered to the said
 Andrew J. Haugh personally a true copy of the within declar-
 ation & notice & the said Haugh was then in possession of the
 within described land.
 Subscribed & sworn to before
 me this 17th day of
 Feb 1863
 A M Craig Co. Judge

J. Douglass

Declaration and Notice in Ejectment.

Boone County Court

Feb Term Boone County.

George W. Craig

vs.

Andrew J. Haugh

and this 15th day of Feb 1863

A. M. Craig

Clerk.

J. Douglass & Co.

Att'y for Plaintiff.

and 13 Feb. 63.

State of Illinois
Kane County } p

Kane Circuit Court
Feb Term 1863.

George W Charles
vs
Andrew J. Haugh } Ejectment

And now comes the said defendant
by J. B. Pogg's his Atty and defends the wrong & injury
when &c and says that the said plaintiff ought
not to maintain his aforesaid action thereof against
him - because he says he is not guilty of unlawfully
withholding the premises claimed by the plaintiff as
alleged in his declaration & of this he puts himself
upon the Country &c

J. B. Pogg's

It is so the like,

Douglas & Craig

Atty for Pff.

Atty for def

Filed Feb 20/63.

J. W. Lewis cler

Feb 21 1863 Present same as of the 1st day of this Term

George W Charles

vs

W. J. Haugh

Ejectment

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This day came the plaintiff by his attorney
and filed his declaration, notice and proof of service thereof
and in this return it is returned that the defendant failed
to plaintiff's declaration herein within twenty days of the
date hereof, and in default thereof judgment will
be rendered against him for want of a plea, and
the plaintiff will recover of the defendant the possession
of the premises by him in his declaration mentioned and

described, and this cause continued until the next term of this Court,

March 5th 1863 Present same as of the 1st day of this term.

Ordered by the Court that all motions in arrest of Judgment and for new trials be removed not otherwise disposed of.

Ordered that all costs not otherwise taxed be apportioned to the losing party or parties.

Ordered that all suits at law or in Chancery not otherwise disposed of be continued until the next term of this Court.

Ordered that Court adjourn until Court in Course

State of Illinois }
Kane County } ss.

June Term AD 1863.

Now before the Hon Charles B. Lawrence Judge of the First Judicial Circuit of the State of Illinois at a Court begun and held at the Court House in the City of Hannibal in said County on the first Monday in the month of June in the year of our Lord One thousand eight hundred and Sixty three being the first day of said month.

Present

Hon Charles B. Lawrence Judge

James H. Stewart State Attorney

John H. Lewis Clerk

J. Calvin Cook Sheriff

Court opened by proclamation

June 4 1865 Present same as of the first day of this Term

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George W. Charles

vs

W. J. Stough

Exigent

This day came the parties by their attorneys and issues being joined, waived a jury and for trial put themselves upon the Court and the Court having heard the evidence and arguments of counsel finds the defendant "not guilty" of wrongfully withholding the possession of the premises in the plaintiff declaration mentioned and described. It is therefore considered that the defendant recovers of the plaintiff his costs by him in this suit expended and may have execution therefor. Thereupon came the plaintiff and moved the Court for a new trial and in arrest of judgment herein, and the Court having heard said motion it is ordered that the same be denied. Then came the plaintiff and excepted to the findings and decisions of the Court and prayed an appeal to the Supreme Court and the Court being advised in the premises it is ordered that the said prayer be granted on condition that plaintiff enter into bond with good and sufficient security to be approved by the Clerk of this Court by agreement in the penal sum of three hundred dollars, and that he file his bill of exceptions within sixty days of the date hereof.

June 5th 1865 present same as of the first day of this Term

Ordered by the Court that attorneys in arrest of judgment and for new trials be removed where not otherwise disposed of.

Ordered that all costs notwithstanding be added against the losing party or parties.

(Page 7)

Ordnance that all suits at law or in Chancery not otherwise disposed of be continued until the next term of this Court

Ordnance that Court adjourn until Court in Course

State of Illinois }
Hennepin County }^{ss}

Third Circuit Court

June Term A.D. 1863

George W. Charles

vs

W. J. Daugh

} Ejectment

Be it remembered that at this term of this Court this Cause came on to be tried upon the issues framed by the Court by agreement of parties. Jury having been waived. And the Plaintiff to maintain the issue on his part offered in Evidence a Judgment in the words and figures as follows:

List of Lands

And Town and City Lots, Situate, lying and being within the County of Knox and State of Illinois, on which Taxes remain due and unpaid for the year AD 1859.

The following described real property having been heretofore forfeited to the State for Taxes, and now remaining unredeemed, will be sold in the manner prescribed by law for disposing of forfeited property in the year 1855, and every five years thereafter.

Owners Names	Description	Section	Acres	Value	Years for which Taxes are due	Total Tax & Cost
	Township 12 North, 2 East					
Richard Carey	W. 35	100	570	1858	49	26 08
Same	E. 35	20	114	do		5 73
A J Maugh	S. 35	80	456	do		22 37
	Township 13 North 2 East					

The cost on each tract or parcel of land is twelve cents at this date and if sold, fifty-five cents on each tract or parcel of land.

Notice is hereby given, that applications will be made at the next June Term of the County Court of Knox County in the State of Illinois, to be holden in the City of Knoxville, in said County, on the third Monday of June next, for a judgment against the foregoing lands or parcels of land and town and city lots, for said Taxes, interests and costs due thereon, for the satisfaction hereof.

And all of said tracts or parcels of land and town and city lots, on which the tax interest and cost remain unpaid, and for which an order is made to sell, and will

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will be exposed to sale and sold, at the Court House, in the said county of Knox, and State of Illinois, on the fourth Monday of June next, A.D. 1860;—said sale to be continued from day to day untill all of said tracts and lots unpaid at that time are sold.

George Davis

Treasurer and Collector of ^{Illinois} Knox County.

We Betty & Robinson, Publishers of "The Knox Republican" to hereby certify that the above list of lands and real estate, situated in the County of Knox, and State of Illinois, on which taxes remain due and unpaid for the years therein set forth, was published in "The Knox Republican" a weekly newspaper, printed in the city of Knoxville, county of Knox, and State of Illinois, on the 2nd day of May, A.D. 1860, and that the number of transcripts corresponds with the number of papers distributed for that week; and also that we have complied with the laws of this State in the distribution of said papers. We further certify that the above list was carefully compared with the original, and was found correct and that the number of tracts and town and city lots accurately correspond with the original list as furnished for publication, and we further certify that the foregoing notice was also in like manner published in the same paper that contained said list and that the said notice was in like manner distributed.

Knoxville May 2nd 1860

Betty & Robinson, Publishers.

Filed June 18th 1860. John S. Hunter Clerk

A List of Lands and Town Lots Reported by George Davis Collector

which he has been unable to collect the Taxes due thereon, and now on this 12th

and order of sale against said Land and Lots at the

for the County of Knox State of Illinois, of the Revenue of the year 1859, upon

day of June 1860, files this his Petition for a Judgment

June Term, 1860, of the County Court.

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Culver, Page & Hoyne, Chicago.

Owners' Names.	Sub-Division of Section or Lot.	Section.	TOWN-SHIP.	Range.	No. of Aers.	Lot.	Block.	Valuation.	State Tax.	County Tax.	Town Tax.	District School Tax.	District Road Tax.	Tax.	Tax.	Total Tax.	Costs.	Total Amt. Due.	REMARKS.
Richard Carey	E 1/2	S.E. NW	35	12	28	20		114	1 9	4 9	5 9	5 9	5 9			1 9		4 6	
Tax of 1858								306	26	1 19	1	1 41	5 7			5 18	55	5 75	
A. J. Waugh	N 1/2	S.W.			80			450	3	85.3	68.4	4 56	22.8			2			
Tax of 1858								306	80	5 35.7		6 34				21 82	55	22 37	
A. L. Curtis	N.E.	S.E. NW	36	13	2	60		1200	10	14 1	20	6 10	1 80			1			
Tax of 1858								306	1 60	10 14	48	14 40				45 76	55	46 31	

Filed June 12th 1860

John S. Winters C^o Clerk

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State of Illinois }
 Knox County }

I, George Davis Collector of the County
 of Knox do solemnly swear that the
 foregoing is a true and correct record of the delinquent
 Lands City and Town Lots within the County of
 Knox upon which I have been unable to collect
 the Taxes as required by Law for the year or years
 therein set forth that said Taxes now remain due
 and unpaid as I truly believe

George Davis, Collector.

Subscribed and Sworn to before me
 this 12th day of June A.D. 1860

John S. Winter
 Clerk

Filed June 12th 1860

John S. Winter, Clerk

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State of Illinois }
 Knox County } p

June Term A.D. 1860

County Court of Knox County, June Term
 begun and held at the ~~Clerk's~~ Clerk's Office
 in the City of Knoxville in ~~the~~ said County on
 Monday the 18th day of June A.D. 1860

Present

How Landen Douglass. County Judge

John G. Winter County Clerk

Andrew Thompson Sheriff

Court opened by proclamation

State of Illinois
 v.s.

Charity Camp

S. J. Green

Pitcher

Phelps Bourland & Co. Ex. At.

Suit for Taxes

A List of Lands and Town Lots Reported by

George David

Collector

which he has been unable to collect the Taxes due thereon, and now on this *12th*

and order of sale against said Land and Lots at the

for the County of

Knob

State of Illinois, of the Revenue of the year 1867, upon

day of

June

1868, files this his Petition for a Judgment

June

Term, 1868, of the County Court.

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Culver, Page & Hoyne, Chicago.

Owners' Names.	Sub-Division of Section or Lot.	Section.	Town- ship.	Range.	No. of Acres.	Lot.	Block.	Valuation.	State Tax.	County Tax.	Town Tax.	District School Tax.	District Road Tax.	Tax.	Tax.	Total Tax.	Costs.	Total Amt. Due.	REMARKS.
<i>The first entry in each case unless otherwise stated is for 1859</i>																			
Richard Carey	E 1/2 S.E.	116	35	128	28	20		114		963	17	1 14	5 1/2						
	Tax 1858								26	1 19		1 41				5 18	55	5 1/2	
A. J. Waugh	E 1/2 S.W.				89			456		3 353	68.4	4 86	22 1/2						
	Tax 1858								83	5 35		6 34				21 32	53	22 3/4	
Ayers Curtis	W.S.	116	36	134	28	60		1200		10 14	1 20	6 00	1 80						
	Taxes 1858								1 65	15 14	48	14 45				40 16	55	46 31	

State of Illinois

Knox County

I George Davis, Collector of the County of Knox, do solemnly swear that the foregoing is a true and correct record of the delinquent lands, City and Town lots, within the County of Knox, upon which I have been unable to collect the taxes as required by law, for the year or years therein set forth. That said taxes now remain due and unpaid, as I verily believe.

Subscribed and sworn to } George Davis Collector
before me this 1st day of }
August A.D. 1860 }
John S. Winter (Clerk)

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 and City ~~and~~ or town lot or lots, or parts of lots, or parts of lots, in favour of the State of Illinois for the sum annexed to each tract or part of tract, of land City or town lot or part of lot ^{being} the amount of taxes, interest and costs due severally thereon (except such tracts of land town or City lots opposite which the word "paid" is written) and it is ordered by the Court, that the said several tracts of land and town and City lots, 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.

L. A. Douglas C. Judge

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Here follows Collectors Notice and Printers Certificate
the same as on Pages one and two

State of Illinois }
Knox County }

June Term A.D. 1860

County Court of Knox County June
Term begun and held at the Clarks office in the
City of Knoxville in said County on Monday the 18th
day of June A.D. 1860

Present

Honorable Saunders Douglas County Judge

John S. Hunter Co. Clerk.

Andrew Thomson Sheriff

Court opened by proclamation

State of Illinois
v.s.

Charity Camp

J. F. Green

Pitcher

Phelps Boreland & Co. & al

Suit for Taxes.

A List of Lands and Town Lots Reported by George Davis Collector
 which he has been unable to collect the Taxes due thereon, and now on this 12th
 and order of sale against said Land and Lots at the

for the County of Knox State of Illinois, of the Revenue of the year 1867, upon
 day of June 1868, files this his Petition for a Judgment
June Term, 1868, of the County Court.

(Page 10) Silver, Page & Hoyne, Chicago.

Owners' Names.	Sub-Division of Section or Lot.	Section.	TOWN-SHIP.	Range.	No. of Acs.	Lot.	Block.	Valuation.	State Tax.	County Tax.	Town Tax.	District School Tax.	District Road Tax.	Tax.	Tax.	Total Tax.	Costs.	Total Amt. Due.	REMARKS.
The first Entry in each case unless otherwise stated is for the Tax of 1857																			
E. J. Ellett	E 1/2	N.E.	22	12	28	80		380		3 21	57	1 71	1 31						
Taxes 1858									47	4 165		1 9 1/2				13 41	55	13 96	
A. J. Waugh	N 1/2	S.W.	35		85			456		3 85.3	68	4 56	22.37						
Taxes 1858									80	5 357		6 34				21 82	55	22 37	
Ayers Curtis	W.S.	S.W	36	13	26	60		1200		10 14	1 25	6 00	1 80						
Taxes 1858									1	63 13 14	48	14 40				45 78	55	46 31	

A List of Lands and Town Lots Reported by _____ Collector

which he has been unable to collect the Taxes due thereon, and now on this

and order of sale against said Land and Lots at the

Culver, Page & Hoyne, Chicago.

for the County of _____ State of Illinois, of the Revenue of the year 186 , upon

day of _____ 186 , files this his Petition for a Judgment

Term, 186 , of the County Court.

[illegible]

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State of Illinois

Knox County

I George Davis Collector of the County of Knox, do solemnly swear that the foregoing is a true and correct record of the delinquent lands, City and Town Lots, within the County of Knox, upon which I have been unable to collect the taxes as required by law, for the year or years therein set forth. That said taxes now remain due and unpaid, as I truly believe

Subscribed and sworn to before me this 12 th day of June A.D. 1860	George Davis Collector
John S. Hunter	
C ^l Clerk	

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 Cost 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, City and Town Lots, or parts of Lots in favour of the State of Illinois for the sum annexed to each tract or ^{part} of land, City and Town Lot, being the amount of taxes interest and Costs due severally thereon (Except such tracts of land and Town and City Lots opposite ~~to~~ which the word paid is written, and it is ordered by the Court that the said several tracts of land and Town and City Lots, or so much thereof as shall be sufficient of each of them.

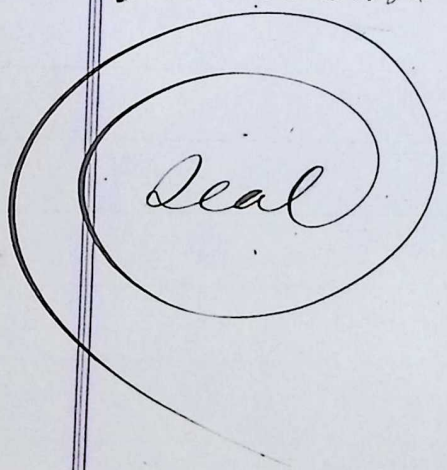
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To satisfy the amount of Taxes, Arrears and Cost
 Annexed to them severally, be sold as the law directs
 Saunders Douglass
 Co. Judge

State of Illinois
 Knox County

vs The People of State of Illinois
 To George Davis Collector of the Revenue in and for
 said County, for the year 1858.

I John S. Winter Clerk of
 the County Court of Knox County in the State of Illinois
 do hereby Certify, that the foregoing is a true and
 correct Copy of the Collectors Report of Lands and City and
 Town Lots filed for judgment and Order of Sale, together
 with the order of the said County Court, made at the June
 Term A.D. 1860 of said Court.



In Testimony whereof I have
 hereunto subscribed my name and
 Affixed the seal of said Court, this
 23rd day of June A.D. 1860
 John S. Winter
 Cl^k Clerk

State of Illinois
 Knox County

vs Received this ^{precept} ~~precept~~ this
 23rd June A.D. 1860
 George Davis

A List of Lands and Town and City Lots,
lying and being in the County of Knox, and State
of Illinois, which were sold for the Taxes, Arrears
and Costs due thereon for the year or years hereinafter
set forth, at the Court House in the City of Knoxville,
in said County, on Monday Tuesday and Wednesday
June 25th, 26th and 27th A.D. 1860, pursuant to a
precept issued out of the County Court of said County,
dated the 23^d day of June A.D. 1860, in conformity
with the law of the State of Illinois, now in force

and 27th 1860

ue of the year 1869, upon

Judgment

18

at Dec.

~~1860~~

Acres	dd	For what	To whom Sold	Sale by or Cont	James of 18- Indest	James of 18- Indest	Printer's Fees	Depositor	When Deposited	Appropriation of Purchase as filed with Clerk	Applicant B	Purchaser P	Received the redemption money of the tract against which our names are set in release of all claims unless or by virtue of the purchase for same to the sale is hereby cancelled & annulled as the land never been made
26	all	13	16	to N. H. H. H.									
37	all	22	37	George A. Charles	Decided to George A. Charles	July 11th 1863			Dec 15 1862	1	229	J. C. C.	
31	all	11	31	J. H. H. H.	Decided July 13th 63 to Charles H. H. H.				Dec 19 1862	1	236	J. C. C.	

(Pag 21).

21st

State of Illinois
Knox County

I George Davis Collector of the Revenue of the County and State aforesaid, for the year 1859, do hereby Certify and return that by Virtue of the foregoing Precept and in accordance with the Revenue Laws in force in ~~the~~ said State, I did on the 25th 26th & 27th days of June A.D. 1860 At the door of the Court House in the said County at 10 O'clock A.M. of said days. Expose to public Sale all of the foregoing tracts of Land and Town and City Lots (Except such Tracts and Lots as were paid before said days of sale) and on said days, did sell or forfeit to the State all of the foregoing Tracts, and Town and City Lots (Except such as were paid as aforesaid) or so much of each of them as was sufficient to satisfy the amount annexed to Each tract or parcel, being the amount of Taxes interest and Costs due severally thereon for the year or years therein ~~therein~~ set forth; for a more full statement reference may be had to the record of said sale. Made by the County Clerk of said County

George Davis Collector

County Clerk fees \$5.00

21/4

21/4

State of Illinois }
 Knox County } So Henry Amos who being duly
 sworn deposes and says that he is agent of George A. Charles
 that on the 26th day of June A.D. 1860 at a Collectors Sale
 of Lands for taxes in said County and State, Geo A
 Charles purchased the following described Real Estate
 Eighty Acres North half of the South west quarter of
 Section Thirty five in township Twelve North Range
 Two East in Knox County Illinois for the sum of Twenty
 two 37000 Dollars being the amount of tax Interest and
 Costs due thereon for the years A.D. 1858 & 1859. That said
 Land was in the years A.D. 1859-1860-1861-1862 Taxed and
 assessed in the name of Andrew J. Waugh - That said land
 was during each of said years in cultivation and was
 on the 18th day of January A.D. 1861 occupied and in possession
 of Andrew J. Waugh That on the 18th day of January A.D. 1861
 deponent as Agent of Geo. A. Charles served a notice on said
 Andrew J. Waugh by delivering him said notice which
 was and is in the words and figures as follows.

To A. J. Waugh and all others whom it may Concern.
 Notice is hereby given that on the 26th day of June A.D. 1860
 I purchased at the Collectors Sale for the Taxes and costs
 due thereon for the year 1858 & 9 the following described
 tract of Land situated in the County of Knox and State
 of Illinois viz. 80 North half S. 35-12 N 2 East and
 that the time of redemption from said sale will expire
 on the 26th day of June A.D. 1862

Geo A Charles

That when Geo A Charles purchased said Land he
 obtained a certificate of purchase hereto attached marked
 Exhibit A.

Henry Amos

State of Illinois }
 Knox County } So Henry Amos being duly sworn
 deposes and says the facts set forth in the foregoing affidavit
 are true

Subscribed and sworn to } Henry Amos
 before me this the 15th day }
 of September A.D. 1862 }

John S. Winter, Clerk

Know all Men by these Presents,

That whereas at the June Term, A. D. 1880, of the County Court of Stearns County, a judgment was obtained in said Court, in favor of the State of Illinois, against the following described lot, piece or parcel of land, for the sum herein specified, to wit:

Stearns County State of Illinois
Eighty (80) Acres North Half of the South West
Quarter of Section Number thirty five (35) in Township Twelfth (12) north
Range Two (2) East of the Range of Township two 37th
and 38th

Said sum being the whole amount of taxes, interests, and costs assessed upon said lot, piece or parcel of land for the year 1879 and 1880
 And whereas, on the 27th day of June A. D. 1880 George Davis

then Collector of the County aforesaid, by virtue of a Recept or Order issued out of the County Court of the County aforesaid, dated the 23rd day of June A. D. 1880, and directed to the said George Davis Collector as aforesaid, did expose at public sale, at the Court House in the County aforesaid, in conformity with all the requirements of the statutes in such case made and provided, the said lot, tract or parcel of land above described, for the satisfaction of the judgment so rendered, as aforesaid. And whereas, at the time and place aforesaid George W. Charles of the County of Stearns and State of Illinois, having offered to pay the aforesaid sum, amounting to the sum of Twenty Two Dollars and Twenty Seven cents, for the whole of said lot, piece or parcel of land, as follows, to wit: the sum of Twenty Two Dollars and Twenty Seven cents,

Which was the least quantity of said lot, piece or parcel of land bid for, the said lot, tract or parcel of land was stricken off to George W. Charles at that price. And whereas, the said purchaser has by Henry Amos his Agent, made and delivered to me affidavit of having complied with all the requirements of the statute and constitution of the State of Illinois, necessary to entitle said purchaser to a deed for the premises so sold to George W. Charles as aforesaid; and whereas, the said George W. Charles has duly assigned the certificate of purchase of the land above described, unto George W. Charles: Now THEREFORE, I, John Calvin Curran Sheriff of the County of Stearns for and in consideration of the said above named sum, amounting to the sum of Twenty Two Dollars and Twenty Seven cents, paid to George Davis Collector of said County of Stearns by the said George W. Charles at the time of the aforesaid sale, and in consideration of Twenty Two Dollars, to me paid by said George W. Charles 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 George W. Charles his heirs and assigns, the premises so sold as aforesaid, situated in the County of Stearns and State of Illinois, to wit:

Eighty (80) Acres: North Half of the South West Quarter of Section
Number thirty five (35) in Township Twelfth (12) north of the base line
Range two (2) East of the range (14th) principal meridians

TO HAVE AND TO HOLD, unto him the said George W. Charles his heirs and assigns Forever, subject, however, to all the rights of redemption provided by law.
 In Witness Whereof, I, John Calvin Curran Sheriff as aforesaid, by virtue of the authority aforesaid, have hereunto subscribed my name and affixed my seal this 27th day of June A. D. 1880

John Calvin Curran
 Sheriff of Stearns County.

STATE OF ILLINOIS,

COUNTY OF *Starr*

ss.

I, *John E. Dwyer, Clerk of said County Court*
J. Calvin Currier

in and for said County and State, do certify, that

is personally known to me to be the real person who executed and subscribed his name to the foregoing deed, appeared before me this day and acknowledged that he had executed the same as such Sheriff, freely and voluntarily, for the uses and purposes therein set forth.

In attestation whereof, I have hereunto set my hand and attached the seal of our said Court, at my office
in *Starrville* *Mo* said *Starr* County and
State, this *Eleventh* day of *January* A. D. 18*83*

[Handwritten signature]

[Handwritten signature]

CLERK.

SHERIFF'S DEED.

J. Calvin Currier
Sheriff of *Starr* County to
George A. Chaves

STATE OF ILLINOIS, }
COUNTY. } ss.

This instrument was filed for Record the
day of
at the hour of o'clock M., 18 ,
and duly recorded in Book of
page

RECORDER.

To the reading of which Judgment the defendant by his counsel then and there objected on the ground that there was no proper foundation for the Judgment or its introduction and for the reasons

1st The precept and Judgment showed no dollar marks or dollar or denomination whatever in words or figures

2d The Judgment record does not show for which year the taxes were assessed and a portion of the taxes assessed were without any designation of the year for which they assessed.

3d The Judgment record shows affirmatively that the taxes could be collected and does not show any inability to collect the same or authority to sell the land.

4th The Judgment is not an absolute & perfect Judgment but imperfect & uncertain on the final entry thereof.

5th The Judgment Record does not contain any copy of a sufficient legal petition & precept and papers required by law to be embraced in the record

6th The petition and the list required by law to be made of the lands on which taxes are unpaid are defective. They fail to show any dollar marks. They fail to show for what year taxes were assessed. A portion of said tax is assessed without any designation of the year for which it is assessed as appears from said list & petition. The affidavits accompanying said list are not in conformity with the law.

7th The advertisement and notice published of the application for Judgment and sale is defective & void on the ground that it contains no notice of an application to the Court for an order to sell the land & the Judgment & Order proceedings based upon said irregular & void notice are also void.

The Counsel for the defendant accompanied the aforesaid objections with an offer to show by proper Evidence a tender, by the defendant to the plaintiff & claimant under the late deed, the amount of redemption money now provided for by law, with two per cent per annum interest thereon from the date of said deed to the time of said tender and of the whole sum by law required to enable him to question to the fullest extent the validity of said deed & also to introduce in Evidence the petition, list, notice and papers claimed to have been irregular & thereby affecting the validity of the Judgment & deed.

The Court admitted said Evidence so offered subject to objections & allowed the party as to tender & papers to be subsequently given reserving his decision upon the various objections &c.

The Plaintiff then offered in Evidence a receipt, affidavit & deed. To which the same objections were made as above stated to the Judgment offered in Evidence, Also in addition the affidavits were objected to as not being in compliance with the law and on the ground they did not show that the notice served on the occupant &c was in writing.

The Court thereupon reserving his decision upon the questions raised, allowed the defendant to introduce proof of the under when upon J. B. Briggs was called as a witness for the defendant who testified that as the Agent of the defendants, whose Agent & Attorney he was in fact, & by whose authority he acted - he advanced the plaintiff \$55.00 which was more than the full amount of the redemption money now provided by law and ten per cent per annum thereon from the date of said deed to the time of said under said plaintiff thereupon refused to accept said money so advanced insisting that it should be paid to the Clerk & telling the witness he had better go & study law. Said money so advanced was thereupon also in the presence of the Court by said defendant paid over to the Clerk of the Court before the decision of the Court. The Judgment record, deas. forcept affidavits offered by the plaintiff were received subject to objections the decision of the Court being reserved on all the objections thereto and read in evidence and are as follows - (See page 2174 of this record).

The defendant further to maintain the issue on his part introduced in evidence the published notice and advertisement of the application for Judgment under which said land was sold & upon which sale said deed of the plaintiff was given admitted to have been taken from the County Clerk's office of Huns County & custody of said County Clerk. No objections being made to the identity or genuineness of said notice it was read in evidence & is in the words and figures following (See page of this Record).

(Page 25)

The defendant for the purpose of showing further the irregularity & illegality of the proceedings Judgment sale & also read in evidence the petition & lists of land on which taxes were unpaid which read as follows:
(See page of this Record)

This was all the evidence. Whereupon the Court found the issue for the defendant.

Plaintiff entered a motion for a new trial, ^{& judgment in writ} motion
corrupted by the Court (See page of this Record).
To the contrary the motion for new trial and entering
Judgment against plaintiff. Plaintiff then and there
in open Court objected & excepted.

And as the matters aforesaid do not appear of record
I the Judge of said Court have caused this bill
of exceptions to be signed & sealed.

C. B. Lawrence

Seal

Filed June 3/63

J. W. Lewis Clk

Known all men by these presents that we C. A. Charles
and W. M. Craig are this our jointly bound unto
W. J. Hough in a sum of three hundred
dollars lawful money of the United States for the
payment of which well and truly to be made we
bind ourselves our heirs and administrators jointly
severally and jointly of these presents.

Witness our hands and seals this 30th day of August
A.D. 1863.

The condition of the above obligation is such that
whenever at the February Term of the Circuit Court

(Page 26)

of Keweenaw County Illinois on the 4 day of February
A.D. 1863 W. J. Daugh secured a Judgment against
the above defendant Chas. W. Charles, Ejectment for
the sum of Nine ^{said Judgment the} ~~thousand~~ ^{hundred} dollars from which, said Chas.
W. Charles prayed and claimed an appeal to the Superi-
or Court of the State of Illinois

Now in accordance with the said appeal
said Judgment, costs, interest + all damages in
case said Judgment shall be affirmed, and shall duly
and diligently prosecute said appeal with effect
than the above obligation to be void otherwise
to maintain in full force and effect

and approved
Filed June 3/63

J. H. Lewis Clerk

Chas. W. Charles
W. M. Craig

State of Illinois
Keweenaw County } I, John H. Lewis, Clerk of the Circuit
Court within and for the County and State aforesaid,
do hereby certify that the foregoing is a true and correct
copy of the books and files of my office in the cause
of Chas. W. Charles vs. W. J. Daugh, Ejectment
And also a true copy of all papers and files
refered to in the foregoing bill of Exceptions in
the aforesaid Cause

Witness my hand and the seal of said Court at
my office in the City of Keweenaw on this 10 day of
April A.D. 1863

John H. Lewis Clerk
Per Saml E. Charles Attorney

J. H. Lewis at fee 5.00



~~337~~ 231 = 37

Geo. A. Charles

ndw w

A. J. Waugh

Record

Filed Apr. 30. 1864
L. Leland
Clk.

George A Charles } Supreme Court 3rd
vs } Grand Division
Andrew J Wangle } April Term 1864
Argument on behalf of the
Appellant by E A Powell

This was an action of ejectment brought by the appellant against the appellee. The only question presented by the record is as to the sufficiency of the deed from the sheriff to the appellant on a sale for taxes. The first document offered in evidence was the collector's report. This document is in due form of law. It contains the owner's names (and the tract is continuing being asped in the name of A J Wangle the appellee) a proper description of the land, valuation, the years for which the tax was due, the amount of the tax sufficiently indicated by the abbreviations "dols etc" and contains the required affidavit of the collector that the list of delinquent lands contained in the report are true and correct.

To this report is attached a notice duly signed by the collector under his proper official title. See Record pages 8, 9 & 10.

To this report the appellee made sundry objections See Record 22 & 23 To these objections, I shall only notice the last one as all the others are sufficiently answered by an inspection of the report and as I am informed the Court below excluded the ~~said~~ report solely on the ground of the insufficiency of the collector's notice

The 7th objection Record page 23 is "The advertisement and notice of the application for judgment and sale is defective and void, on the ground that it contains no notice of an application to the Court for an order to sell the land and the judgment and entire proceedings based upon said irregular and void notice are also void"

The substance of the notice required to be given See 2 People's Stat 981 §30 is "Said advertisement shall contain the names of owners if known the amount due thereon, and the year or years for which the same are due; And shall give notice that he will apply to the County Court at the term thereof, for a judgment against

said lands for said Taxes interest and
costs and for an order to sell said
lands for the satisfaction thereof; and
shall also give notice that on &c"

Now The notice (See Record page 8) does
show if not in exact words certainly
in substance what the Statute requires
First it shows the names of the owners
2nd The amount due thereon 3rd The year
or years for which the same are due.
The notice states that application will
be made at the next Term of the Court
mentioning the time when the Court
sets for a judgment against the lands
before described for said Taxes interest
and costs due thereon for the satisfaction
thereof The notice thus states that "All
of said tracts or parcels of land and
town and city lots on which the Tax
interest and costs remain unpaid
and for which an order is made
to sell will be ~~sent~~ exposed to sale &c"

This certainly is all most
a literal compliance with the very
letter of the Statute certainly with the
spirit and the clearest of Compre-
hension could understand that

a judgment was to be rendered against the lands for the taxes due and that an order would be had for a sale if not paid

But it is said that the notice does not in words say that an application for an order for a sale of the lands will be made. According to my humble apprehension it does. It first says that an application for a judgment will be made and then states that all taxes remaining unpaid and for which an order is made to sell, will be exposed to sale &c. If this ^{is} not an application for an order, then I confess I am dull of apprehension

But it is certainly a substantial compliance with the statute and this is sufficient. The cases of *Spelman vs Cuthbert* 12 Ill 413, 414 and *Lehman vs March* 12 Ill 173 referred to in the brief

The judgment and precept are in due form and it does not appear from the record that there was any objection taken to either

The deed was in due form

and when the proof was made of the giving of the notice by the purchaser as required by the constitution, then every thing was done by the appellant which is required by law to have the deed admitted in evidence.

This proof was made. The affidavit of Arms (See Record page 21 1/4) is clear and full. The constitution and law requires that when lands sold for taxes shall be asessed in the name of any one or shall be occupied by any person notice shall be given. This notice was properly given. The affidavit is clear.

Then it seems to me that the Court erred in excluding the deed from evidence and rendering judgment against the appellant and that the judgment should be reversed.

E. N. Powell

²³¹ George A Charles ³⁷
₁₂₁

Andrew J Waugh

Argument
of
E A Powell

No ~~205~~
231

Filed April 29. 1824
L. Leland
Clerk

STATE OF ILLINOIS.

S U P R E M E C O U R T ,

APRIL TERM, A. D. 1864.

GEORGE A. CHARLES, }
vs. } Ejectment.
A. J. WAUGH. }

Abstract

2 This was an action of Ejectment brought by George A. Charles vs. A. J. Waugh. Declaration, in the usual form, served Feb. 13th, 1863, for the recovery of the north half of southwest quarter of section 35, in township 12 north, 2 east, in Knox County, Illinois.

4 Plea, general issue.

6 Trial June 4th, 1863, by the Court, jury having been waived. Judgment for defendant.

21- Motion for a new trial. Overruled, and exceptions taken.

6 Appeal prayed, and allowed on defendant filing bond in sum of \$300 security, to be approved by the Clerk by agreement; bill of exceptions to be filed in 60 days.

21- Bill of exceptions and bond filed.

BILL OF EXCEPTIONS.

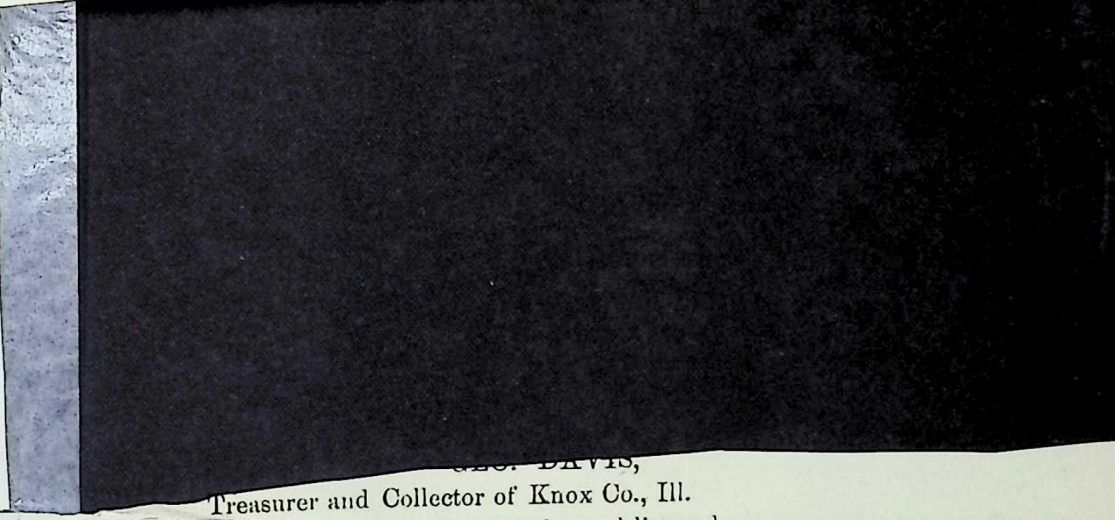
8 Evidence offered and read :

1 Publication.—List of lands and town and city lots, situate, lying and being within the county of Knox and State of Illinois, on which taxes remain due and unpaid for the year 1859.

The following described real property, having been heretofore forfeited to the State for taxes, and now remaining unredeemed, will be sold in the manner prescribed by law for

disposing of forfeited property in the year 1855, and every five years thereafter.

Here follows list of lands and proper heading.



Treasurer and Collector of Knox Co., Ill.

9. Publisher's certificate of publication of notice and list and the distribution thereof.

10. List of land and petition to sell the same, with affidavit of Collector that the same is a correct record of the delinquent land, city and town lots, within the county of Knox, upon which he was unable to collect the taxes. Sworn to and filed June 12, 1860.

13. List of lands, petition, return of Collector, and judgment in the statutory form, June term, 1860.

16
18. The judgment is for tax of 1858 and 1859. At the commencement of the list of lands it is said, when not otherwise indicated the tax is for 1859.

Copy precept, certificate of the County Clerk certifying the precept, and the endorsement of Treasurer, when he received it.

19
20. Sale book showing what lands were sold, and showing the return or certificate of the treasurer of the sale of the land.

21 1/4. Affidavit of service of notice of sale.

21 1/2. Sheriff's deed to George A. Charles in due form, conveying the land, dated 11th day of February 1863.

22. To the rendering of judgment, deed and precept in evi-

dence, defendants objected, and they were read subject to objections.

24 Defendants introduced J. B. Boggs as a witness, who testified that he tendered to plaintiff full amount of redemption money, and it was refused, and the money was paid to the Clerk of this court before the case was decided. Amount of tender was \$55.

24 Appeal bond in due form.

ERRORS ASSIGNED

The court erred in refusing a new trial.

The court erred in finding the issues for defendant, and rendering judgment for defendant.

231 37
Lud A Charles
Appellant
2

A. J. Wangle
Appellee
Abstract

Filed April 22 1864

L. L. Conrad Clerk