

No. 14027

Supreme Court of Illinois

People, ex. rel.

vs.

Ireland

People v. ...

SUPREME COURT
OF
ILLINOIS,
—
SECOND GRAND DIVISION.
—

163

overruled

14027

Know all men by these Presents that
we Emanuel Ireland Collector and John
Shirley William Hanks John H. Buckmaster
Alexander P. H. Doyle, George H. Dickmann.
Securities all of the County of Fayette and
State of Illinois are held and firmly bound
to the People of the State of Illinois. in the
Penal sum of Twenty-five Thousand Dollars
for the payment of which well and truly to
be made we bind Ourselves Back of us Our
heirs Executors and administrators firmly by
these Presents. Signed with Our hands and
Sealed with Our Seals. this the Fourth day
of December 1860.

The Condition of the foregoing
Bond is such that if the above bound
Emanuel Ireland shall perform all the
duties required to be performed by him as
Collector of the taxes for the year 1860 in the
time and manner prescribed by law. ^{where} and if he
shall be succeeded in Office shall surrender
and deliver over to his Successor in Office
all Books, papers, and monies belonging to
said County or to the State and appertaining
to his said Office then the foregoing bond to

be void, Otherwise to Remain in full force

Emanuel Ireland *Seal*

John Shirley *Seal*

William Hanks *Seal*

John W. Buckmaster *Seal*

Alexander P. H. Taylor *Seal*

Signed sealed and Delivered George H. Dickinson *Seal*

in presence of

Henry Cushing Dept
Clerk

State of Illinois

Fayette County

Clerks Office County Court.

I Martin Welch County Clerk in and
for said ^{County} do hereby certify that the foregoing
Bond is a true and correct copy the bond
given by Emanuel Ireland as appears of
Record in my said Office, and that said
Bond was approved by B. W. Henry Chairman
Samuel Spence Judge and Martin Welch
Clerk.

In Testimony Whereof I have hereunto set
my hand and affixed the Seal of said Court
at Vandalia this the 23rd day of November
A.D. 1861

Martin Welch Co. Clerk

Edw. L. L. 1892

Emanuel Ireland Treasurer of Fayette County Illinois
Sir

Take notice that at the January Term
1862 of the Supreme Court of the State of Illinois I shall
by my solicitor, file a petition to said Court on the 3rd
day of said Term and enter a motion upon filing of
said petition, for an alternative mandamus
requiring you as Treasurer of the County of Fayette
State of Illinois to pay certain orders of said County
of which the following are true and correct copies

No 5483

Clerks Office

\$ 100 00

Vandalia Illinois October 27th 1859

Treasurer of Fayette County

Pay to Joseph Henryon or Bearer the
Sum of one hundred dollars bearing ten per cent
interest from date for extra work done on court houses
allowed by the County Court of said County at the October
Special Term 1859.

Counterseigned and registered

E Ireland Treasurer Attest Martin Welch Clerk

No 5300

Clerks Office

\$ 500 00

Vandalia Illinois October 27th 1859

Treasurer of Fayette County

Pay to Joseph Henryon or Bearer the sum
of five hundred dollars bearing ten per cent interest from
date for extra work done on court house^s allowed
by the County Court of said County at the October
Special Term 1859

Counterseigned and registered

E Ireland Treasurer

Attest Martin Welch Clerk

No 5504

Clerks Office \$ 200.⁰⁰
Vandalia Illinois October 27th 1859
Treasurer of Fayette County

Pay to Joseph Kenyon or Bearer
the sum of Two Hundred dollars bearing ten per cent
interest from date for extra work done in court
house^{as} allowed by the County Court of said County at
the October Special Term 1859

Counter signed and registered

E Ireland Treasurer Attest Martin Welch Clerk

No 5508

Clerks Office \$ 200.⁰⁰
Vandalia Illinois October 27th 1859
Treasurer of Fayette County

Pay to Joseph Kenyon or Bearer
the sum of Two hundred dollars bearing ten per cent
interest from date for extra work done in court house
as allowed by the County Court of said County at the
October Special Term 1859

Counter signed and registered

E Ireland Treasurer Attest Martin Welch Clerk

No 5622

Clerks Office \$ 369⁷¹/₁₀₀
Vandalia Illinois December 9th 1859
Treasurer of Fayette County

Pay to Joseph Kenyon or Bearer
the sum of Three hundred and sixty nine ⁷¹/₁₀₀ dollars
bearing ten per cent interest from date for two
vault doors furnished for county as allowed
by the County Court of said County at the December
Term 1859

Counter signed and registered

E Ireland Treasurer Attest Martin Welch Clerk
for Lewis E. Green Deputy Clerk

All of said orders being endorsed as follows
June the 25-1861 Presented for payment - E Ireland
Treasurer, meaning Treasurer of said County of Fayette

Said motion will be made for an alteration writ of mandamus requiring you to pay said order to David L Phillips the relation or to show cause why you should not pay the same

Yours Respectfully
David L Phillips by
James C Crenshaw his
Solicitor

State of Illinois
Fayette County

Before me Clerk of the County Court
of said County of Fayette personally appeared Ezra
Centuria who first being duly sworn states
on oath that he served a copy of above notice
on Emmanuel Ireland Treasurer of the County of Fayette
State of Illinois on the 25th day of November 1861

Subscribed & sworn to before me this 25th day of November
1861 Witness my hand and official seal

Martin Wells Co. Clerk



W. C. C. C. C.

People ex rel. time
David L. Phillips

vs.

E. Ireland Treasurer

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If Treasurer should neglect or refuse to pay an order from County Court the remedy is by mandamus and not by suit on Bond: 2 Gilman 109

If specific funds of a county are mixed with general funds a mandamus will lie to compel general funds to be paid 11 Illinois 203

County Court may be compelled by mandamus to draw a warrant on their Treasurer 22 Pickering 263 11 Illinois 203 and it follows of course that a mandamus will lie to compel the Treasurer to pay the warrant when drawn

Superior of roads may be compelled by mandamus to pay an order drawn on them 2 Binney 275 Commonwealth vs. Johnson

Mandamus lies against a public officer to pay an award Wright 353

and against Auditor of State to draw warrant 8 B. Moore 648

and against County Auditor to draw warrant 19 Ohio 116

Co Comm Court of Fayette Co were authorized to levy Tax See Public Laws of 1857 p. 210

Orders to be signed by Co Clerk & Treasurer 1 Purples Dig 287 § 46: 288 § 53
Treasurer must endorse on orders the date when presented for payment 1 Purples Dig p. 305 § 23

People of re Phillips

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C Ireland Treasurer

Filed Jan 18/62

Amount under special Tax Law 1859 \$ 9106.06

1860 8991.79

18097.85

1123.83

Declaratory Tax for 1859 & 1860

Collected under Tax Law 16977.02

Caudalia Aug 11. 1861
S. B. Phillips.

Dear Sir,

I called on the
Clerk and obtained the following
items pertaining to the information asked
and ^{as} this point the Asst Clerk (the Clerk
being absent) stated that he would not
give me a certificate as the Treas. made no
report at December Term last past and he could
not give one in full. The exhibit is as
follows

Am't of Special Tax for 1859.	9116.06
" " " " " 1860	<u>8991.76</u>
" " delinquent land Tax 1859. 521.04	\$ 18097.82
" " " " " 1860 1311.41	<u>1831.45</u>
	\$ 16266.37
" " " personal property 1859 240.56	
" " Errors &c	<u>10.43</u>
	<u>250.99</u>
	\$ 16015.38

over

bal tras forward

\$ 16015.38

do Gap for 1859 7284.85 -

do " " 1860 7193.43

\$ 14478.28

Delinquent list of land

Gap 1859 & 60

1465.16

13013.12

\$ 29038.50

Add to this a bal on hand of

cash from Treasury Warrants \$ 120.20 120.20

also amt P. Kenyon in

Swamp land & said lands

being transferred to Geo Smith of 4950.00 5070.20

Miss Co. Ill

\$ 34098.70

E Ireland Treas. has paid over to

or rather presented for cancellation

in Co. orders & Certificates, 1859 \$ 14224.29

do

1860 12707.34 = 26931.63

Bal on hand and

\$ 7167.07

See. report to make.

I submit for your consideration the foregoing
as the best I can obtain. Why not sum-
mon & record or have a commission appointed
to examine records? Yours E. L. R. R.

For Mr. Conckling.

State of Illinois ps.

To the Honorable the Judges of the
Supreme Court of said State sitting at Springfield
State of Illinois January Term 1862

In the name of the People of the State
of Illinois David L Phillips the person referred to
in the foregoing annexed notice respectfully relates
and shews to your Honors

That on the 12th day of February 1859 an
act was approved by the General Assembly of the
State of Illinois as follows to wit-

An act to authorize the County Court of Fayette
County to levy a Tax for the purpose of repairing
court house in said County and other purposes
Section 1 Be it enacted by the People of the State of
Illinois represented in the General Assembly That the
County Court of Fayette County be and the same is
hereby authorized and empowered to levy a special
Tax for the term of two years not to exceed fifty cents
(50) on each hundred dollars worth of personal
and real estate in said County; the proceeds of said
Tax to be applied to the payment of repairs on the
court house in said County and for furnishing the
same

§ 2 That the surplus, if any, of said Tax, be paid
in to the County Treasury, to be applied as said
County Court shall direct

§ 3 This act to take effect and be in force
from and after its passage
Approved February 12 1859

That in pursuance of the authority conferred by said Law said County Court did levy and cause to be collected the special tax for the purposes specified in said Law and that said tax amounted to the sum of ~~Eighteen~~ ^{as he is informed} ~~thousand~~ ^{thousands} dollars ~~which sum~~ which sum was paid in the County Treasury of said County of Fayette ~~before the~~ ^{day of} and constituted a special fund to be used and applied for the purposes specified in said Law

That said County Court caused repairs to be made on said Court House and also caused the said Court House to be furnished and that the expense of the same amounted ^{as he is informed} to about the sum of ten thousand dollars and that there was a surplus of several thousand dollars paid into the County Treasury from said special tax more than was necessary to pay for the repairing and furnishing of said Court House

That said County became indebted to one Joseph Kenyon for the repairing and furnishing of said Court House under the provisions of said act in a large sum of money and for the purpose of enabling him to obtain the money the County Court of said County caused certain orders of which the following is a true and correct copy to be drawn upon the Treasurer of said County viz
No 5483

Clerks Office \$ 100.00
Bancroft & Co. is October 27th 1859
Treasurer of Fayette County

Pay to Joseph Kenyon or bearer the sum of one hundred dollars bearing ten per cent interest from date for extra work done on Court House as allowed by the County Court of said County at

Countersigned & Registered

E Ireland

Attest Martin Welch Clerk

No 5500

Clerk's Office

\$ 500 @

bondable Illinois October 27th 1859

Treasurer of Fayette County

Pay to Joseph Keigom or Bearer

The sum of five hundred dollars bearing ten per cent interest from date for extra work done on Court House as allowed by the County Court of said County at the October Special Term 1859

countersigned and registered

E Ireland Treasurer

Attest Martin Welch Clerk

No 5504

Clerk's Office

\$ 200 @

bondable Illinois October 27th 1859

Treasurer of Fayette County

Pay to Joseph Keigom or Bearer the

sum of Two hundred dollars bearing ten per cent interest from date for extra work done on Court House as allowed by the County Court of said County at the October Special Term 1859

countersigned and registered

E Ireland Treasurer

Attest Martin Welch Clerk

No 5508

Clerk's Office

\$ 200 @

bondable Illinois October 27th 1859

Treasurer of Fayette County

Pay to Joseph Keigom or Bearer the sum of

Two hundred dollars bearing ten per cent interest from date for extra work done on Court House as allowed by the County Court of said County at the October Special Term 1859

countersigned and registered

E Ireland Treasurer

Attest Martin Welch Clerk

No 5622

Clerks Office \$ 369¹¹
Baudela Illinois December 9th 1859
Treasurer of Fayette County
Pay to Joseph Kenyon or Bearer

The sum of three hundred and sixty nine ¹¹/₁₀₀ dollars
bearing ten per cent interest from date for two vaults
doors furnished for county as allowed by the County
Court of said County at the December Term 1859
Countersigned and ~~Registered~~

E Ireland Treasurer Attest Maitin Welch Clk
for Lewis Gouren Deft Clerk

That all said orders were presented for
payment to said E Ireland Treasurer of said County
on the 25 day of June 1861 and payment thereof was
refused and endorsement of said presentment has
been made on each of said orders by said Treasurer
That said Ireland was Treasurer of said County when
said special Tax was collected and paid into the
Treasury and that from that time to the filing of
this petition he has been and still is the Treasurer
of said County and by law authorized to pay said
orders That he has had ^{as he verily believes} sufficient of said special
Tax on hand during all that time to pay said
orders unless he has applied the same to purposes
not authorized by said Law and that since the
25 day of June 1861 he has had sufficient money
in the Treasury to have paid said orders in their
regular order according to the date of presentment
and still has sufficient money in the Treasury for
that purpose but said Ireland has neglected
and refused and still doth neglect and refuse
to pay said orders out of said special fund or
according to their date of presentment

according to their date of presentment for payment

That according to said date of presentment they should have been paid long ago - and that said Ireland has illegally and corruptly paid other orders that were presented for payment after said June 25 1861 at which time said Relator David L Phillips presented said orders for payment and said Phillips avers that at the time of said presentment and ever since he was and still is the Bearer of said orders and entitled to receive the amount specified in said orders

And said relator avers that he has no other specific remedy for obtaining the money specified in said orders except by a writ of mandamus

And said relator files herewith a certified copy of said Ireland's Bond and also said orders and notice of this application a copy of which was served on said Ireland

D. L. Phillips

Subscribed and sworn to before me }
this 17th day of January A.D. 1862 }
J. P. Enos Clerk

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The People of relations
David L Phillips
vs
E Ireland Treasurer

Filed Jan 18/62
Wm H. Turney
clerk