

13912

No.

Supreme Court of Illinois

McDowell.

---

vs.

People ex-rel.

---

71641  7

SUPREME COURT,

STATE OF ILLINOIS,

SOUTHERN GRAND DIVISION,

OCTOBER TERM A.D.1902.

J. O. MC.DOWELL, Appellant,

vs

( Appeal from the County Court of  
Lawrence County,

THE PEOPLE &c EX REL CURTIS

H.MARTIN&COUNTY TREASURER, Appellee,

RECEIVED, Lawrenceville, Illinois, of W.F. Foster,  
Attorney for the appellant in the above entitled suit, One Copy of  
Appellants Abstract and One Copy of Appellants Brief and argument in  
the above entitled case.

Dated this 3rd, day of October 1902.

*W. F. Foster*

Attorneys for Appellee,

THE  
DIVISION OF  
GENERAL INVESTIGATION  
U. S. DEPARTMENT OF JUSTICE

2754

BY  
OFFICE OF THE  
GENERAL INVESTIGATION  
U. S. DEPARTMENT OF JUSTICE

85

FILED  
OCT 4 1902  
OLIVER J. PAGE,  
CLERK.

RECORDED IN 8,581,000

State of Illinois In the Supreme Court  
To the October Term 1902.

J. M. Dowell - Appellant }  
The People <sup>vs</sup> Earl C. Martin } Appellé from the County  
County, Decatur & Appellee } Court House & C.

Received Oct 14<sup>th</sup> 1902 from Geo. Bonner Atty,  
for Appellee One Copy of the Brief of  
the Appellee

W. F. Foster

Atty for the Appellant  
M. Dowell

2754

85

*oil*

*10*

*10*

*10*

*10*

*10*

*10*

*10*

*10*

**FILED**

OCT 17 1902

OLIVER J. PAGE,  
CLERK

In the Supreme Court of the State of Illinois.

To the October Term A. D. 1902.

J. O. Mc Dowell- Appellant.

vs

Appeal from Lawrence.

The People etc Curtis H Martin.

County Treasurer. Appellee.

And now comes the Appellee, and shows to the court that on the 3rd day of October 1902 the Appellant presented to the Attorneys for the Appellee a copy of the Abstract and brief of the Appellant, and that in this case the real party in interest is the City of Sumner, and the attorneys engaged to defend the same and protect the interests of the said City are Mr Stephen C Lewis who is the City Attorney of said City of Sumner, and Gee & Barnes who are engaged to assist in the defense. That the Circuit Court of Lawrence County Illinois convenes on the sixth day of Oct 1902, and the said attorneys are engaged in business in said court that will make it difficult to have the time to properly prepare the Brief of the appellee in the time limited by the rules of the Court. They ask that ten days time be extended to file the briefs of the Appellee.

And they will ever pray.

*The People Etc et al  
Curtis H Martin*

State of Illinois.

Lawrence County.

Stephen C Lewis and S J Gee being duly sworn say the above facts are true in substance and fact.

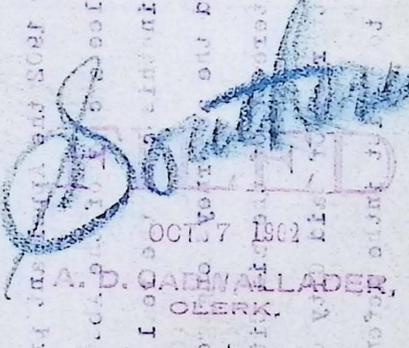
*S. J. Gee  
S. C. Lewis*

*Subscribed and sworn to before me  
this 6<sup>th</sup> day of October 1902 Philip W. Barnes  
Notary Public*

2754

McDowell  
v  
People ex rel.

No by appeal for  
time to file briefs.



Denied

13912



Lawrence, Ill.  
State of Illinois.

September 17, 1892

My dear Mr. Justice:

This is brief of the appeal.

By service of the writ, they are now on the day of the appeal.

It is hereby requested the brief of the appellee in this case be filed

and the said writ will be set aside if the appellee fails to do so.

Very respectfully,  
A. D. Caldwell, Clerk.

THE PEOPLE OF THE STATE OF ILLINOIS,  
Plaintiff in Error,  
vs.  
JAMES MCDOWELL,  
Defendant in Error.

Special Term Lawrence, Ill.

James McDowell, Plaintiff.

In the October Term A. D. 1892.

In the presence of the Court of Illinois.

## McDowell v. The People, etc.

Mr. Justice Ricks delivered the opinion of the court.

The is an appeal from a judgment of the County Court of Lawrence County against a tract of land situated in the city of Sumner, belonging to appellant, for a special tax levied thereon for the purpose of building sidewalks. The case was tried partly on an agreed state of facts and partly on documentary evidence. Several objections were filed to the payment of the tax, but in as much as the sixth objection filed in the County Court by appellant, being that there was no grade established by any ordinance of the city for the construction of said sidewalks, is vital to the whole proceeding, under our view of the law, it will only be necessary to discuss this one objection.

There were two separate ordinances passed November 13, 1901, being ordinances No. 79 and No. 80, for the building of two separate sidewalks; each ordinance providing that the entire cost of the sidewalks and all expenses should be paid by special taxation of the lot or parcels of land along the line of the sidewalk, according to their frontage thereon, and were passed under the provisions of an act entitled: "An Act to provide additional means for the construction of sidewalks in cities, towns and villages." Approved April 15, 1875. In force July 1, 1875. Hurd's St., 1899, p. 319. The essential features of both ordinances were the same; each describing the kind of material and the manner in which the same was to be used. Ordinance No. 80, located a walk on the East side of Christy avenue, and ordinance No. 79, located a walk on the north side of Cedar street; both being in the city of Sumner, and one running along the side, and the other along the front of appellant's property. Section 2 of each ordinance provided that the building, laying and constructing of said stone sidewalk aforesaid

shall be done according to the following plans and specifications: There shall be made an excavation of the earth four inches below the established grade", etc. Ordinance No. 80 then proceeds as follows: "of that portion of said Christy avenue where said sidewalk shall be built, and five feet wide, unless said excavations have previously been made," etc. Ordinance No. 79, proceeds: "of that portion of Cedar street, and three feet wide, except where it would be better and more practicable on account of proper drainage to excavate less or grade up at low places along the line of said sidewalk aforesaid," etc. The above is all that is said in either ordinance in reference to the grades. There is not even a reference to a general ordinance establishing a grade for the city and no evidence introduced as to the establishment of a grade, except the introduction of a resolution in evidence establishing the grades of the city as follows:

127/2  
" Chapter xxxviii; - Establishing Grade of Streets and Alley

WHEREAS, the City of Sumner, Illinois, did on the 3rd day of November, 1898, contract with Edwyn E. Watts, civil engineer, for making the necessary surveys and furnishing the data necessary to establish the grades of the streets and alleys of the said city; and whereas the said Watts has this day filed in the office of the Clerk of said city a map endorsed thereon as follows: "City of Sumner, Illinois; grade map, By E. E. Watts, C.E., and the following," "Explanation-Continuous curb grades of the streets and alleys are indicated hereon in red. Elevations are shown at street intersections and all other points in the line of the street or alley where the ratio of grade changes; one elevation at an intersection or intermediate point indicates the same grade for all curbs at that point; otherwise separate elevations are indicated. All grades conform to the grades of intersecting streets; distances to intermediate change points are shown, excepting where change occurs in the middle of the block, no distance is shown," and a record of permanent bench marks noted thereon:

Now be it resolved by the common council of the city of Sumner, Illinois, that said elevations of said streets and alleys and of the permanent "Bench Marks", as indicated upon said map be and the same are hereby declared to be the established grades of said res-

#3.

pective streets and alleys, and that from and after the passage of this resolution shall be deemed and considered the established grade of the streets and alleys of the city of Sumner, Illinois.

And be it further resolved that the Clerk of said City be hereby ordered and directed to spread a copy of said map upon the minutes of this session of said council."

We have repeatedly held that grades cannot be established by resolution, and that the only manner in which grades of streets can be established for the building of sidewalks or the paving or making of any permanent improvement of a street is by ordinance. In the case of C. & N. P. R.R. Co. v. City of Chicago, 174 Ill. 444, we said: "The proof in the case showed, that the order of March 23, 1896, was not styled in accordance with section 2 of article 5 of part 1 of the City and Village act. Section 2 requires that the style of the ordinance in cities shall be; "Be it ordained by the city council of . . . ." The proof also shows that the order of March 23, 1896, was not passed by a majority of the members of the city council, as required by section 13 of article 3 of part 1 of the City and Village act; also, that the yeas and nays were not taken upon its passage, as required by said section 13; also, that the yeas and nays were not duly entered upon the journal of the proceedings of the city council, as required by said section 13; also, that the same was not presented to the mayor for his approval, as required by section 18 of said article 3. (Barr v. Village of Auburn, 89 Ill. 361; Hackman v. Village of Staunton, 42 Ill. App. 409; Schofield v. Village of Hudson, 56 id. 191). It is thus clearly shown, that the order in question lacked the requirements, which the statute makes necessary, in order to constitute a valid ordinance. The order in question was nothing more than a mere resolution, and in no sense an ordinance. . . . A resolution or order is not a law, but merely the form in which the legislative body expresses an opinion. An ordinance prescribes a permanent rule of conduct or government, while a resolution is of a special and temporary character. Acts of legislation by a municipal corpo-

ration, which are to have continuing force and effect, must be embodied in ordinances, while mere ministerial acts may be in the form of resolutions." . . . . As an ordinance is required to establish a fixed rule for the conduct of the affairs of the city, it would seem that the grade of a street should be established by an ordinance, and such is the general practice in this and other States." *City of Bloomington v. Pollock*, 147 Ill. 346; *City of Carlinville v. McClure* 156 Ill. 492; *Washington Ice Co. v. City of Chicago* 147 Ill. 327; *Chicago and Northern Pacific Railroad Co. v. City of Chicago*, 172 Ill. 66; *State v. City of Bayonne*, 35 N.J.L. 335; 1 *Dillon on Mun. Corp.*, -4th ed.- sec. 307, and note; *Horr & Bemis on Mun. Police Ordinances*, sec. 226; *Nazworthy v. City of Sullivan*, 55 Ill. App. 48; *Village of Crotty v. People* 3 id. 465; also, *Craig v. People* 193 Ill. 201.

1276  
Ordinance 79, as will be seen, having only the above resolution to support it, in reference to the grade further says: "Except where it would be better and more practicable on account of proper drainage to excavate less or grade up at low places along the line of said sidewalk aforesaid." Even if it could be said that the grades of the city were established as shown by the resolution and map on file in the city Clerk's office, it could not be held that this ordinance was sufficiently certain to inform a person as to the grade for the building of a walk. Under the statute the property owner has the right within 30 days after the publication of the ordinance to construct the sidewalk in front of his property in accordance with the specifications of the ordinance authorizing it. He has the right to know the grade on which the sidewalk is to be built, otherwise he cannot properly construct the same. The ordinance should fix the grade at which the sidewalk is to be built in express terms, or a reference should be made therein to some ordinance of the city fixing such grade, or it should state therein that the sidewalk should be laid according to the established grade of the sidewalks of the city, or in some other way define the grade so that the property owner may know definite-

#5.

ly the grade at which the sidewalk is to be laid, otherwise it would be impossible for the property owner to avail himself of the right conferred upon him by the Statute to construct sidewalks in front of his own property, or for the officer designated in the ordinance to supervise and approve the construction thereof. *Biggins Est. v. The People*, 193 Ill. 163.

It is a well established rule that where an ordinance, providing for an improvement, the expense of which is to be defrayed by special taxation, requires said improvement to conform to a certain grade, the tax for such improvement will not be legal if the ordinance does not establish such grade or make proper reference to an ordinance, from which such grade may be ascertained. *Craig v. People*, *supra*.

In order to sustain the judgment rendered by the County Court in this case, it was incumbent upon the appellee to show that the grade of the sidewalks in question was established by ordinance with sufficient certainty to advise appellant in regard thereto, so he might, if he chose, construct the improvement himself; the ordinance providing for the improvements in question being insufficient for the purpose stated, the judgment against appellant's property for the tax in question must be held to be erroneous, and must be reversed.

The judgment of the County Court of Lawrence County is reversed and the cause remanded.

Reversed and remanded.

No. 275 *for* October Term, 1902; A. 85

-----  
McDowell v. The People, etc.,  
-----

RICKS, J.

*OK*  
*A+R,*

FILED

OCT 26 1903

*Cramer*  
CLERK OF SUPREME COURT

2754

85

No. \_\_\_\_\_

Agenda No. \_\_\_\_\_

....In the....

SUPREME COURT,

STATE OF ILLINOIS,

Southern Grand Division.

OCTOBER TERM, A D. 1902.

J. O. McDowell, Appellant,

vs.

The People &c, ex. rel. Cur-  
tis H. Martin, County  
Treasurer, Appellee.

} Appeal from the  
County Court of  
Lawrence County.

APPELLANT'S ABSTRACT OF RECORD.

W. F. FOSTER, COUNSEL FOR APPELLANT.

Now, Lawrenceville.

FILED

OCT 4 1902

OLIVER J. PAGE,  
CLERK.

Box 87

### Index to Abstract of Record.

Affidavit of County Collector	4
Affidavit of City Clerk under Ordinance 80	7
Affidavit of City Clerk under Ordinance 79	9
Amendment to returns by City Clerk	11-12
Appeal Bond	12
Assignment of Errors	12
All the evidence offered	10
Bill of Exceptions	2-12
Convening order of Court	1
Certificate of Publisher tax list	4
Certificate of Clerk to Transcript	12
Description of land advertised	3-4
Grade Curb, resolution establishing	6-7
Judgment of Court	2-3
Judgment of Court on amendment	11
Notice of application for judgment	3-4
Objection to tax	1-2
Ordinance number 80	7-8
Ordinance number 79	9-10
Order of continuance	10-11
Original Bill of Costs by Construction Board	11-12
Statement Special Tax Ordinance 80	8
Statement Special Tax Ordinance 79	10
Stipulation of facts	4-6
Signature of Judge to Bill of Exceptions	12

.....In the.....  
**Supreme Court, State of Illinois,  
Southern Grand Division.**

---

**OCTOBER TERM, A D. 1902.**

---

**J. O. McDowell, Appellant,  
vs.  
The People &c, ex. rel. Curtis H.  
Martin, County Treasurer,  
Appellee.**

} **Appeal from the  
County Court of  
Lawrence County.**

---

**APPELLANT'S ABSTRACT OF RECORD.**

---

---

PAGE OF  
RECORD.

- 1 Convening order of June term, A. D. 1902, of the Lawrence County Court.
- 2 Objections of J. O. McDowell show that he owns 40 feet off of south end of Lot 8, Block 14, May's First Addition to City of Sumner, frontage, 40 feet, width of walk 5 feet, square feet 200, assessment \$25; tract of land adjoining said Lot 8 on south, 185 feet east and west by 165 feet north and south, 120 feet, width of sidewalk 5 feet, square feet 600, assessment \$75; sidewalk on south side last

described tract frontage 185 feet, square feet 555, width 3 feet, assessment \$72.15. To which said special tax and judgment thereon objections are made for the following reasons:

1st. Said assessments are illegally made.

2nd. A sidewalk of the same description was removed from along said property in order to assess and collect a special tax against this objector; that in removing and replacing said sidewalk no special benefit accrued to said lots, and the assessment was increased two and one-half cents on the square foot over that assessed on adjoining property for like improvements.

3 3rd. An ordinance for the construction of a sidewalk along said property on Christy avenue, and under which a sidewalk of the same description had been constructed, was repealed and said sidewalk taken up in order to pass the ordinance and construct the sidewalk for which this assessment was made and judgment asked.

4th. No bill of costs has been made, nor no special tax list has been made and filed with the County Treasurer, giving each item of cost of the construction of said sidewalk, as is required by law, to entitle said City to a judgment.

5th. Because of a failure to comply with the requirements of the statute by the authorities of the City of Sumner, in passing and publishing said ordinance, and in the proceedings to construct said sidewalk and levy and collect the special tax therefor this Court has no jurisdiction to render judgement.

6th. The grade upon which sidewalk was to be constructed was not fixed by said ordinance, or any ordinance, so that this objector could construct the same according thereto.

J. O. McDOWELL.

#### ORDER AND JUDGMENT OF THE COURT.

June 13th, 1902, J. O. McDowell, objector, comes by W. F. Foster, his attorney, and comes also Curtis H. Martin, County Collector, by S. C. Lewis and S. J. Gee, his attorneys, whereupon notice and proof made by the said County Collector are considered in proof

in this case. Ordinance No. 79 and 80 of the City of Sumner, Illinois, affidavits and report to County Collector, by Clerk of said City of Sumner, and ordinance of said City of Sumner, establishing grade of streets and alleys, Page 61, Chapter 28, introduced by said objector; whereupon this cause is continued until June 14th at one o'clock p. m.

And now on the 14th day of June, A. D. 1902, at one o'clock p. m., said day being one of the judicial days of said June term of this court, came again the said parties, whereupon the Court heard argument of counsel until four o'clock p. m. when said County Collector, by his attorneys aforesaid, moved the Court to amend report made by said City Clerk of the City of Sumner, to said County Collector, which motion is allowed by the Court, to which the said objector by his attorney aforesaid then and there excepts; amendment made; whereupon it is considered by the Court that judgment be and is entered against the parcels of land and lots of said objector as prayed, by said County Collector, to-wit:

4 Description of land and amounts of judgment, aggregating \$173.43.

Objector excepts and prays appeal to Supreme Court. And now again on the 16th day of June, 1902, comes the said objector and shows to the Court that he has deposited with said County Collector the amount of said judgment; appeal granted to Supreme Court. Bond in sum of \$200 in 30 days, bill of exception in 60 days.

#### BILL OF EXCEPTIONS.

County Collector to maintain issues on his part moves Court to consider notices and proof of County Collector in evidence, which is done accordingly, to-wit:

5 Public notice of the application of the County Collector for judgment against delinquent lands and lots for taxes and special assessments at the June term of County Court.

Description of objector's property, 40 feet off south end Lot 8, Block 14, May's first addition to Sumner, frontage 40 feet, width 5

feet, square feet 200, \$25.

A tract in same block 185 feet east and west by 165 north and south, on west side walk, 165 feet frontage, width 5 feet, square feet 600, \$75:00; on south side of same tract, frontage 185, width 3 feet, square feet 555, \$72.15.

Sale of delinquent lands and lots to begin June 16th, 1902.

6

Certificate of publisher of delinquent tax list.

Affidavit of the County Collector to delinquent tax list.

Which was all the evidence offered by the Collector.

The objector offered in evidence the following

STIPULATION.

It is agreed that on the 1st day of May, 1900, the City Council of the City of Sumner duly passed and thereafter duly published an ordinance numbered 66, providing for the construction of a stone sidewalk, to be paid for by special assessment on contiguous property, along the east line of Christy Avenue, in said City, which said sidewalk passed along and was contiguous to the west front of the property of this objector, as described in this proceeding; that said sidewalk, so provided for in said ordinance number 66, was of the same character, dimensions and material and was to be constructed according to the same plans and specifications as the sidewalk provided for and constructed in and under the provisions of ordinance number 80 relied on in this proceeding; that the objector failed and refused to construct said sidewalk, under said ordinance number 66, within thirty days after the passage and publication thereof as therein provided, whereupon said City constructed said sidewalk along the west front of objector's said described property according to the provisions of said ordinance number 66; that the objector failed and refused to pay the cost of construction of said sidewalk specially assessed against his said property, whereupon said City returned the same as delinquent to the County Treasurer of said County; that said County Treasurer advertised said property so returned, as the law directs, and at the June term, A. D.

7

7 1901, of the County Court of said county, applied for judgment thereon against said land; that at said June term of said Court, the objector herein appeared and filed his objections thereto; that the City of Sumner, then and there of its own motion dismissed said proceeding in said County Court, because of an error as it alleged in the description of objector's said property; that said City Council repealed so much of said ordinance number 66 as extended along the west front of objector's said property, and thereupon tore up and removed said sidewalk, theretofore constructed under said ordinance 66, along the west front of objector's said property, and passed the ordinance number 80, relied on for judgement in this proceeding, and thereupon constructed the sidewalk along the west front of objector's said property, of the same character, description and dimensions and of the same character of material as the sidewalk so constructed under said ordinance number 66, and afterwards so removed; that said City constructed at a cost of and taxed and assessed objector's said property two and one-half cents more per square foot for the stone in the latter sidewalk than was taxed and assessed for the stone in the former sidewalk. And it is further stipulated that under the first ordinance number 66 the City of Sumner caused to be laid along the aforesaid premises of the said J. O. McDowell, a stone sidewalk under the provisions thereof, and that the said J. O. McDowell refused to pay for the same, and made objections to it, and the City, the ordinance being found invalid, caused the said sidewalk thus put down, to be taken up and removed from along the said premises, and for several months there was no stone walk along the premises of the said J. O. McDowell, and until the passage of the present ordinances number 79 and 80, under which the present proceedings are being had, when the said J. O. McDowell refused to put down the walk himself, as provided in the time and manner of the said ordinance, the City of Sumner again caused to be laid a stone sidewalk, but not the same stone heretofore used along said premises, and the assessment which is sought to be col-

lected in this proceeding is for the last sidewalk thus laid and constructed, and was only laid by the City because the said J. O. McDowell had made default in not complying with the ordinance and refusing to put down the sidewalk himself.

7½ The trial court claims to have considered minutes of the City Council in connection with ordinance 28, in relation to grade maps and lines, when the same was passed.

8 Chapter XXIII, of the ordinance book of City of Sumner, establishing grade of streets and alleys:

Whereas, The City of Sumner, Illinois, did on the third day of November, 1898, contract with Edwin E. Watts, civil engineer, for making the necessary surveys and furnishing the data necessary to establish the grades of the streets and alleys of the said city, and,

Whereas, The said Watts has this day filed in the office of the Clerk of said City a map endorsed thereon as follows: "City of Sumner, Illinois, Grade Map, by E. E. Watts, C. E.," and the following: "Explanation—Continuous curb grades of the streets and alleys are indicated hereon in red; elevations are shown at street intersections and all other points in the line of the street or alley where the ratio of grade changes. One elevation at an intersection or intermediate point indicates the same grade for all curbs at that point, otherwise separate elevations are indicated. All grades conform to the grades of intersecting streets. Distance to intermediate change points are shown, excepting where change occurs in the middle of the block, no distance is shown." And a record of permanent bench marks noted thereon. Now be it

Resolved, By the Common Council of the City of Sumner, Illinois, that said elevations of said streets and alleys and of the permanent "Bench marks" as indicated upon said map be and the same are hereby declared to be established grade of said respective streets and alleys, and that from and after the passage of this resolution shall be considered and deemed the established grade of the streets and alleys of the City of Sumner, Illinois; and be it further

PAGE OF  
RECORD.

8 Resolved, That the Clerk of said City be hereby ordered and directed to spread a copy of said map upon the minutes of this session of said Council.

AFFIDAVIT OF CITY CLERK TO COUNTY COLLECTOR.  
STATE OF ILLINOIS, }  
LAWRENCE COUNTY, } ss.

H. D. Roach, City Clerk of the City of Sumner, Lawrence county, Illinois, being duly sworn, upon his oath says that the special sidewalk delinquent tax list hereto attached, with the names of the respective owners thereof, so far as the same are known to said City Clerk, and the amount due and unpaid upon each lot, tract or parcel of land, together with a true and correct copy of the ordinance hereto attached, ordering the construction of said sidewalk; that the list is a correct return of the lots, tracts and parcels of land on which the special tax levied by authority of said City of Sumner, for the partial cost of said sidewalk in said ordinance specified, remains due and unpaid, and that the amounts therein stated as due and unpaid, have not been collected nor any part thereof.

H. D. ROACH, City Clerk.

Subscribed and sworn to. BENJ. F. SUMNER, N. P.

10 ORDINANCE NO. 80.

Sec. 1. Provides for the construction of stone sidewalk 5 feet wide on a portion of the east side of Christy avenue, in City of Sumner; describes tract along which to construct walk as being 165 feet north and south and 240 feet east and west; declares the same to be public local improvement, to be paid for by special taxation.

Sec. 2. The building, laying and constructing of said stone sidewalk aforesaid shall be done according to the following plans and specifications: There shall be made an excavation of the earth four inches below the established grade of that portion of said Christy avenue where said sidewalk shall be built, and five feet wide, unless said excavations have previously been made; excava-

tion to be filled with sand three inches deep, unless previously so filled, and tamped with hand tamp, upon which shall be laid white oak plank 1 inch by 3 inches, 12 feet long, upon which shall be laid dressed limestone rock.

11       Sec. 3. Provides that lumber, sand and labor shall be paid for by general taxation.

      Sec. 4. Provides that all material shall be first-class and the construction shall be under supervision of Mayor and Street Committee.

12       Sec. 5. Provides that the owners shall construct said sidewalk within thirty days, in default City to construct and Mayor and Committee on Streets to make bill of costs thereof, itemizing the same, showing separately the cost of each article of material, labor etc., in laying sidewalk, exact amount to be paid for by special taxation, which they shall certify to and file with City Clerk, together with list of real estate; that the Clerk shall prepare special tax list upon each piece or lot and file same in his office, and issue warrant therefor to City Marshal for collection of same.

      Sec. 6. Provides that on failure to collect, City Clerk shall make list and report in writing before April 1st, 1902, amount unpaid to County Collector, etc., with copy of ordinance, report to be verified by oath of Clerk.

13       Sec. 7. Adopts sidewalk act of 1875.

      Sec. 8. Repeals all ordinances in conflict and numbers same as ordinance number 80. Passed, approved and published, etc.

14       Delinquent sidewalk tax, ordinance 80; J. O. McDowell, owner, 40 feet off south end lot 8, block 14, J. May's first addition to City of Sumner; frontage 40 feet, width 5 feet, square feet 600, total cost \$75.

      Tract of land in block 14, J. May's first and second addition of City of Sumner, described by meets and bounds, being a tract 185 feet east and west by 165 feet north and south, frontage 120 feet, width 5 feet, square feet 600, total cost \$75—\$100.

14 STATE OF ILLINOIS, }  
LAWRENCE COUNTY, } ss.

H. D. Roach, City Clerk of the City of Sumner, Lawrence county, Illinois, being duly sworn, upon his oath says that the special sidewalk delinquent tax list hereto attached, with the names of the respective owners thereof, so far as the same are known to said City Clerk, and the amount due and unpaid upon each lot, tract or parcel of land, together with a true and correct copy of the ordinance hereto attached, ordering the construction of said sidewalk; that the list is a correct return of the lots, tracts and parcels of land on which the special tax levied by authority of said City of Sumner, for the whole cost of said sidewalk in said ordinance specified, remains due and unpaid, and that the amounts therein stated as due and unpaid, have not been collected nor any part thereof.

H. D. ROACH, City Clerk.

Subscribed and sworn to. BENJ. F. SUMNER, N. P.

15 ORDINANCE NUMBER 79.

Sec. 1. Provides for the construction of stone sidewalk 3 feet wide on a portion of north side of Cedar street, in City of Sumner, along a tract of land in block fourteen, in May's second addition; describes property by meets and bounds, being 240 feet east and west by 165 feet north and south (being same tract described in ordinance 80); sidewalk declared to be a public local improvement, the whole cost to be paid for by special taxation on contiguous property.

Sec. 2. The building and constructing of said stone sidewalk aforesaid, shall be done according to the following plans and specifications: There shall be made an excavation of the earth of the depth of four inches below the established grade of that portion of Cedar street, and three feet wide, except where it would be better and more practicable on account of proper drainage to excavate less or grade up at low places along the line of said sidewalk aforesaid.

16 When such excavation shall have been made or graded it shall be filled with sand three inches deep, or as near as practicable; said

16 sand shall be thoroughly tamped with a hand tamp. On said sand shall be laid white oak plank 1 by 3 inches, 12 feet long, upon which there shall be laid a layer of limestone rock 3 inches thick and not less than 4 feet long nor more than 10 feet long.

Sec. 3. All material used shall be first-class and of character mentioned in sections 1 and 2 of this ordinance, work to be under direction and approval of Mayor and Street Committee.

Sec. 4. Owners required to construct walk in 30 days; in default City to construct, Mayor and Street Committee to make bill of whole cost, itemizing same showing separately cost of each article of material, labor, etc., in constructing said walk, which they shall certify to and file with City Clerk. City Clerk shall make and prepare a special tax list upon the real estate and lots contiguous thereto, according to the frontage, which he shall file in his office and issue warrants to the City Marshal for the collection thereof.

Sec. 5. Upon failure to collect, City Clerk shall on or before 1st day of April, 1902, make a list and report in writing delinquent tax to the County Collector, reporting the real estate abutting, together with names of owners, with amount of special tax unpaid, with copy of ordinance, verified by affidavit of City Clerk, for the whole cost of said sidewalk.

18 Sec. 6. Adopts special sidewalk act of 1875.

Sec. 7. Repeals all ordinances in conflict and numbers the ordinance number 79.

Delinquent special sidewalk tax, City of Sumner; ordinance number 79; owner's name, J. O. McDowell. Describes a tract of land by meets and bounds in J. May's first addition to City of Sumner in block 14, J. May's first and second addition to City of Sumner, being 185 feet east and west by 165 feet north and south, frontage 185 feet, width 3 feet, square feet 555, total cost \$72.15.

Which was all the evidence offered or submitted by either of said parties on the trial of said cause.

Whereupon the court then and there entered the following

18 order: Whereupon this cause is continued until June 14th at one o'clock p. m.

And now on the 14th day of June, A. D. 1902, at one o'clock p. m., said day being one of the judicial days of said June term of this Court, came again the said parties, whereupon the Court heard argument of counsel until four o'clock p. m. when said County Collector, by his attorneys aforesaid, moved the Court to amend report made by said City Clerk of the City of Sumner to the said County Collector, which motion is allowed by the Court, to which the said objector by his attorney then excepts; amendment made, which said amendment was attached to and made a part of all the returns and papers filed as hereinbefore set forth by said City Clerk with the said County Treasurer, and is in the word and figures following, to-wit:

IMPROVEMENT ORDINANCE. No. 79 and 80.	Lot.	Block.	Frontage.	Width.	Number of square feet.	Stone, .1142c per square foot.	Lumber, .0015c per square ft.	Sand, .0035c per square foot.	Labor, .0110c per square foot.	Total cost 12c per square foot.
J. O. McDowell	8	14	40 ft.	5 ft.	200	\$22 80			\$2 20	\$25 00
J. O. McDowell, Tract		14	120 ft.	5 ft.	600	\$68 40			\$6 60	\$75 00
J. O. McDowell, Tract		14	185 ft.	3 ft.	555	\$63 27	\$8 325	\$1 942	\$6 105	\$72 15

We hereby certify that the above and foregoing special tax list upon the lot, lots, tracts and parcels of land abutting upon the line of said sidewalk as by ordinance 79 and 80 provided, showing separately the cost of said stone, plank, sand, labor in laying down the same into said sidewalks, and that the number of feet frontage of each of said lots, tracts or parcels of land, the amount of special charged thereon, and the names of the owners thereof, are true and

correct as the same therein appears.

Dated this 17th day of December, 1901.

C. B. JONES, Mayor.

R. WALLER,  
GEO. COOPER,  
JOHN W. WESTALL, } Street Committee.

Filed in the office of the City Clerk, December 17th, 1901.

H. D. ROACH, City Clerk.

Warrants issued thereon January 28th, 1902.

H. D. ROACH, City Clerk.

- 20 Conclusion of Bill of Exceptions and signature of Judge.  
21 Copy of Appeal Bond in sum of \$200.  
22 Certificate and seal of Clerk of the County Court to Transcript  
of Record.

23 ASSIGNMENT OF ERRORS.

1st. The County Court erred in permitting the County Collector to amend the returns made by the City Clerk of the City of Sumner to himself.

2d. The County Court erred in permitting the County Collector to amend by filing and attaching the original Bill of Costs made by the Mayor and Street Committee to the City Clerk.

3d. The County Court erred in over-ruling Appellant's 1st, 2d, 3d, 4th, 5th and 6th objections.

4th. The County Court erred in rendering judgment against Appellant's property for said special tax and ordering a sale thereof for the same.

5th. The Court erred in proceeding without jurisdiction in the case.

J. O. McDOWELL, Appellant.

By W. F. FOSTER, His Attorney.

2751

85

No. \_\_\_\_\_

Agenda No. \_\_\_\_\_

.....In the.....

SUPREME COURT,

STATE OF ILLINOIS,

Southern Grand Division.

-----  
OCTOBER TERM, A D. 1902.  
-----

J. O. McDowell, Appellant,

vs.

The People &c, ex. rel. Curtis H. Martin, County Treasurer, Appellee.

} Appeal from the  
County Court of  
Lawrence County.

-----  
APPELLANT'S ABSTRACT OF RECORD.  
-----

W. F. FOSTER, COUNSEL FOR APPELLANT.

-----  
Now, Lawrenceville.

FILED

OCT 4 1902

OLIVER J. PAGE,  
CLERK.

### Index to Abstract of Record.

Affidavit of County Collector	- - -	4
Affidavit of City Clerk under Ordinance 80	-	7
Affidavit of City Clerk under Ordinance 79	-	9
Amendment to returns by City Clerk	-	11-12
Appeal Bond	- - - - -	12
Assignment of Errors	- - - - -	12
All the evidence offered	- - - - -	10
Bill of Exceptions	- - - - -	2-12
Convening order of Court	- - - - -	1
Certificate of Publisher tax list	- - -	4
Certificate of Clerk to Transcript	- - -	12
Description of land advertised	- - -	3-4
Grade Curb, resolution establishing	- -	6-7
Judgment of Court	- - - - -	2-3
Judgment of Court on amendment	- -	11
Notice of application for judgment	- -	3-4
Objection to tax	- - - - -	1-2
Ordinance number 80	- - - - -	7-8
Ordinance number 79	- - - - -	9-10
Order of continuance	- - - - -	10-11
Original Bill of Costs by Construction Board	11-12	
Statement Special Tax Ordinance 80	- -	8
Statement Special Tax Ordinance 79	- -	10
Stipulation of facts	- - - - -	4-6
Signature of Judge to Bill of Exceptions	-	12



described tract frontage 185 feet, square feet 555, width 3 feet, assessment \$72.15. To which said special tax and judgment thereon objections are made for the following reasons:

1st. Said assessments are illegally made.

2nd. A sidewalk of the same description was removed from along said property in order to assess and collect a special tax against this objector; that in removing and replacing said sidewalk no special benefit accrued to said lots, and the assessment was increased two and one-half cents on the square foot over that assessed on adjoining property for like improvements.

3 3rd. An ordinance for the construction of a sidewalk along said property on Christy avenue, and under which a sidewalk of the same description had been constructed, was repealed and said sidewalk taken up in order to pass the ordinance and construct the sidewalk for which this assessment was made and judgment asked.

4th. No bill of costs has been made, nor no special tax list has been made and filed with the County Treasurer, giving each item of cost of the construction of said sidewalk, as is required by law, to entitle said City to a judgment.

5th. Because of a failure to comply with the requirements of the statute by the authorities of the City of Sumner, in passing and publishing said ordinance, and in the proceedings to construct said sidewalk and levy and collect the special tax therefor this Court has no jurisdiction to render judgement.

6th. The grade upon which sidewalk was to be constructed was not fixed by said ordinance, or any ordinance, so that this objector could construct the same according thereto.

J. O. McDOWELL.

#### ORDER AND JUDGMENT OF THE COURT.

June 13th, 1902, J. O. McDowell, objector, comes by W. F. Foster, his attorney, and comes also Curtis H. Martin, County Collector, by S. C. Lewis and S. J. Gee, his attorneys, whereupon notice and proof made by the said County Collector are considered in proof

in this case. Ordinance No. 79 and 80 of the City of Sumner, Illinois, affidavits and report to County Collector, by Clerk of said City of Sumner, and ordinance of said City of Sumner, establishing grade of streets and alleys, Page 61, Chapter 28, introduced by said objector; whereupon this cause is continued until June 14th at one o'clock p. m.

And now on the 14th day of June, A. D. 1902, at one o'clock p. m., said day being one of the judicial days of said June term of this court, came again the said parties, whereupon the Court heard argument of counsel until four o'clock p. m. when said County Collector, by his attorneys aforesaid, moved the Court to amend report made by said City Clerk of the City of Sumner, to said County Collector, which motion is allowed by the Court, to which the said objector by his attorney aforesaid then and there excepts; amendment made; whereupon it is considered by the Court that judgment be and is entered against the parcels of land and lots of said objector as prayed, by said County Collector, to-wit:

4 Description of land and amounts of judgment, aggregating \$173.43.

Objector excepts and prays appeal to Supreme Court. And now again on the 16th day of June, 1902, comes the said objector and shows to the Court that he has deposited with said County Collector the amount of said judgment; appeal granted to Supreme Court. Bond in sum of \$200 in 30 days, bill of exception in 60 days.

#### BILL OF EXCEPTIONS.

County Collector to maintain issues on his part moves Court to consider notices and proof of County Collector in evidence, which is done accordingly, to-wit:

5 Public notice of the application of the County Collector for judgment against delinquent lands and lots for taxes and special assessments at the June term of County Court.

Description of objector's property, 40 feet off south end Lot 8, Block 14, May's first addition to Sumner, frontage 40 feet, width 5

feet, square feet 200, \$25.

A tract in same block 185 feet east and west by 165 north and south, on west side walk, 165 feet frontage, width 5 feet, square feet 600, \$75:00; on south side of same tract, frontage 185, width 3 feet, square feet 555, \$72.15.

Sale of delinquent lands and lots to begin June 16th, 1902.

6 Certificate of publisher of delinquent tax list.

Affidavit of the County Collector to delinquent tax list.

Which was all the evidence offered by the Collector.

The objector offered in evidence the following

STIPULATION.

7 It is agreed that on the 1st day of May, 1900, the City Council of the City of Sumner duly passed and thereafter duly published an ordinance numbered 66, providing for the construction of a stone sidewalk, to be paid for by special assessment on contiguous property, along the east line of Christy Avenue, in said City, which said sidewalk passed along and was contiguous to the west front of the property of this objector, as described in this proceeding; that said sidewalk, so provided for in said ordinance number 66, was of the same character, dimensions and material and was to be constructed according to the same plans and specifications as the sidewalk provided for and constructed in and under the provisions of ordinance number 80 relied on in this proceeding; that the objector failed and refused to construct said sidewalk, under said ordinance number 66, within thirty days after the passage and publication thereof as therein provided, whereupon said City constructed said sidewalk along the west front of objector's said described property according to the provisions of said ordinance number 66; that the objector failed and refused to pay the cost of construction of said sidewalk specially assessed against his said property, whereupon said City returned the same as delinquent to the County Treasurer of said County; that said County Treasurer advertised said property so returned, as the law directs, and at the June term, A. D.

7 1901, of the County Court of said county, applied for judgment thereon against said land; that at said June term of said Court, the objector herein appeared and filed his objections thereto; that the City of Sumner, then and there of its own motion dismissed said proceeding in said County Court, because of an error as it alleged in the description of objector's said property; that said City Council repealed so much of said ordinance number 66 as extended along the west front of objector's said property, and thereupon tore up and removed said sidewalk, theretofore constructed under said ordinance 66, along the west front of objector's said property, and passed the ordinance number 80, relied on for judgement in this proceeding, and thereupon constructed the sidewalk along the west front of objector's said property, of the same character, description and dimensions and of the same character of material as the sidewalk so constructed under said ordinance number 66, and afterwards so removed; that said City constructed at a cost of and taxed and assessed objector's said property two and one-half cents more per square foot for the stone in the latter sidewalk than was taxed and assessed for the stone in the former sidewalk. And it is further stipulated that under the first ordinance number 66 the City of Sumner caused to be laid along the aforesaid premises of the said J. O. McDowell, a stone sidewalk under the provisions thereof, and that the said J. O. McDowell refused to pay for the same, and made objections to it, and the City, the ordinance being found invalid, caused the said sidewalk thus put down, to be taken up and removed from along the said premises, and for several months there was no stone walk along the premises of the said J. O. McDowell, and until the passage of the present ordinances number 79 and 80, under which the present proceedings are being had, when the said J. O. McDowell refused to put down the walk himself, as provided in the time and manner of the said ordinance, the City of Sumner again caused to be laid a stone sidewalk, but not the same stone heretofore used along said premises, and the assessment which is sought to be col-

lected in this proceeding is for the last sidewalk thus laid and constructed, and was only laid by the City because the said J. O. McDowell had made default in not complying with the ordinance and refusing to put down the sidewalk himself.

7½ The trial court claims to have considered minutes of the City Council in connection with ordinance 28, in relation to grade maps and lines, when the same was passed.

8 Chapter XXIII, of the ordinance book of City of Sumner, establishing grade of streets and alleys:

Whereas, The City of Sumner, Illinois, did on the third day of November, 1898, contract with Edwin E. Watts, civil engineer, for making the necessary surveys and furnishing the data necessary to establish the grades of the streets and alleys of the said city, and,

Whereas, The said Watts has this day filed in the office of the Clerk of said City a map endorsed thereon as follows: "City of Sumner, Illinois, Grade Map, by E. E. Watts, C. E.," and the following: "Explanation—Continuous curb grades of the streets and alleys are indicated hereon in red; elevations are shown at street intersections and all other points in the line of the street or alley where the ratio of grade changes. One elevation at an intersection or intermediate point indicates the same grade for all curbs at that point, otherwise separate elevations are indicated. All grades conform to the grades of intersecting streets. Distance to intermediate change points are shown, excepting where change occurs in the middle of the block, no distance is shown." And a record of permanent bench marks noted thereon. Now be it

Resolved, By the Common Council of the City of Sumner, Illinois, that said elevations of said streets and alleys and of the permanent "Bench marks" as indicated upon said map be and the same are hereby declared to be established grade of said respective streets and alleys, and that from and after the passage of this resolution shall be considered and deemed the established grade of the streets and alleys of the City of Sumner, Illinois; and be it further

8 Resolved, That the Clerk of said City be hereby ordered and directed to spread a copy of said map upon the minutes of this session of said Council.

AFFIDAVIT OF CITY CLERK TO COUNTY COLLECTOR.  
STATE OF ILLINOIS, }  
LAWRENCE COUNTY, } ss.

H. D. Roach, City Clerk of the City of Sumner, Lawrence county, Illinois, being duly sworn, upon his oath says that the special sidewalk delinquent tax list hereto attached, with the names of the respective owners thereof, so far as the same are known to said City Clerk, and the amount due and unpaid upon each lot, tract or parcel of land, together with a true and correct copy of the ordinance hereto attached, ordering the construction of said sidewalk; that the list is a correct return of the lots, tracts and parcels of land on which the special tax levied by authority of said City of Sumner, for the partial cost of said sidewalk in said ordinance specified, remains due and unpaid, and that the amounts therein stated  
9 as due and unpaid, have not been collected nor any part thereof.

H. D. ROACH, City Clerk.

Subscribed and sworn to. BENJ. F. SUMNER, N. P.

10

ORDINANCE NO. 80.

Sec. 1. Provides for the construction of stone sidewalk 5 feet wide on a portion of the east side of Christy avenue, in City of Sumner; describes tract along which to construct walk as being 165 feet north and south and 240 feet east and west; declares the same to be public local improvement, to be paid for by special taxation.

Sec. 2. The building, laying and constructing of said stone sidewalk aforesaid shall be done according to the following plans and specifications: There shall be made an excavation of the earth four inches below the established grade of that portion of said Christy avenue where said sidewalk shall be built, and five feet wide, unless said excavations have previously been made; excava-

tion to be filled with sand three inches deep, unless previously so filled, and tamped with hand tamp, upon which shall be laid white oak plank 1 inch by 3 inches, 12 feet long, upon which shall be laid dressed limestone rock.

11       Sec. 3. Provides that lumber, sand and labor shall be paid for by general taxation.

Sec. 4. Provides that all material shall be first-class and the construction shall be under supervision of Mayor and Street Committee.

12       Sec. 5. Provides that the owners shall construct said sidewalk within thirty days, in default City to construct and Mayor and Committee on Streets to make bill of costs thereof, itemizing the same, showing separately the cost of each article of material, labor etc., in laying sidewalk, exact amount to be paid for by special taxation, which they shall certify to and file with City Clerk, together with list of real estate; that the Clerk shall prepare special tax list upon each piece or lot and file same in his office, and issue warrant therefor to City Marshal for collection of same.

Sec. 6. Provides that on failure to collect, City Clerk shall make list and report in writing before April 1st, 1902, amount unpaid to County Collector, etc., with copy of ordinance, report to be verified by oath of Clerk.

13       Sec. 7. Adopts sidewalk act of 1875.

Sec. 8. Repeals all ordinances in conflict and numbers same as ordinance number 80. Passed, approved and published, etc.

14       Delinquent sidewalk tax, ordinance 80; J. O. McDowell, owner, 40 feet off south end lot 8, block 14, J. May's first addition to City of Sumner; frontage 40 feet, width 5 feet, square feet 600, total cost \$75.

Tract of land in block 14, J. May's first and second addition of City of Sumner, described by meets and bounds, being a tract 185 feet east and west by 165 feet north and south, frontage 120 feet, width 5 feet, square feet 600, total cost \$75—\$100.

14 STATE OF ILLINOIS, }  
LAWRENCE COUNTY, } ss.

H. D. Roach, City Clerk of the City of Sumner, Lawrence county, Illinois, being duly sworn, upon his oath says that the special sidewalk delinquent tax list hereto attached, with the names of the respective owners thereof, so far as the same are known to said City Clerk, and the amount due and unpaid upon each lot, tract or parcel of land, together with a true and correct copy of the ordinance hereto attached, ordering the construction of said sidewalk; that the list is a correct return of the lots, tracts and parcels of land on which the special tax levied by authority of said City of Sumner, for the whole cost of said sidewalk in said ordinance specified, remains due and unpaid, and that the amounts therein stated as due and unpaid, have not been collected nor any part thereof.

H. D. ROACH, City Clerk.

Subscribed and sworn to. BENJ. F. SUMNER, N. P.

15

ORDINANCE NUMBER 79.

Sec. 1. Provides for the construction of stone sidewalk 3 feet wide on a portion of north side of Cedar street, in City of Sumner, along a tract of land in block fourteen, in May's second addition; describes property by meets and bounds, being 240 feet east and west by 165 feet north and south (being same tract described in ordinance 80); sidewalk declared to be a public local improvement, the whole cost to be paid for by special taxation on contiguous property.

Sec. 2. The building and constructing of said stone sidewalk aforesaid, shall be done according to the following plans and specifications: There shall be made an excavation of the earth of the depth of four inches below the established grade of that portion of Cedar street, and three feet wide, except where it would be better and more practicable on account of proper drainage to excavate less or grade up at low places along the line of said sidewalk aforesaid.

16

When such excavation shall have been made or graded it shall be filled with sand three inches deep, or as near as practicable; said

16 sand shall be thoroughly tamped with a hand tamp. On said sand shall be laid white oak plank 1 by 3 inches, 12 feet long, upon which there shall be laid a layer of limestone rock 3 inches thick and not less than 4 feet long nor more than 10 feet long.

Sec. 3. All material used shall be first-class and of character mentioned in sections 1 and 2 of this ordinance, work to be under direction and approval of Mayor and Street Committee.

Sec. 4. Owners required to construct walk in 30 days; in default City to construct, Mayor and Street Committee to make bill of whole cost, itemizing same showing separately cost of each article of material, labor, etc., in constructing said walk, which they shall certify to and file with City Clerk. City Clerk shall make and prepare a special tax list upon the real estate and lots contiguous thereto, according to the frontage, which he shall file in his office and issue warrants to the City Marshal for the collection thereof.

Sec. 5. Upon failure to collect, City Clerk shall on or before 1st day of April, 1902, make a list and report in writing delinquent tax to the County Collector, reporting the real estate abutting, together with names of owners, with amount of special tax unpaid, with copy of ordinance, verified by affidavit of City Clerk, for the whole cost of said sidewalk.

18 Sec. 6. Adopts special sidewalk act of 1875.

Sec. 7. Repeals all ordinances in conflict and numbers the ordinance number 79.

Delinquent special sidewalk tax, City of Sumner; ordinance number 79; owner's name, J. O. McDowell. Describes a tract of land by meets and bounds in J. May's first addition to City of Sumner in block 14, J. May's first and second addition to City of Sumner, being 185 feet east and west by 165 feet north and south, frontage 185 feet, width 3 feet, square feet 555, total cost \$72.15.

Which was all the evidence offered or submitted by either of said parties on the trial of said cause.

Whereupon the court then and there entered the following

18 order: Whereupon this cause is continued until June 14th at one o'clock p. m.

And now on the 14th day of June, A. D. 1902, at one o'clock p. m., said day being one of the judicial days of said June term of this Court, came again the said parties, whereupon the Court heard argument of counsel until four o'clock p. m. when said County Collector, by his attorneys aforesaid, moved the Court to amend report made by said City Clerk of the City of Sumner to the said County Collector, which motion is allowed by the Court, to which the said objector by his attorney then excepts; amendment made, which said amendment was attached to and made a part of all the returns and papers filed as hereinbefore set forth by said City Clerk with the said County Treasurer, and is in the word and figures following, to-wit:

IMPROVEMENT ORDINANCE. No. 79 and 80.	Lot.	Block.	Frontage.	Width.	Number of square feet.	Stone, .1142c per square foot.	Lumber, .0015c per square ft.	Sand, .0035c per square foot.	Labor, .0110c per square foot.	Total cost 12c per square foot.
J. O. McDowell	8	14	40 ft.	5 ft.	200	\$22 80			5/2 20	\$25 00
J. O. McDowell, Tract		14	120 ft.	5 ft.	600	\$68 40			5/6 60	\$75 00
J. O. McDowell, Tract		14	185 ft.	3 ft.	555	\$63 27	\$8 325	\$1 942	5/6 105	\$72 15

We hereby certify that the above and foregoing special tax list upon the lot, lots, tracts and parcels of land abutting upon the line of said sidewalk as by ordinance 79 and 80 provided, showing separately the cost of said stone, plank, sand, labor in laying down the same into said sidewalks, and that the number of feet frontage of each of said lots, tracts or parcels of land, the amount of special charged thereon, and the names of the owners thereof, are true and

correct as the same therein appears.

Dated this 17th day of December, 1901.

C. B. JONES, Mayor.

R. WALLER,  
GEO. COOPER, } Street Committee.  
JOHN W. WESTALL, }

Filed in the office of the City Clerk, December 17th, 1901.

H. D. ROACH, City Clerk.

Warrants issued thereon January 28th, 1902.

H. D. ROACH, City Clerk.

20 Conclusion of Bill of Exceptions and signature of Judge.

21 Copy of Appeal Bond in sum of \$200.

22 Certificate and seal of Clerk of the County Court to Transcript  
of Record.

23 ASSIGNMENT OF ERRORS.

1st. The County Court erred in permitting the County Collector to amend the returns made by the City Clerk of the City of Sumner to himself.

2d. The County Court erred in permitting the County Collector to amend by filing and attaching the original Bill of Costs made by the Mayor and Street Committee to the City Clerk.

3d. The County Court erred in over-ruling Appellant's 1st, 2d, 3d, 4th, 5th and 6th objections.

4th. The County Court erred in rendering judgment against Appellant's property for said special tax and ordering a sale thereof for the same.

5th. The Court erred in proceeding without jurisdiction in the case.

J. O. McDOWELL, Appellant.

By W. F. FOSTER, His Attorney.

No. \_\_\_\_\_

Agenda No. \_\_\_\_\_

.....In the.....

**SUPREME COURT,**  
**STATE OF ILLINOIS,**  
**Southern Grand Division.**

OCTOBER TERM, A D. 1902.

J. O. McDowell, Appellant,	} Appeal from the
vs.	
The People &c, ex. rel. Cur-	
tis H. Martin, County	
Treasurer, Appellee.	} Lawrence County.

APPELLANT'S BRIEF AND ARGUMENT.

W. F. FOSTER, COUNSEL FOR APPELLANT.

News, Lawrenceville.

**FILED**

OCT 4 1902

CLIVER J. PAGE,  
CLERK

.....In the.....

**Supreme Court, State of Illinois,  
Southern Grand Division.**

---

**OCTOBER TERM, A D. 1902.**

---

<b>J. O. McDowell, Appellant,</b>	} <b>Appeal from the</b>	
<b>vs.</b>		
<b>The People &amp;c, ex. rel. Curtis H.</b>		} <b>County Court of</b>
<b>Martin, County Treasurer,</b>		
<b>Appellee.</b>		

---

**APPELLANT'S BRIEF AND ARGUMENT.**

---

**STATEMENT OF CASE.**

This was a proceeding in the County Court of Lawrence County by the County Treasurer, set in motion by the authorities of the City of Sumner, under two ordinances numbered 79 and 80, each passed on the 13th of November, 1901, passed under the provisions of the Act of the General Assembly of the State of Illinois of 1875, to provide additional means for the construction of sidewalks in cities, towns and villages, for judgment against Appellant's real

estate for a special tax assessed against his said property to pay the cost of constructing two sidewalks along the same. The real estate along which each one of these sidewalks have been constructed is the same, and in each one is described as a tract 240 feet east and west by 165 feet north and south. In the paper returned under ordinance 80 by the City Clerk to the County Treasurer, the property is described as 40 feet off of the south end of Lot 8, Block 14, J. May's First Addition to City of Sumner, assessment \$25, followed by a description of a tract 185 feet east and west by 165 feet north and south in Block 14, J. May's First and Second Addition to City of Sumner, assessment \$75. In the paper returned to the Treasurer under ordinance 79, by the City Clerk, the property is described as a tract of land 185 feet east and west by 165 feet north and south in Block 14 in J. May's First and Second Additions to the City of Sumner, assessment \$72.15. Just how they can locate this property in Block 14, J. May's First and Second Additions to the City of Sumner, I am unable to say.

The walk on Christy avenue, under ordinance 80, was ordered to be constructed according to established grade of the streets and alleys of the City according to specifications provided in said ordinance. The established grade of the streets and alleys of said City is a curb grade, as shown by the resolution of the City Council of said City in adopting said grade. The Appellant failed to construct said sidewalk within 30 days, as provided by ordinance and statute, and the City authorities constructed same. The bill of cost filed by the Mayor and Street Committee in charge of the construction of said sidewalk does not show in separate items the cost of grading, materials, laying down and supervision of the construction of said sidewalk. The items, "Cost of grading, laying down and supervision" are not mentioned in said bill of cost.

By the stipulation of facts submitted to the County Court on the trial of this cause, it is conceded, That on the first day of May, 1900, the City Council of the City of Sumner passed an ordinance

numbered 66, providing for the construction of a stone sidewalk along this same property of exactly the same dimensions, and to be constructed according to exactly the same specifications and plans as the sidewalk under this ordinance number 80; that under said former ordinance 66, Appellant failed to construct said sidewalk within 30 days as required by said ordinance and the statute; that the City authorities of said City then constructed said sidewalk under said ordinance 66, and Appellant failing to pay the special tax therefor assessed against his said property, the same was returned to the County Treasurer of said County in the year 1901 as delinquent; that said Treasurer advertised the same for judgment; that the Appellant appeared and filed his objections thereto, whereupon said City of its own motion dismissed said proceeding as it alleged for some mistake in the description of Appellant's said property, and thereupon said City authorities tore up and removed said sidewalk so constructed along Appellant's said property under ordinance 66 and let Appellant's property remain without any sidewalk for several months; that said city repealed so much of said ordinance number 66 as applied to the west front of Appellant's said property and thereupon passed the ordinance number 80 and constructed the sidewalk, for which this special tax is sought to be collected; that the present sidewalk is of the same character, of the same material and constructed according to exactly the same plans and specifications, as the sidewalk theretofore constructed under the provisions of said ordinance number 66; that the provisions of said ordinance number 80 only applies to the said property of Appellant and that said City has assessed a special tax against Appellant's property of two and one-half cents per square foot more for the construction of the walk under the latter ordinance than they did under the former ordinance number 66.

In ordinance number 79, for the construction of a sidewalk along and on the north line of Cedar street, along the south side of this property the ordinance provides (Section 2 on page 15 of record)

“The building and constructing of said stone sidewalk aforesaid shall be done according to the following plans and specifications: There shall be made an excavation of the earth to the depth of four inches below the established grade of that portion of Cedar street, and three feet wide, except where it would be better and more practicable on account of proper drainage to excavate less, or grade up at low places along the line of said sidewalk aforesaid.”

The bill of cost prepared by the Mayor and Committee on Streets who were charged with the supervision of the construction of this sidewalk, being the same bill that was certified to by said board of construction in and under ordinance number 80, fails to give the cost of such sidewalk, showing in separate items the cost of grading materials, laying down and supervision thereof. The items “grading, laying down and supervision” are not so much as mentioned in said bill of cost.

The Court permitted the County Treasurer to amend the returns made by the City Clerk of the City of Sumner to himself, by attaching thereto the original bill of costs made by said Mayor and Street Committee, and filed in the office of said City Clerk, as evidenced by the file mark thereon on page 19 of the transcript of the record in this case. After the case had been fully argued by counsel, the court permitted this amendment to be made over the objections of Appellant.

#### BRIEF AND ARGUMENT.

The attention of the Court is first called to the stipulation filed in this case in the court below, wherein it is admitted as a fact by Appellee that under former ordinance number 66 a sidewalk of the same dimensions, of the same material and according to the same plans and specifications was constructed, in the same place, along Appellant's property on Christy avenue, special tax assessed therefor, against Appellant's property, and on failure to pay, returned to the County Treasurer and advertised as delinquent for judgment. Appellant filed objections and the City of its own motion dismissed

said proceedings because, as it alleged, of some defect in the description of Appellant's property, tore up and removed said sidewalk so constructed under said ordinance number 66 and for several months thereafter allowed Appellant's property to remain without any sidewalk whatever; then repealed so much of said ordinance number 66 as referred to and passed along Appellant's said property and passed ordinance number 80, under which this proceeding is had, which refers to and affects Appellant's said property alone, under which ordinance number 80 the City constructed the sidewalk, which is the subject of this litigation, in the same place, of the same dimensions, of the same material, according to the same plans and specifications, at a cost of two and one-half cents per square foot more than the cost of the walk so constructed and removed under ordinance number 66.

So far as counsel is informed, this character of procedure is without parallel and without precedent. Such action as the City has taken in this matter is contrary to every principle or intentment of the law and to say the least contrary to ordinary business principles, and in the judgment of counsel cannot be upheld in courts of justice. While the statute, section 292, chapter 24, Hurd's Statute, provides, "Said ordinance shall define the location of such proposed sidewalk with reasonable certainty," yet the statute nowhere requires the ordinance to describe the property along the line of and adjacent to said proposed improvement. If the defect in the description of Appellant's said property was in the ordinance number 66, such description was mere surplusage and a defect in such description could have no bearing upon the validity of the ordinance either way. If the alleged defect in the description of Appellant's said property was in the notice published by the Treasurer for judgment in the County Court a full and complete answer is found in the fact that Appellant appeared in that Court and filed objections to said tax and judgment thereon, thereby voluntarily submitting to the jurisdiction of said Court and confessing ownership of the property

sought to be subjected to the enforced payment of said special tax, which would have given them ample authority to cure any defect in such notice, and would have been no pretext for dismissing said proceeding, tearing up and removing said walk and passing another ordinance and constructing this walk at a cost of two and one-half cents per square foot more than was assessed for the former walk.

Upon failure to collect such special tax, the statute, section 294 of the act hereinbefore referred to, makes it the duty of the City Clerk to make report of all such special tax in writing. In this case the returns made by the City Clerk to the County Treasurer, which gives a description of the property, frontage, width, square feet and total amount of special tax, preceded by an affidavit with the ordinance attached. In the judgment of counsel this is not a compliance with the requirements of the statute, which states, "Said reports, when so made, shall be prima facie evidence that all forms and requirements of the law in relation to making such return have been complied with." Counsel is of the opinion, that the report contemplated by the statute is a full statement of the fact of the construction of the sidewalk, the fact of the bill of cost having been filed in his office and the making and filing in his office of the special tax list; that said report should show in separate items the cost of grading, materials, laying down and supervision thereof, together with a list of the property and names of the owners, followed by the affidavit of the City Clerk. When all this has been done, then a prima facie case has been made. If the returns as made do not amount to a report, it follows that the attaching of the original bill of costs filed with the City Clerk of the Mayor and Street Committee in charge of said work to the returns, cannot supply the place of a report to the County Collector, even though said bill of costs did comply with the statute, which we do not admit in this case. There being no report made by the City Clerk as required by the statute, the reasoning in the case of *Biggins' Estate vs. The People ex. rel. Tetherington, County Collector, 193 Illinois*

601, applies with equal force in this case.

By reference to the resolution of the City Council of the City of Sumner establishing the grade of said City, found on page 8 of record herein, the Court will observe that the grade established by said City is a curb grade, and only refers to elevation of curbs with bench marks noted.

On page 15 of record herein, section 2 of ordinance provides, "The building and constructing of said stone sidewalk aforesaid, shall be done according to the following plans and specifications: There shall be made an excavation of the earth to the depth of four inches below the established grade of that portion of Cedar street, and three feet wide, except where it would be better and more practicable on account of proper drainage to excavate less or grade up at low places along the line of said sidewalk aforesaid." The grade established being a curb grade, and the provisions of the ordinance so imperfect and contradictory that the lot owner could not know definitely the grade at which said sidewalk should be laid, nor was any one designated to say where the excavation or grade should be made.

Biggins Estate vs. The People, ex. rel, Tetherington, County Collector.

White vs City of Alton, 149 Ill. 626.

Haley vs. City of Alton, 152 Ill. 113.

The original bill of cost of the construction of these two sidewalks, which are included in one bill as made and filed with the City Clerk by the Mayor and Committee on Streets, charged with the construction of said sidewalk, furnishes unmistakable proof why this special tax should not have been allowed and judgment rendered therefor in the County Court and furnishes a conclusive reason why this court ought to reverse this case.

The statute provides, "A bill of the costs of such sidewalk, showing in separate items the cost of grading, materials laying down and supervision shall be filed in the office of the Clerk of such

City, Town or Village, certified to by the officer or board designated by said ordinance to take charge of the construction of said walk, together with a list of the lots or parcels of land touching upon the line of said sidewalk, the names of the owners thereof, and the frontage, superficial area, or assessed value." The bill of cost to which the Court is referred to, on page 19 of the record herein, after giving the name of the owner, description, frontage, width, square feet, is itemized as follows, "stone, lumber, sand, labor, total cost," but nowhere gives the items of "cost of grading, laying down and supervision," as the statute requires. This being the case, there is a fatal failure to comply with the plain provisions of the statute and no valid special tax can be levied thereunder.

Biggins Estate vs. The People ex. rel. Tetherington, 193 Ill. 601.

Hoover vs. People, 171 Ill. 182.

Vennum vs. People, 188 Ill. 158.

Holland vs. People, 189 Ill. 348.

Respectfully submitted,

W. F. FOSTER, Attorney for Appellant.

No. ....

Agenda No. ....

....In the....

SUPREME COURT,

STATE OF ILLINOIS,

Southern Grand Division.

OCTOBER TERM, A D. 1902.

J. O. McDowell, Appellant,

vs.

The People &c, ex. rel. Cur-  
tis H. Martin, County  
Treasurer, Appellee.

} Appeal from the  
County Court of  
Lawrence County.

APPELLANT'S BRIEF AND ARGUMENT.

W. F. FOSTER, COUNSEL FOR APPELLANT.

News, Lawrenceville.

FILED

OCT 4 1902

OLIVER J. PAGE,  
CLERK.

.....In the.....

**Supreme Court, State of Illinois,  
Southern Grand Division.**

---

**OCTOBER TERM, A D. 1902.**

---

<b>J. O. McDowell, Appellant,</b>	}	<b>Appeal from the County Court of Lawrence County.</b>
<b>vs.</b>		
<b>The People &amp;c, ex. rel. Curtis H.</b>		
<b>Martin, County Treasurer,</b>		
<b>Appellee.</b>		

---

**APPELLANT'S BRIEF AND ARGUMENT.**

---

---

**STATEMENT OF CASE.**

This was a proceeding in the County Court of Lawrence County by the County Treasurer, set in motion by the authorities of the City of Sumner, under two ordinances numbered 79 and 80, each passed on the 13th of November, 1901, passed under the provisions of the Act of the General Assembly of the State of Illinois of 1875, to provide additional means for the construction of sidewalks in cities, towns and villages, for judgment against Appellant's real

estate for a special tax assessed against his said property to pay the cost of constructing two sidewalks along the same. The real estate along which each one of these sidewalks have been constructed is the same, and in each one is described as a tract 240 feet east and west by 165 feet north and south. In the paper returned under ordinance 80 by the City Clerk to the County Treasurer, the property is described as 40 feet off of the south end of Lot 8, Block 14, J. May's First Addition to City of Sumner, assessment \$25, followed by a description of a tract 185 feet east and west by 165 feet north and south in Block 14, J. May's First and Second Addition to City of Sumner, assessment \$75. In the paper returned to the Treasurer under ordinance 79, by the City Clerk, the property is described as a tract of land 185 feet east and west by 165 feet north and south in Block 14 in J. May's First and Second Additions to the City of Sumner, assessment \$72.15. Just how they can locate this property in Block 14, J. May's First and Second Additions to the City of Sumner, I am unable to say.

The walk on Christy avenue, under ordinance 80, was ordered to be constructed according to established grade of the streets and alleys of the City according to specifications provided in said ordinance. The established grade of the streets and alleys of said City is a curb grade, as shown by the resolution of the City Council of said City in adopting said grade. The Appellant failed to construct said sidewalk within 30 days, as provided by ordinance and statute, and the City authorities constructed same. The bill of cost filed by the Mayor and Street Committee in charge of the construction of said sidewalk does not show in separate items the cost of grading, materials, laying down and supervision of the construction of said sidewalk. The items, "Cost of grading, laying down and supervision" are not mentioned in said bill of cost.

By the stipulation of facts submitted to the County Court on the trial of this cause, it is conceded, That on the first day of May, 1900, the City Council of the City of Sumner passed an ordinance

numbered 66, providing for the construction of a stone sidewalk along this same property of exactly the same dimensions, and to be constructed according to exactly the same specifications and plans as the sidewalk under this ordinance number 80; that under said former ordinance 66, Appellant failed to construct said sidewalk within 30 days as required by said ordinance and the statute; that the City authorities of said City then constructed said sidewalk under said ordinance 66, and Appellant failing to pay the special tax therefor assessed against his said property, the same was returned to the County Treasurer of said County in the year 1901 as delinquent; that said Treasurer advertised the same for judgment; that the Appellant appeared and filed his objections thereto, whereupon said City of its own motion dismissed said proceeding as it alleged for some mistake in the description of Appellant's said property, and thereupon said City authorities tore up and removed said sidewalk so constructed along Appellant's said property under ordinance 66 and let Appellant's property remain without any sidewalk for several months; that said city repealed so much of said ordinance number 66 as applied to the west front of Appellant's said property and thereupon passed the ordinance number 80 and constructed the sidewalk, for which this special tax is sought to be collected; that the present sidewalk is of the same character, of the same material and constructed according to exactly the same plans and specifications, as the sidewalk theretofore constructed under the provisions of said ordinance number 66; that the provisions of said ordinance number 80 only applies to the said property of Appellant and that said City has assessed a special tax against Appellant's property of two and one-half cents per square foot more for the construction of the walk under the latter ordinance than they did under the former ordinance number 66.

In ordinance number 79, for the construction of a sidewalk along and on the north line of Cedar street, along the south side of this property the ordinance provides (Section 2 on page 15 of record)

“The building and constructing of said stone sidewalk aforesaid shall be done according to the following plans and specifications: There shall be made an excavation of the earth to the depth of four inches below the established grade of that portion of Cedar street, and three feet wide, except where it would be better and more practicable on account of proper drainage to excavate less, or grade up at low places along the line of said sidewalk aforesaid.”

The bill of cost prepared by the Mayor and Committee on Streets who were charged with the supervision of the construction of this sidewalk, being the same bill that was certified to by said board of construction in and under ordinance number 80, fails to give the cost of such sidewalk, showing in separate items the cost of grading materials, laying down and supervision thereof. The items “grading, laying down and supervision” are not so much as mentioned in said bill of cost.

The Court permitted the County Treasurer to amend the returns made by the City Clerk of the City of Sumner to himself, by attaching thereto the original bill of costs made by said Mayor and Street Committee, and filed in the office of said City Clerk, as evidenced by the file mark thereon on page 19 of the transcript of the record in this case. After the case had been fully argued by counsel, the court permitted this amendment to be made over the objections of Appellant.

#### BRIEF AND ARGUMENT.

The attention of the Court is first called to the stipulation filed in this case in the court below, wherein it is admitted as a fact by Appellee that under former ordinance number 66 a sidewalk of the same dimensions, of the same material and according to the same plans and specifications was constructed, in the same place, along Appellant's property on Christy avenue, special tax assessed therefor, against Appellant's property, and on failure to pay, returned to the County Treasurer and advertised as delinquent for judgment. Appellant filed objections and the City of its own motion dismissed

said proceedings because, as it alleged, of some defect in the description of Appellant's property, tore up and removed said sidewalk so constructed under said ordinance number 66 and for several months thereafter allowed Appellant's property to remain without any sidewalk whatever; then repealed so much of said ordinance number 66 as referred to and passed along Appellant's said property and passed ordinance number 80, under which this proceeding is had, which refers to and affects Appellant's said property alone, under which ordinance number 80 the City constructed the sidewalk, which is the subject of this litigation, in the same place, of the same dimensions, of the same material, according to the same plans and specifications, at a cost of two and one-half cents per square foot more than the cost of the walk so constructed and removed under ordinance number 66.

So far as counsel is informed, this character of procedure is without parallel and without precedent. Such action as the City has taken in this matter is contrary to every principle or intendment of the law and to say the least contrary to ordinary business principles, and in the judgment of counsel cannot be upheld in courts of justice. While the statute, section 292, chapter 24, Hurd's Statute, provides, "Said ordinance shall define the location of such proposed sidewalk with reasonable certainty," yet the statute nowhere requires the ordinance to describe the property along the line of and adjacent to said proposed improvement. If the defect in the description of Appellant's said property was in the ordinance number 66, such description was mere surplusage and a defect in such description could have no bearing upon the validity of the ordinance either way. If the alleged defect in the description of Appellant's said property was in the notice published by the Treasurer for judgment in the County Court a full and complete answer is found in the fact that Appellant appeared in that Court and filed objections to said tax and judgment thereon, thereby voluntarily submitting to the jurisdiction of said Court and confessing ownership of the property

sought to be subjected to the enforced payment of said special tax, which would have given them ample authority to cure any defect in such notice, and would have been no pretext for dismissing said proceeding, tearing up and removing said walk and passing another ordinance and constructing this walk at a cost of two and one-half cents per square foot more than was assessed for the former walk.

Upon failure to collect such special tax, the statute, section 294 of the act hereinbefore referred to, makes it the duty of the City Clerk to make report of all such special tax in writing. In this case the returns made by the City Clerk to the County Treasurer, which gives a description of the property, frontage, width, square feet and total amount of special tax, preceded by an affidavit with the ordinance attached. In the judgment of counsel this is not a compliance with the requirements of the statute, which states, "Said reports, when so made, shall be prima facie evidence that all forms and requirements of the law in relation to making such return have been complied with." Counsel is of the opinion, that the report contemplated by the statute is a full statement of the fact of the construction of the sidewalk, the fact of the bill of cost having been filed in his office and the making and filing in his office of the special tax list; that said report should show in separate items the cost of grading, materials, laying down and supervision thereof, together with a list of the property and names of the owners, followed by the affidavit of the City Clerk. When all this has been done, then a prima facie case has been made. If the returns as made do not amount to a report, it follows that the attaching of the original bill of costs filed with the City Clerk of the Mayor and Street Committee in charge of said work to the returns, cannot supply the place of a report to the County Collector, even though said bill of costs did comply with the statute, which we do not admit in this case. There being no report made by the City Clerk as required by the statute, the reasoning in the case of *Biggins' Estate vs. The People ex. rel. Tetherington, County Collector, 193 Illinois*

601, applies with equal force in this case.

By reference to the resolution of the City Council of the City of Sumner establishing the grade of said City, found on page 8 of record herein, the Court will observe that the grade established by said City is a curb grade, and only refers to elevation of curbs with bench marks noted.

On page 15 of record herein, section 2 of ordinance provides, "The building and constructing of said stone sidewalk aforesaid, shall be done according to the following plans and specifications: There shall be made an excavation of the earth to the depth of four inches below the established grade of that portion of Cedar street, and three feet wide, except where it would be better and more practicable on account of proper drainage to excavate less or grade up at low places along the line of said sidewalk aforesaid." The grade established being a curb grade, and the provisions of the ordinance so imperfect and contradictory that the lot owner could not know definitely the grade at which said sidewalk should be laid, nor was any one designated to say where the excavation or grade should be made.

Biggins Estate vs. The People, ex. rel, Tetherington, County Collector.

White vs City of Alton, 149 Ill. 626.

Haley vs. City of Alton, 152 Ill. 113.

The original bill of cost of the construction of these two sidewalks, which are included in one bill as made and filed with the City Clerk by the Mayor and Committee on Streets, charged with the construction of said sidewalk, furnishes unmistakable proof why this special tax should not have been allowed and judgment rendered therefor in the County Court and furnishes a conclusive reason why this court ought to reverse this case.

The statute provides, "A bill of the costs of such sidewalk, showing in separate items the cost of grading, materials laying down and supervision shall be filed in the office of the Clerk of such

City, Town or Village, certified to by the officer or board designated by said ordinance to take charge of the construction of said walk, together with a list of the lots or parcels of land touching upon the line of said sidewalk, the names of the owners thereof, and the frontage, superficial area, or assessed value." The bill of cost to which the Court is referred to, on page 19 of the record herein, after giving the name of the owner, description, frontage, width, square feet, is itemized as follows, "stone, lumber, sand, labor, total cost," but nowhere gives the items of "cost of grading, laying down and supervision," as the statute requires. This being the case, there is a fatal failure to comply with the plain provisions of the statute and no valid special tax can be levied thereunder.

Biggins Estate vs. The People ex. rel. Tetherington, 193 Ill. 601.

Hoover vs. People, 171 Ill. 182.

Vennum vs. People, 188 Ill. 158.

Holland vs. People, 189 Ill. 348.

Respectfully submitted,

W. F. FOSTER, Attorney for Appellant.

No. ....

Agenda No. ....

In The Supreme Court, Southern Grand Division,

STATE OF ILLINOIS.

October Term, 1902.

J. O. McDOWELL, Appellant, }  
vs. } Appeal from the County Court of  
THE PEOPLE, Etc., Appellee. } Lawrence County.

BRIEF AND ARGUMENT OF APPELLEE.

FILED

OCT 17 1902

GEE & BARNES, }  
S. C. LEWIS, } Attorneys for Appellees. J. PAGE,  
CLERK.

In The Supreme Court, Southern Grand Division,

STATE OF ILLINOIS.

October Term, 1902.

J. O. McDOWELL, Appellant, }  
vs. } Appeal from the County Court of  
THE PEOPLE, Etc., Appellee. } Lawrence County.

BRIEF AND ARGUMENT OF APPELLEE.

THE FACTS.

The City of Sumner, by an ordinance properly passed, approved and published, caused to be laid a sidewalk along the premises of the appellant. The ordinance was enacted by virtue of the sidewalk act passed in 1875. See S. & C., Vol. 1, page 857.

The ordinance upon inspection will be found to be in strict compliance with the act of the Legislature. After the thirty days' time,

which were given appellant to construct the sidewalk along his lots, had elapsed and he had made default, the city authorities some time afterward caused to be laid the walk, and after a failure to collect the cost of the same by the officers of the city, the special tax was returned delinquent to the county collector. At the June term of the county court the appellant filed a great number of objections, but has abandoned all but six. A hearing was had by the county court, when all the various proceedings of the city council of Sumner, Engineer Watts' plans, etc.; ordinances, reports of sidewalk committee, were before the court, and the special tax sustained. Appellant praying an appeal, a stipulation was entered into as shown in the abstract.

### BRIEF.

We invite an inspection of the ordinances as they appear in the record; not the summary given in the abstract. We feel confident they will show a more than substantial compliance with the statute. The sidewalk could have been constructed by the appellant and the special tax avoided, and it is more than useless for him to contend that he could not get the necessary information from the ordinances as to how it should be constructed.

The first objection now contended for cannot be of avail. The statute gives power to the city council to pass the ordinance. No question or objection is made as to its passage and validity. It gave appellant the thirty days, as provided in section 2 of the act, to construct said walk; and only his neglect, as provided in section 3, caused the special tax to be levied against the lots.

The second objection is equally untenable. The first walk was laid under a void ordinance, improvement abandoned and

ordinance repealed. No payment of any tax therefor had been made by the appellant, and he could have no vested interest in said sidewalk. The city has sole control of its streets and sidewalks. Afterward the present ordinance was passed and another sidewalk placed along his lots, the cost of which is in controversy. The city council has power to repeal an ordinance and pass a new one. This is all that was evidently done in this case.

Gage vs. City of Chicago, 193 Ill., 108.

No general complaint can be made about the two and one-half cents, as the actual cost is what the property owner must pay. The city council cannot control the cost of labor and material, all of which varies from time to time.

The fourth objection: the report of the city clerk to the county collector. An inspection of section 4 of the act shows that all the city clerk is to do is to make a report in writing to the county collector, reporting the amount of the special tax unpaid against each lot, tract or parcel of land, the names of the owners thereof, together with a copy of the ordinance, accompanied by his oath of its correctness. This is declared by the statute to be prima facie evidence that all the anterior requirements of the law have been complied with. It is section 3 which provides the report to be made to the city clerk as provided by the ordinance. This was a complete report made to the city clerk, in strict compliance with all the requirements of the statute, by the committee as required by said ordinance. It will be seen that the discretion is left to the city council to provide by the ordinance the kind of a report that shall be made to the city clerk. It is not a question what his report to the county collector should contain. We had a report in proper time from the city clerk to the county collector.

Then upon the appellant insisting to see a report made to the city clerk, we, by way of amendment, brought it in; and now it is insisted the court erred in permitting the amendment. It devolved upon the objector to show no report had been made to the city clerk. The report of the city clerk to the county collector was all the law required.

No law requires a bill of the costs of the construction to be filed with the county collector. Sufficient to say, when the costs were shown, the objector did not attempt to show they were excessive in any particular, or that the walk did not cost the amount charged against his property.

Again, confused as is appellant about grade, we deem it but an idle waste of time to speak of. It is not necessary to set out a grade ordinance in the improvement ordinance. It is sufficient if the ordinance for the improvement refers to an established street grade.

180 Ill., 125.

176 Ill., 507.

The trial court had before it the record of the proceedings of the city council, street grade, maps, etc. Then in the office of the city clerk for public inspection, where the most ignorant man could have learned how to have laid the walk, he had, first, the ordinance; second, chapter 23 of ordinance book of the city of Sumner; the record of the meeting of the city council, engineer's maps, etc., pages 6 and 7, to direct him in the execution of this work; and we think if not a strict, that a substantial compliance at least with the requirements of the statute, as held by this court in case of County of Adams vs. City of Quincy, 130 Ill., 566, and at page 580.

It is the province of the city council to fix the grade; they did so.  
Denett vs. Cluxton, 194 Ill., 521.

Every detail of the work is not necessary in the ordinance.  
Petes vs. Chicago, 192 Ill., 437.

We again ask the court to examine the record, as the same appears; and we feel confident that no error was made in requiring the special tax to be paid. We respectfully ask an affirmance of the judgment.

GEE & BARNES,  
S. C. LEWIS,

Attorneys for Appellee.

No. ....

Agenda No. ....

---

In The Supreme Court, Southern Grand Division,  
STATE OF ILLINOIS.

---

October Term, 1902.

---

J. O. McDOWELL, Appellant, }  
 vs. } Appeal from the County Court of  
 THE PEOPLE, Etc., Appellee. } Lawrence County.

---

BRIEF AND ARGUMENT OF APPELLEE.

**FILED**

OCT 17 1902

GEE & BARNES, }  
 S. C. LEWIS, } Attorneys for Appellees  
 OLIVER J. PAGE,  
 CLERK.

In The Supreme Court, Southern Grand Division,

STATE OF ILLINOIS.

---

October Term, 1902.

---

J. O. McDOWELL, Appellant, }  
vs. } Appeal from the County Court of  
THE PEOPLE, Etc., Appellee. } Lawrence County.

---

BRIEF AND ARGUMENT OF APPELLEE.

---

THE FACTS.

The City of Sumner, by an ordinance properly passed, approved and published, caused to be laid a sidewalk along the premises of the appellant. The ordinance was enacted by virtue of the sidewalk act passed in 1875. See S. & C., Vol. 1, page 857.

The ordinance upon inspection will be found to be in strict compliance with the act of the Legislature. After the thirty days' time,

which were given appellant to construct the sidewalk along his lots, had elapsed and he had made default, the city authorities some time afterward caused to be laid the walk, and after a failure to collect the cost of the same by the officers of the city, the special tax was returned delinquent to the county collector. At the June term of the county court the appellant filed a great number of objections, but has abandoned all but six. A hearing was had by the county court, when all the various proceedings of the city council of Summer, Engineer Watts' plans, etc.; ordinances, reports of sidewalk committee, were before the court, and the special tax sustained. Appellant praying an appeal, a stipulation was entered into as shown in the abstract.

### BRIEF.

We invite an inspection of the ordinances as they appear in the record; not the summary given in the abstract. We feel confident they will show a more than substantial compliance with the statute. The sidewalk could have been constructed by the appellant and the special tax avoided, and it is more than useless for him to contend that he could not get the necessary information from the ordinances as to how it should be constructed.

The first objection now contended for cannot be of avail. The statute gives power to the city council to pass the ordinance. No question or objection is made as to its passage and validity. It gave appellant the thirty days, as provided in section 2 of the act, to construct said walk; and only his neglect, as provided in section 3, caused the special tax to be levied against the lots.

The second objection is equally untenable. The first walk was laid under a void ordinance, improvement abandoned and

ordinance repealed. No payment of any tax therefor had been made by the appellant, and he could have no vested interest in said sidewalk. The city has sole control of its streets and sidewalks. Afterward the present ordinance was passed and another sidewalk placed along his lots, the cost of which is in controversy. The city council has power to repeal an ordinance and pass a new one. This is all that was evidently done in this case.

Gage vs. City of Chicago, 193 Ill., 108.

No general complaint can be made about the two and one-half cents, as the actual cost is what the property owner must pay. The city council cannot control the cost of labor and material, all of which varies from time to time.

The fourth objection: the report of the city clerk to the county collector. An inspection of section 4 of the act shows that all the city clerk is to do is to make a report in writing to the county collector, reporting the amount of the special tax unpaid against each lot, tract or parcel of land, the names of the owners thereof, together with a copy of the ordinance, accompanied by his oath of its correctness. This is declared by the statute to be prima facie evidence that all the anterior requirements of the law have been complied with. It is section 3 which provides the report to be made to the city clerk as provided by the ordinance. This was a complete report made to the city clerk, in strict compliance with all the requirements of the statute, by the committee as required by said ordinance. It will be seen that the discretion is left to the city council to provide by the ordinance the kind of a report that shall be made to the city clerk. It is not a question what his report to the county collector should contain. We had a report in proper time from the city clerk to the county collector.

Then upon the appellant insisting to see a report made to the city clerk, we, by way of amendment, brought it in; and now it is insisted the court erred in permitting the amendment. It devolved upon the objector to show no report had been made to the city clerk. The report of the city clerk to the county collector was all the law required.

No law requires a bill of the costs of the construction to be filed with the county collector. Sufficient to say, when the costs were shown, the objector did not attempt to show they were excessive in any particular, or that the walk did not cost the amount charged against his property.

Again, confused as is appellant about grade, we deem it but an idle waste of time to speak of. It is not necessary to set out a grade ordinance in the improvement ordinance. It is sufficient if the ordinance for the improvement refers to an established street grade.

180 Ill., 125.

176 Ill., 507.

The trial court had before it the record of the proceedings of the city council, street grade, maps, etc. Then in the office of the city clerk for public inspection, where the most ignorant man could have learned how to have laid the walk, he had, first, the ordinance; second, chapter 23 of ordinance book of the city of Sumner; the record of the meeting of the city council, engineer's maps, etc., pages 6 and 7, to direct him in the execution of this work; and we think if not a strict, that a substantial compliance at least with the requirements of the statute, as held by this court in case of County of Adams vs. City of Quincy, 130 Ill., 566, and at page 580.

It is the province of the city council to fix the grade; they did so.

Denett vs. Claxton, 194 Ill., 521.

Every detail of the work is not necessary in the ordinance.

Petes vs. Chicago, 192 Ill., 437.

We again ask the court to examine the record, as the same appears; and we feel confident that no error was made in requiring the the special tax to be paid. We respectfully ask an affirmance of the judgment.

GEE & BARNES,

S. C. LEWIS,

Attorneys for Appellee.

-----UNITED STATES OF AMERICA,-----

STATE OF ILLINOIS, SS.  
COUNTY OF LAWRENCE,

85

2754

IN THE LAWRENCE COUNTY, COUNTY COURT,  
TO THE JUNE TERM A.D.1902.

PLEAS BEFORE THE HONORABLE J.D.MADDING, JUDGE of the County Court of Lawrence County, Illinois, And sole presiding Judge of the County Court in and for said Lawrence County, and State of Illinois. At a regular term thereof begun and held for the transaction of Probate business at the court house in the City of Lawrenceville, in said County and State, on the First Monday in June, A.D.1902, being the second day of June in the year of our Lord One Thousand Nine Hundred and Two, and of the Independence of the United States of America, the One Hundred and Twenty-sixth. Present-Honorable J.D.Mading, Judge of the County Court of Lawrence County in the State of Illinois.

G.W.Hill Clerk, George W.Lackey, States Attorney,  
William Pettyjohn, Sheriff,

Attest:G. W. Hill, Clerk.

*Handwritten initials and signature:*  
W  
V  
g.g.

FILED

OCT 4 1902

OLIVER J. PAGE,  
CLERK.

STATE OF ILLINOIS, SS.  
COUNTY OF LAWRENCE,

IN LAWRENCE COUNTY, COUNTY COURT,  
TO THE JUNE TERM A.D. 1902.

J. O. MC.DOWELL,  
VS  
THE PEOPLE & C. EX. REL. CURTIS H. (Application for Judgment for special  
MARTIN, COUNTY TREASURER, (Sidewalk tax, assessed by the City of  
(Sumner.))

-----OBJECTIONS TO TAX BY J. O. MC.DOWELL,-----

In the matter of the people ex rel. Curtis H. Martin, County Treasurer of Lawrence County, in the State of Illinois, Application for judgment for delinquent tax for the year A.D. 1901.

AND NOW COMES J.O.MC.DOWELL, and shows to the court, that he is the owner of the following described land against which special sidewalk tax is assessed, as follows.

Forty feet off of the South end of lot eight in block Fourteen J. Mays First addition to the town now City of Sumner, Frontage 40, feet, width 5, feet, Square feet 200, ---\$25.00.

A tract of land described as follows, commencing at the south-west corner of lot Eight in Block Fourteen, J. May's, first and second addition to the town (now) City of Sumner, running east one hundred and eighty five feet, south one hundred and sixty five feet, west one hundred and eighty five feet, North one hundred and sixty five feet, Frontage 120 feet, Width 5 feet, Square feet 600. -----\$75.00.

Commencing at the south west corner of lot Eight in J. May's, first addition to the town (now City) of Sumner, in block Fourteen, J. May's, first and second addition to the Town (now City) of Sumner, thence east one one hundred and eighty-five feet, thence south One hundred and Sixty-five feet, thence west one hundred and eighty five feet, these north one hundred and sixty five feet, Frontage 185 feet, Width 3 feet, Square feet 555. \$72.15.

To which said special tax and judgment thereon, objections are made for the following reasons.

1st. Said assessments are illegally made.

2nd. A sidewalk of the same description was removed from along said property in order to assess and collect a special tax against this objector, That in removing and replacing said sidewalk no special benefit accrued to said lots; and the assessment was increased Two and one half cents on the square foot over that assessed on adjoining property for like improvements.

- 3rd. An ordinance for the construction of a sidewalk along said property on Christy Avenue and under which a sidewalk of the same description had been constructed was repealed and said sidewalk taken up in order to pass the ordinance and construct the sidewalk for which this assessment was made and judgment asked.
- 4th. No bill of costs has been made, nor no special tax list has been made and filed with the County Treasurer, giving each item of cost of the construction of said sidewalk as is required by law, to entitle said city to a judgment.
- 5th. Because of a failure to comply with the requirements of the statute by the authorities of the city of Sumner, in passing and publishing said ordinances, and in the proceedings to construct said sidewalk and levy and collect the special tax therefor, this court has no jurisdiction to render judgment.
- 6th. The grade upon which said sidewalk was to be constructed was not fixed by said ordinance or, any ordinance so that this objector could construct the same according thereto.

J. O. Mc.Dowell,

By W. F. Foster, his attorney.

-----  
-----ORDER and JUDGMENT of the COURT.-----  
-----

Now on this 13th day of June A.D. 1902, the same being one of the judicial days of the present term of this court, comes J. O. Mc.Dowell, by W. F. Foster, his attorney, and comes also said Curtis H. Martin, County Collector, by S. C. Lewis and S. J. Gee, his attorneys, whereupon notices and proof made by the said County Collector are considered in proof in this case. Ordinance No. 79 and 80 of the city of Sumner, Illinois, Affidavits and report to county collector by clerk of said city of Sumner, and ordinance of said city of Sumner, establishing grade of streets and alleys, page 61, Chapter 28, introduced by said objector; whereupon this cause is continued until June 14th, at one o'clock P.M.

And now on the 14th day of June A.D. 1902, at one o'clock P.M. said day being one of the judicial days of said June term of this court, came again the said parties, whereupon the court heard argument of counsel until Four o'clock P.M. when said County Collector by his attorneys aforesaid moved the court to amend report made by said City Clerk of the City of Sumner, to the said County Collector, which motion is allowed by the court to which the said objector by his attorney aforesaid then and there excepts; Amendment made; whereupon it is considered by the court that judgment be, and is entered against the parcels of land and lots of said objector as prayed by said county collector, to-wit:

Commencing at the south-west corner of lot eight (8) in J. May's, first addition to the town, now city of Sumner, in block fourteen (14) J. May's, first and second additions to the town, now city of Sumner, thence east one hundred and eighty-five (185) feet, thence south one hundred and sixty five (165) feet, thence west one hundred and eighty-five (185) feet, thence north one hundred and sixty-five (165) feet; Judgment for Seventy two and 71/100, Dollars.

Forty feet off south end of lot No. 8, in block No. 14, in J. Mays 1st addition to the town, now city of Sumner; Judgment for Twenty-five and 16/100 Dollirs.

Cmmencing at the south -west corner of lot No. 8. in block 14, J. May's, 1st and 2nd additions to the town, now city of Sumner, running east one hundred and eighty-five feet, South one hundred and sixty-five feet, west one hundred and eighty-five feet, North one hundred and sixty-five feet; Judgment for Seventy-five and 56/100, Dollars.

To which judgment said objector then and there excepts, and prays an appeal to the supreme court. And now again on the 16th day of June 1902, comes the said objector and shows to the court that he has deposited with said County Collector, the amount of said Judgment, and the court thereupon grants appeal to Supreme Court upon said objector filing bond in the sum of Two Hundred Dollars within Thirty days and bill of exceptions within Sixty days.

-----  
-----BILL of EXCEPTIONS,-----  
-----

State of Illinois,  
Lawrence County, ss.

In Lawrence County, County Court,  
To June Term A.D. 1902.

J. O. Mc.Dowell,

vs

( Bill of Exceptions.

The People Ex-rel., Curtis H.  
Martin, County Collector,

Be it remembered, that on the trial of this cause, at the June Term A.D. 1902, of the said County Court, on the 13th, day of June A.D. 1902, the said County Collector, to maintain the issues on his part asked the Court to consider notices and proof of said County Collector in evidence, which is done accordingly, to-wit:

DELINQUENT TAX LIST.

State of Illinois,  
Lawrence County, ss.

Public notice is hereby given, That I Curtis H. Martin, County Collector of Lawrence County, in the State aforesaid, shall apply to the County Court of said Lawrence County, at the June Term 1902 thereof, for judgment against the lands and lots mentioned and described in the following list of delinquent lands and lots for the taxes, special assessments, interest and costs due severally thereon; and for an order to sell said lands and lots for the satisfaction thereof. Also that on the second Monday next succeeding the first Monday in June 1902, the same being the day fixed by law for the commencement of such term of said County Court, to-wit: on the 16th, day of June 1902, all the lands and lots for the sale of which an order shall be made, will be exposed at public sale, at the court house in said County, for the amount of taxes, special assessments, interest and costs due thereon.

-----SPECIAL SIDEWALK TAX.-----

Assessed on town lots in the City of Sumner, for the purpose of constructing sidewalks in said City of Sumner, under and by virtue of Ordinances of said City of Sumner, Numbered, 79 and 80.

Owner's name,

J.O. Mc. Dowell,

Forty feet off of the South end of lot eight (8) in block fourteen (14) J. May's, first addition to the town, now city of Sumner, frontage 40 feet, Width 5 feet. Square feet 200. -----\$25.00.

A tract of land described as follows, commencing at the south-west corner of lot eight (8) in block fourteen (14) J. May's, first and second additions to the town, now city of Sumner, running east one hundred and eighty-five (185) feet, south one hundred and sixty-five (165) feet, west one hundred and eighty-five (185) feet, north one hundred and sixty-five (165) feet Frontage 120 feet. Width 5 feet. Square feet 600, -----\$75.00.

Commencing at the south-west corner of lot eight (8) in J. May's, first addition to the town, now city of Sumner, in block fourteen (14) J. May's, first and second addition to the town, now city of Sumner, thence east one hundred and eighty-five (185) feet, thence south one hundred and sixty-five (165) feet, thence west one hundred and eighty-five (185) feet, thence north one hundred and sixty-five (165) feet.

Frontage 185 feet. Width 3 feet. Square feet 555. -----\$72.15.

-----  
Sale will be opened on Monday, June 16th, 1902, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, (closing at four o'clock) and will be continued from day to day, opening at ten o'clock a.m. and closing at four o'clock p.m. of each day until all the track or lots

on which the taxes remain unpaid shall be sold or offered for sale.

Curtis H. Martin,

County Treasurer and ex-officio  
Collector of Lawrence County,

Ill., May 8. 1902.

I. O. V. Hardacre, Publisher of the Lawrence County News, a weekly newspaper published in the town of Lawrenceville, County of Lawrence, and State of Illinois, do hereby testify that the foregoing is a true and correct list of the delinquent lands and town lots as furnished this office by Curtis H. Martin, County Treasurer, and ex-officio Collector of Lawrence County, Illinois, and that the same is published in all the copies of said paper issued this 8th day of May, A. D. One Thousand Nine Hundred and Two, and that the revenue law has been complied with on my part.

O. V. Hardacre, Publisher.

-----  
State of Illinois,  
County of Lawrence,

I. C. H. Martin, Collector of the County of Lawrence, and State of Illinois, do solemnly swear, that the foregoing is a true and correct list of the delinquent lands and lots, within the County of Lawrence, and State of Illinois, upon which I have been unable to collect the taxes and special assessments, interest and printers fees charged thereon, as required by law, for the year or years therein set forth, that the said taxes, special assessments, interest and printers fees now remain due and unpaid as I verily believe.

C. H. Martin, Co. Collector,

Subscribed and sworn to before me  
this second day of June, 1902.

G. W. Hill, County Clerk.

-----  
And the objector to maintain the issues on his part, submitted in evidence to the Court the following.

-----  
Stipulation,-----

It is agreed that on the 1st day of May A. D. 1900, the City Council of the City of Sumner, Illinois, duly passed and thereafter duly published an Ordinance Numbered 66, providing for the construction of a stone sidewalk to be paid for by special assessment on contiguous property, along the East line of Christy Avenue, in said City, which said sidewalk passed along and was contiguous to the West front of the property of this objector as described in this proceeding. That said sidewalk so provided for in said ordinance Number 66, was of the same character, dimensions and material and

was to be constructed according to the same plans and specifications as the sidewalk provided for and constructed in and under the provisions of Ordinance Number 80. relied on in this proceeding. That the objector failed and refused to construct said sidewalk under said ordinance Number 66. within 30 days after the passage and publication thereof as therein provided whereupon said City constructed said sidewalk along the West front of objectors said <sup>described</sup> property according to the provisions of said Ordinance Number 66. That the objector failed and refused to pay the cost of the construction of said sidewalk specially assessed against his said property; whereupon said City returned the same as delinquent, to the County Treasurer of said County. That said County Treasurer advertised said property so returned, as the law directs, and at the June Term A.D. 1901, of the County Court of said County, applied for judgment thereon against said lang. That at said June term of said court, the objector herein, appeared and filed his objections thereto, That the City of Sumner, then and there of its own motion dismissed said proceeding in said County Court. because of an error as it alleged in the description of objectors said property. That said City Council repealed so much of said Ordinance Number 66. as extended along the West front of objectors said property, and thereupon tore up and removed the said sidewalk theretofore constructed under said Ordinance 66. along the west front of objectors said property, and passed the Ordinance Number 80. relied on for judgment in this proceeding, and thereupon constructed the sidewalk along the West front of objectors said property, of the same character, description and dimensions and of the same Character of material as the sidewalk so constructed under said Ordinance Number 66. and afterwards so reoved. That said City constructed at a cost of and taxed and assessed objectors said property Two and one half cents more per square foot for the stone in the latter sidewalk than was taxed and assessed for the stone in the former sidewalk. ---And it is further stipulated that under the first Ordinance No. 66. the City of Sumner caused to be laid along the aforesaid premises of the said J.O. McDowell, a stone sidewalk under the provisions thereof, and that the said J.O. McDowell refused to pay for the same. and made objections to it, and the City, the ordinance being found invalid, caused the said sidewalk thus put down, to be taken up and removed from along the said premises, and for several months there was no ston walk along the premises of the said J.O. McDowell, and until the passage of the present Ordinances No. 79 & 80. under which the present proceedings are being had, when to the said J.O. McDowell, refusing to put down the walk himself as provided in the time and manner, of the said ordinances, the City of Sumner again caused to be laid a stone sidewalk, but not the same stone heretofore used along said premises, and the assessment which is sought to be collected in this proceeding is for the last sidewalk thus laid and constructed, and was only laid by the city because the said J.O. McDowell, had made default in not complying with the ordinances, and refusing to put down the sidewalk himself.

-----  
That the trial court considered in connection with Chap. 28, of ordinance  
city Sumner, the minutes of the session of said City council when said  
ordinance was passed in regard to maps and grade lines.

-----Chapter xxviii.-----

-----Establishing Grade of Streets and Alleys.-----

WHEREAS, the City of Sumner, Illinois, did on the 3rd, day of November 1898 contract with Edwyn E. Watts, civil engineer, for making the necessary surveys and furnishing the data necessary to establish the grades of the streets and alleys of the said city, and whereas, the said Watts, has this day filed in the office of the clerk of said city, a map endorsed thereon as follows, "City of Sumner, Illinois, Grade map, By E. E. Wats, C. E. and the following, "Explanation-Contiuous curb grades of the streets and alleys are indicated hereon in red. Elevations are shown at street intersections and all other points in the line of the street or alley where where the ratio of grade changes. one elevation at an intersection or intermediate point indicates the same grade for all cerbs at that point, otherwise seperate elevations are indicated. All grades conform to the grades of intersecting streets. Distances to intermediate change points are shown excepting where change occures in the middle of the block, no distance is shown," and a record of permanant bench marks noted thereon.

Now be it resolv~~ed~~ by the common council of the city of Sumner, Illinois, that said elevations of said streets and alleys and of the permanent "Bench Marks," as indicated upon said map be and the same are hereby declared to be established grade of said respective streets and alleys, and that from and after the passage of this resolution shall be considered and deemed the established grade of the streets and alleys of the city of Sumner, Illllinois.

And be it further resolved that the Clerk of said city be hereby ordered and directed to spread a copy of said map upon the minutes of this session of said council.

-----  
State of Illinois, Lawrence County, ss.

H. D. Roach, City Clerk of the City of Sumner, Lawrence County, Illinois, being duly sworn, upon his oath says, that the special sidewalk delinquent tax list hereto attached, with the names of the respective owners thereof so far as the same are known to said City Clerk, and the amount due and unpaid upon each lot, tract or parcel of land, together with a true and correct copy of the ordinance hereto attached, ordering the construction of said sidewalk, That the list is a correct return of the lots, tracts and parcels of land on which the special tax levied by authority of said city of Sumner, for the partial cost of said sidewalk in said ordinance specified, remains due and unpaid, and that the amounts therein stated



----- AN ORDINANCE. -----

In relation to building a stone sidewalk on a portion of the east side of Christy Avenue, in the City of Sumner, Illinois.

Be it ordained by the City Council of the City of Sumner, Illinois, in the council chamber assembled.

*File*  
\*  
Section 1. That there shall be made in the City of Sumner, Lawrence County, in the State of Illinois, a public local improvement by building and constructing a stone sidewalk five feet wide on a portion of the east side of Christy Avenue in the City of Sumner. Commencing forty feet north of the south-west corner of lot number eight in Jacob Mays first addition to the town now City of Sumner, in block fourteen Jacob Mays first and second additions to the town, now City of Sumner, and running thence south on and along the east side of said Christy Avenue, a distance of One hundred and sixty-five (165) feet to intersect the north line of Cedar street in said City of Sumner, Said Sidewalk shall be laid, built and constructed next to and along the west side of the real estate, lots, tract or parcel of land described as follows, to-wit: Commencing forty feet north of the south-west corner of lot number eight, Jacob May's, first addition to the town, now C City of Sumner, in block number fourteen Jacob May's, first and second addition to the town, now City of Sumner; and running thence east two hundred and forty (240) feet, thence south one hundred and sixty-five (165) feet to the north line of Cedar street in said City of Sumner, thence west along the line of said Cedar street, two hundred and forty (240) feet, to the east line of Christy avenue, in said City, thence north along the east line of said Christy avenue one hundred and sixty-five (165) feet to place of commencing in said City of Sumner aforesaid, situated, touching, fronting, abutting upon, next to and along the east side of said Christy avenue aforesaid. Said sidewalk is hereby declared to be a public local improvement, and the cost of the stone, the dressing, preparing and laying down of the same into said sidewalk shall be paid for by special taxation upon the real estate, lots, parts of lots, tracts or parcels of land, situated, touching, fronting, abutting upon, next to and along the line of said sidewalk aforesaid equal in amount in proportion to the frontage thereof, which said special tax is hereby levied, assessed and ordered to be collected by the authority of the said City of Sumner, Lawrence County, in the State of Illinois.

Sec. 2. The building, laying and constructing of said stone sidewalk aforesaid shall be done according to the following plans and specifications: There shall be made an excavation of the earth four inches below the established grade of that portion of said Christy avenue where said sidewalk shall be built and five feet wide, unless said excavation have previously been made.

Said excavation shall be filled with sand three inches deep or as near as practicable, unless the same have previously been filled with said sand. Said sand shall be thoroughly tamped with a hand tamp, on said sand there shall be laid over each outer edge thereof, white oak plank one inch thick three inches wide and twelve feet long. On said white oak plank there shall be laid a layer of first class lime stone rock, which shall consist of blocks three inches thick, or as near as practicable, five feet wide and not less than four feet long nor more than ten feet long, which shall be sawed and the ends and edges dressed smooth and straight and the ends of said stone blocks when laid into said sidewalk shall touch each other the entire width of said sidewalk so as to make a nice neat joint, the top surface of said sidewalk when completed to be smooth and slope gradually towards the center of said Christy avenue, having a gradual slope downward of one fourth inch vertical to one foot horizontal. Said sidewalk to be laid, built and constructed one foot from the property line or as near as practicable.

Sec. 3. The excavating, white oak plank, sand, labor, etc., in preparing the bed for said sidewalk aforesaid, shall be paid for by general taxation and shall be levied and collected as part of the general taxes of said City of Sumner, and shall be paid out of the general funds of said city not otherwise appropriated.

Sec. 4. All material used in laying building and constructing said sidewalk aforesaid shall be first class, of the character mentioned in sections one and two of this ordinance, the building, laying and construction of said sidewalk shall be under the supervision and subject to the approval of the Mayor and committee on streets and alleys of the said city of Sumner.

Sec. 5. All owners of real estate, lots, parts of lots, tracks or parcels of land situated, touching, fronting, abutting upon, next to and along the line of said sidewalk ordered laid, built and constructed, are hereby required to lay, build and construct said sidewalk in front of next to and along the line of their respective lots, parts of lots, tracks or parcels of land in accordance with the plans and specifications in sections one and two of this ordinance within thirty days from the passage and publication of this ordinance, and relieve the same from the payment of special tax; and in default thereof of any owner or owners of any real estate, lot, part of lot, tract or parcel of land situated, touching, fronting, abutting upon, next to and along the line of said sidewalk aforesaid, the material will be furnished and said sidewalk will be laid, built and constructed by the said city of Sumner and the mayor and committee streets and alleys of said city of Sumner, hereinbefore mentioned shall make a bill of the cost thereof itemizing the same,

showing seperately the cost of each article of material, labor, etc., in the laying and construction of said sidewalk aforesaid, the exact amount to be paid for by special taxation as provided for in section one of this ordinance, which they shall certify to and file with the City Clerk of said city of Sumner, together with a list of the real estate, lots, parts of lots, tracts or parcels of land situated, touching, fronting, abutting upon, next to and along the line of said sidewalk, aforesaid, the names of the owner or owners thereof, and the frontage of each piece of real estate; lot part of lot, tract or parcel of land, whereupon the said city clerk shall prepare a special tax list upon each piece of real estate; lot, part of lot, tract or parcel of land situated, touching, fronting, abutting upon, next to and along the line of said sidewalk aforesaid and the names of the owner or owners thereof, ascertaining by computation the amount of said special tax to be charged against each piece of real estate, lot, part of lot, tractor or parcel of land situated, touching, fronting, abutting upon next to and along the line of said sidewalk aforesaid, which special tax list he shall file in his office, and the said city clerk shall thereupon issue warrants directed to the city marshall of the said city of Sumner, for the collection of said special tax so ascertained and as appears to be due and unpaid on the real estate, lots and parts of lots, tracts or parcels of land as aforesaid, And the city marshall of said city of Sumner, shall proceed to collect said warrants and shall make returns thereon with all moneys collected thereon to the city clerk within sixty days from the date of issue of said warrants, and all moneys so colleted and paid over to said city clerk shall be by him imediately paid over to the city treasurer of said city of Sumner.

Sec. 6. Upon the failure to collect said special tax upon the warrant or warrants issued thereon, the said city clerk of said city of Sumner, shall on or before the first day of April A.D. 1902, make a list of and report in writing of all such special taxes remaining due and unpaid to the Couy Collector of Lawrence County, in the State of Illinois, reporting the real estate, lots, parts of lots, tracts or parcels of land situated, fronting, touching, abutting upon, next to and along the line of said sidewalk aforesaid, together with the names of the owner or owners thereof, so far as the names are known to the said city clerk, together with the amount of said special tax remaining due and unpaid upon each piece of real estate, lot, part of lot, track or parcel of land, also a copy of this ordinance, which report shall be verified by the oath of said city clerk, that said list is a correct return of the real estate, lots, parte of lots, tracts or parcels of land on which the above special tax is levied, assessed and ordered to be collected by the a authority of said city of Sumner,

for the costs of said sidewalk aforesaid, as herein provided, and the amount therein stated as due and unpaid have not been paid or any part thereof, who shall proceed to collect said special tax as by statute in such case made and provided..

Sec. 7. An act of the legislature of the State of Illinois, entitled "An act to provide additional means for the construction of sidewalks in cities, towns and villages," Approved April 15th, 1875, in force July 1st, 1875, is hereby adopted.

Sec. 8. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

This ordinance to take effect and be in force after its passage and publication as required by law. This ordinance shall be known as ordinance number eighty.

Ayes—G.W. Cooper, Richard Waller, Isaac Haines, Will Burns, J.W. Westall,  
Nays—None. Absent C.J. Foster,

Passed Nov., 13th, A.D. 1901.

Approved Nov. 13th A.D. 1901.

Published Nov. 14th, A.D. 1901.

C.B. Jones Mayor,

Attest: H.D. Roach, City Clerk.

State of Illinois, Lawrence County, ss.  
H.D. Roach, City Clerk of the City of Sumner Lawrence County, Illinois, being duly sworn upon his oath says, that the special sidewalk delinquent tax list hereto attached, with the names of the respective owners thereof, so far as the same are known to said city clerk and the amount due and unpaid upon each lot, tract or parcel of land, together with a true and correct copy of the ordinance hereto attached, ordering the construction of said sidewalk, that the list is a correct return of the lots, tracts and parcels of land on which the special tax levied by the authority of said city of Sumner, for the whole cost of said sidewalk in said ordinance specified, remains due and unpaid, and that the amount therein stated as due and unpaid, have not been collected, nor any part thereof.

H.D. Roach, City Clerk

Delinquent special Sidewalk Tax, City of Sumner, Ills.

Ordinance Number 80.

Owner Name

J. O. Mc.Dowell, Description, 40, foot off of the South end of 8 Eight, in block four-  
 teen J.Mays, first addition to the town, now city of  
 Sumner.

Frontage	Width,	Sq ft.	Total Cost.
40 foot.	5 foot	200	\$25.00.

J. O. MC.Dowell. Description. Tract of land described as follows, Commencing at the  
 south west corner of lot eight (8) in block fourteen  
 (14) J.Mays first and second additions to the town now  
 city of Sumner, and running east one hundred and eighty-  
 five (185) feet, south one hundred and sixty-five (165)  
 feet, West one hundred and eight-five (185) feet north  
 one hundred and sixty-five (165) feet

Frontage,	Width,	Sq. Ft.	Total Cost.
120 foot	5 foot	600	\$75.00.

\$100 00

State of Illinois, Lawrence County, ss.

H.D.Roach, City Clerk, of the City of Sumner Lawrence County,  
 Illinois, being duly sworn upon his oath says, that the special sidewalk  
 delinquent tax list hereto attached, with the names of the respective  
 owners thereof, so far as the same are known to said city clerk and the  
 amount due and unpaid upon each lot, tract or parcel of land, together  
 with a true and correct copy of the ordinance hereto attached, ordering  
 the construction of said sidewalk. That the list is a correct return of  
 the lots, tracts and parcels of land on which the special tax levied by  
 authority of said city of Sumner, for the whole cost of said sidewalk in  
 said ordinance specified, remains due and unpaid, and that the amounts  
 therein stated as due and unpaid, have not been collected, nor any part  
 thereof

H.D.Roach, City Clerk,  
 (L.S.)

Subscribed and sworn to before me  
 this 30th, day of March A.D. 1902.

(L.S.) Benj.F.Sumner, Notary Public,

-----AN ORDINANCE,-----

In relation to building a stone sidewalk on a portion of the north side of Cedar Street in the City of Sumner, Illinois.

Be it Ordained by the City Council of the City of Sumner, Illinois, in the Council Chamber assembled.

Section 1. That there shall be made in the city of Sumner, Lawrence County in the State of Illinois, a public local improvement by building and constructing a stone sidewalk three feet wide on a portion of the north side of Cedar Street in the City of Sumner, Commencing at the south-west corner of lot number seven in Jacob May's, second addition to the town, now city of Sumner, in block number Fourteen, Jacob May's, first and second additions to the town, now city of Sumner, and running thence west on and along the north line of said Cedar Street in said city, for a distance of two hundred and forty feet, said sidewalk shall be laid, built and constructed next to and along the south side of the real estate lots, tract or parcel of land described as follows, to-wit: Commencing Forty feet north of the south-west corner of lot number eight, Jacob May's, first addition to the town, now city of Sumner, in block number fourteen, Jacob May's, first and second addition to the town, now city of Sumner; and running thence east two hundred and forty (240) feet, thence south one hundred and sixty-five (165) feet, to the north line of said Cedar street, thence west along the north line of said Cedar street, two hundred and forty (240) feet, to the east line of Christy Avenue, thence north along the east line of Christy Avenue one hundred and sixty-five (165) feet to the place of beginning, situated in the city of Sumner, Lawrence County, Illinois, touching, fronting, abutting upon, next to and along the north side of said Cedar street in said city of Sumner. Said sidewalk is hereby declared to be a public local improvement, and the whole cost thereof shall be paid for by special taxation upon the real estate, lots, parts of lots, tracts or parcels of land, situated, touching, fronting, abutting upon, next to and along the line of said sidewalk aforesaid, equal in amount in proportion to the frontage thereof, which said special tax is hereby levied, assessed and ordered to be collected by the authority of said city of Sumner, Lawrence County, in the State of Illinois.

Sec. 2. The building and constructing of said stone sidewalk aforesaid, shall be done according to the following plans and specifications: There shall be made an excavation of the earth to the depth of four inches below the established grade of that portion of Cedar street, and three feet wide, except where it would be better and more practicable on account of proper drainage to excavate less or, grade up at low places along the line of said sidewalk aforesaid.

When such excavation shall have been made or graded it shall be filled with sand three inches deep or as near as practicable, said sand shall be thoroughly tamped with a hand tap, on said sand there shall be laid over each outer edge thereof, white oak plank one inch thick, three inches wide, twelve foot long. On said white oak plank there shall be laid a layer of first class lime stone rock, said layer of lime stone rock shall consist of blocks which shall be three inches thick, or as near as practicable, and shall be three feet wide and not less than four feet long ~~long~~, nor more than ten foot long. The ends and edges of said stone blocks shall be dressed neat and straight and laid into said sidewalk shall ~~touch~~ <sup>touch</sup> each other the entire width of said sidewalk. The top surface of said sidewalk when completed shall be smooth and slope gradually towards the center of said Cedar street, having a gradual slope downward of one fourt inch vertical to one foot horixontal. Said sidewalk to be laid and constructed one foot from the property line or as near as practicable.

Sec. 3. All material used in the construction of the above described sidewalk shall be first class and of the character mentioned in sections one and two of this ordinance, and the laying and construction of said sidewalk shall be under the direction, supervision and subject to the approval of the mayor and committee on streets and alleys of the said city of Sumner.

Sec. 4. All owners of real estate, lots, parts of lots, tracts or parcels of land situated, touching, fronting, abutting upon, next to and along the line of said sidewalk are hereby required to lay, build and construct said sidewalk in front of and along the line of their respective real estate, lots, parts of lots, tracts or parcels of land in accordance with the plans and specifications in sections one and two of this ordinance within thirty days from the passage and publication of this ordinance, and relieve the same from the payment of specail tax; and in default thereof of any owner or owners of any real estate, lot, part of lot, tract or parcel of land touching, fronting, abutting upon, next to and along the line of said sidewalk aforesaid, the material will be furnished and said sidewalk will be laid by the city of Sumner, and the mayor and committee on streets and alleys of said city herein before mentioned shall make a bill of the whole cost thereof, itemizing the same, showing seperately the cost of each article of material, labor, etc. in the construction of said sidewalk to be paid for by special taxation, which they shall certify to and file with the city clerk of said city of Sumner, together with a list of the real estate, lots, parts of lots, tracts or parcels of land situated, touching, fronting, abutting upon, next to and along

the line of said sidewalk aforesaid, the names of the owners thereof, and the frontage of each piece of real estate, lot, part of lot, tract or parcel of land; Whereupon the said city clerk shall make and prepare a special tax list upon the real estate, lots, parts of lots, tracts or parcels of land situated, touching, fronting, abutting upon, next to and along the line of said sidewalk, and the names of the owner or owners thereof, ascertaining by computation the amount of said special tax to be charged against the real estate, lots, parts of lots, tracts or parcels of land and the owners thereof on account of the construction of said sidewalk according to the frontage of said real estate, lots, parts of lots, tracts or parcels of land situated, fronting, touching, abutting upon, next to and along the line of said sidewalk, which special tax list he shall file in his office, and the said city clerk, shall thereupon issue warrants directed to the city marshall of the city of Sumner, for the collection of said special tax so ascertained and as appears to be due and unpaid on the real estate, lots, and parts of lots, tracts or parcels of land as aforesaid. And the city marshall shall proceed to collect said warrants and shall make returns thereon with all moneys collected thereon to the city clerk of said city of Sumner, within sixty days from date of issue of said warrants, and all moneys so collected and paid over to said city clerk shall be by him immediately paid over to the city treasurer of the said city of Sumner.

Sec. 5. Upon the failure to collect said special tax upon the warrant or warrants issued thereon, the said city clerk of the said city of Sumner, shall on or before the first day of April A.D. 1902, make a list of and report in writing all of said special taxes remaining due and unpaid to the County Collector of Lawrence County, in the State of Illinois, reporting the real estate, lots, parts of lots, tracks or parcels of land situated, fronting, touching, abutting upon, next to and along the line of said sidewalk together with the names of the owner or owners thereof, so far as the same are known to the said city clerk, together with the amount of said special tax remaining due and unpaid upon each piece of real estate, lot, part of lot, tract or parcel of land, also a copy of this ordinance, which report shall be verified by the oath of said city clerk, that said list is a correct return of the real estate, lots, parts of lots, tracts or parcels of land on which the above special tax is levied, assessed and ordered to be collected by the authority of said city of sumner, for the whole cost of said sidewalk aforesaid, as herein provided, and the amount therein stated as due and unpaid have not been paid, or any part thereof, who shall proceed to collect said ~~spe-~~cial special tax as by statute in such case made and provided.

Sec. 6. An act of the legislature of the State of Illinois, entitled, "An act to provide additional means for the construction of sidewalks in cities, towns and villages," approved April 15th, 1875, in force July 1st, 1875, is hereby adopted.

Sec. 7. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

This ordinance to take effect and be in force after its passage and publication as by law required. This ordinance shall be known as ordinance number Seventy-nine.

Ayes-G.W.Cooper, Richard Waller, Isaac Haines, Will Burns, J.W. Westall,  
Nays-None. Absent C.J. Foster,

Passed Nov. 13th, A.D. 1901. Approved Nov. 13th, A.D. 1901. Published Nov 14th A.D. 1901.

C.B. Jones, mayor,

Attest: H.D. Roach, City Clerk.

Delinquent Special Sidewalk Tax List--City of Sumner, Illinois.

Ordinance Number 79.

Owners name.	Description.
J. O. Mc.Dowell,	-----Commencing, at the south-west corner of lot eight (8) in J. May's, first addition to the town, now city of Sumner, in block fourteen (14) J. May's, first and second addition to the town now city of Sumner, thence east one hundred and eighty-five (185) feet, thence south one hundred and sixty-five (165) feet, thence west one hundred and eighty-five (185) feet, thence north one hundred and sixty-five (165) feet.

Frontage.	Width.	Sq-Ft.	Total Cost.
185 foot.	3. foot.	555	\$72.15.

Which was all the evidence offered or submitted by either of said parties on the trial of said cause.

Whereupon the Court then and there entered the following order.  
 "Whereupon this cause is continued until June 14th, at one o'clock p.m."  
 "And now on the 14th, day of June A.D. 1902, at one o'clock p.m. said day being one of the judicial days of said June Term of this Court, came again the said parties, whereupon the Court heard argument of counsel until four o'clock p.m. when said County collector by his attorneys aforesaid moved the court to amend report made by said city clerk, of the city of Sumner, to the said County Collector

which motion is allowed by the court, to which the said objector by his attorney then excepts; Amendment made!"

Which said amendment was attached to and made a part of all the returns and papers filed as herein before set forth, by said City Clerk with the said County Treasurer, and is in the words and figures following, to-wit:

Improvement Ordinance, 79 and 80.	Lot.	Block.	Frontage.	Width.	No. Sq. Ft.	Stone. 1142c Sq. Ft.	Lumber 0015c, per. Sq. Ft.	Sand, 0035c, Per. Sq. Ft.	Labor, 0110c, Per. Sq. Ft.	Total Cost 12 c Per. Sq. Ft.
J. O. Mc.Dowell,	8.	14.	40ft.	5ft.	200.	\$22.80.			\$2.20.	\$25.00.
J.O.Mc.Dowell, Tract	14.	120.	5ft.	600.	68.40.				\$6.60.	\$75.00.
J.O.Mc.Dowell. Tract.	14.	185.	3	555.	63.27	8325	1.9425	6.105	72.15	

We hereby certify that the above and foregoing special tax list upon the lot, lots, tracks and parcels of land abutting upon the line of said sidewalk as by ordinance 79 and 80 provided, showing separately the cost of said stone, plank, sand, labor in laying down the same into said sidewalks and that the number of feet frontage of each of said lots, tracts or parcels of land, the amount of special charged thereon, and the names of the owners thereof are true and correct as the same therein appears.

Dated this 17th day of Dec. 1901.

C.B. Jones Mayor.  
 R. Waller, ( Street Committee.  
 Geo. Cooper,  
 John W. Westall,

Filed in the office of the City Clerk  
 Dec. 17th 1901.

H.D. Roach, City Clerk,

Warrants issued thereon Jan 28th 1902.

H.D. Roach City Clerk

Whereupon the Court then and there gave and entered judgment upon said application, for said special assessment against the said described lands and lots of this objector, to which the objector then and there excepted; and inasmuch as the matters aforesaid do not appear of record, the counsel for the objector presents this bill of exceptions and prays that the same may be signed and sealed by the court, and made part of the record in said cause; and it is done accordingly this 30<sup>th</sup> day of July A. D. 1902.

J. D. Madding, Judge, (Seal)

(Copy of Bond)

Know all Men by these Presents, That we, J. O. Mc.Dowell as principal and Wm. Petty and I. H. Bunn, as surities

of the County of Lawrence, and State of Illinois, are held and firmly bound unto

The People of the State of Illinois,

in the penal sum of Two Hundred Dollars,

for the payment of which, well and truly to be made, we and each of us bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals and dated at Lawrenceville, Illinois;

this Twentieth day of June in the year of our Lord, One Thousand Nine Hundred and Two

The Condition of the above Obligation is such, That whereas, the said People of the State of Illinois, Ex-rel, Curtis H. Martin, Treasurer of Lawrence County Illinois

did, on the Fourteenth day of June One Thousand nine hundred and Two at a term of County Court then being holden within and for the County of Lawrence in the County of Lawrence, and State of Illinois, obtain a Judgment for special tax against the above bounden...

J. O. Mc.Dowell, for the sum of One Hundred Seventy-two Dollars and Fifteen Cents, and costs of suit,

And the said J. O. Mc.Dowell, having deposited with the said Curtis H. Martin, County Treasurer as aforesaid, the said sum of One Hundred Seventy-two dollars and Fifteen cents and costs as the law directs

from which said judgment the said J. O. Mc.Dowell has prayed for and obtained an appeal to the Supreme Court of said State.

Now if the said J. O. Mc.Dowell, shall duly prosecute said appeal, and shall moreover pay the amount of the said judgment, costs, interest and damages, rendered and to be rendered against him the said J. O. Mc.Dowell, in case the said judgment shall be affirmed in the said Supreme Court, then the above obligation to be null and void, otherwise to remain in full force and virtue.

(Signed) J. O. Mc.Dowell, (L. S.) Wm. Petty, (L. S.) I. H. Bunn, (L. S.)

STATE OF ILLINOIS,

Lawrence County, } ss.

I, G. W. Hill

Clerk of the County

Court of Lawrence County, in the State aforesaid, and keeper of the records and

files of said Court, do hereby certify the above and foregoing to be a true, perfect and complete copy of

Objections, Judgment of the Court and Copy of the original Bill of exceptions

in a certain cause

pending in said Court, on the Probate or tax Judgment side thereof, wherein the People ex-rel

C.H. Martin County Treasurer was applicant and J.O. Mc.Dowell, was objector

to judgment for Special tax Defendant as the same

appears from the records and files of said Court now in my office remaining

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court, at Lawrenceville,

21<sup>st</sup> day of August this

A. D. 1902.

G. W. Hill

Clerk.

State of Illinois, ss.  
Southern Grand Division,

In Supreme Court,  
Of the October Term A.D.1902.

J. O. Mc.Dowell, Appellant,

vs

(Assignment of errors.

The People & C. Ex-Rel. Curtis H.  
Martin, County Collector, Appellee.

And now comes J.O.Mc.Dowell, the appellant, by W.F.Foster his attorney, and says, that in the record and proceedings aforesaid, there is manifest error in this, to-wit:

- 1st. The County Court erred in permitting the County Collector to amend the returns made by the City Clerk of the City of Sumner to himself.
- 2nd. The County Court erred in permitting the County Collector to amend by filing and attaching the original bill of costs made by the Mayor and Street Committee, to the City Clerk.
- 3rd. The County Court erred in overruling appellants 1.2.3.4.5. and 6. objections.
- 4th. The County Court erred in rendering judgment against appellants property for said special tax and ordering a sale thereof for the same
- 5th. The court erred in proceeding without jurisdiction in the case..

J.O.Mc.Dowell, Appellant,

By W. F. Foster

his attorney,

No.-----

Agenda No.---

-----IN THE-----  
SUPREME COURT,-----STATE OF ILLINOIS,  
SOUTHERN GRAND DIVISION.  
OCTBER TERM A.D.1902.

-----  
J. O. MC.DOWELL, APPELLANT.  
VS ( APEAL FROM COUNTY COURT OF  
THE PEOPLE EX REL.CURTIS H.MARTIN LAWRENCE COUNTY.  
COUNTY TREASURER, APPELLSE.

-----  
TRANSCRIPT OF RECORD.  
-----  
-----

FILED

OCT 4 1902

OLIVER J. PAGE,  
CLERK.