

13092


No. _____

Supreme Court of Illinois

People

vs.

Petrie

71641  7

STATE OF ILLINOIS.
SUPREME COURT,
Third Grand Division.

No. 25.

PEOPLE'S CAUSES.

People

vs.

Commonwealth

and

13092

860

28- P.D.
The People of Col.
C. W. Craig
Joseph Petrie
Dpts. return

Fils May 29, 1860
L. Island
Ch.

State of Illinois--Supreme Court:

THIRD DIVISION--THIRTY-NINTH, 1860

C. W. CRAIG
THE PEOPLE OF COL.

JOSEPH PETRIE
C. W. CRAIG

JOSEPH & HANCOCK
Attorneys at Law, Chicago

State of Illinois

Supreme Court 3^d & General Division

April Term 1886

The People Ex. Rel
Christopher W. Craig

vs
Joseph Petrie

to Joseph Petrie the
above named defendant

You are hereby notified that I shall
(myself or my attorney) appear before said
court at the Supreme Court room in
the city of Ottawa in the County of DeWitt
State aforesaid on the 23^d day of
May next or as soon thereafter as counsel
can be heard and then and there move said
court for a mandamus to issue out of
and under the seal of said court to be directed
to the Sheriff of W. Henry County, in said State
to be served on said defendant to compel
him said Petrie to certify ~~to~~ the votes cast
at the last Town meeting in the Town of Somers
in said W. Henry County - Town Order 3^d day of
April 1886 for C. W. Craig as Justice of the
Peace of said Town - to the Clerk of said W. Henry
Co., as prayed for in a petition therefor now on file
in said court in said cause - according to the
form of the Statute in such case made
and provided Christopher W. Craig

W. H. Stock May 11th 1886

State of Illinois
McHenry County

Gilman E. Burnidge
being duly sworn deposes and says that he did on the 19th day of May 1860 serve the within notice upon the within named Joseph Petrie & deliver to him a true copy thereof & also reading the same to him

Subscribed & sworn to }
before me this 15th day of May 1860 } Gilman E. Burnidge,
G. H. Kapon Clerk
McHenry County Circuit Ct.



25th

The People

Joseph Petrie

Notary

Filed May 21. 1860.
L. Helms & Co.

State of Illinois---Supreme Court:

THIRD DIVISION—APRIL TERM, 1860.

**THE PEOPLE, EX. REL.,
C. W. CRAIG,
vs.
JOSEPH PETRIE.**

Alternative Writ of Mandamus.

And the said Defendant, by Joslyn & Hanchett, his Attorneys, comes and defends the wrong etc., and says that he ought not to be compelled to answer or make return of said writ, because he says that the said writ and the matters and things therein contained in manner and form as the same are therein stated and set forth, are not sufficient in law for the said relator to have or maintain the said writ against the said defendant; and he, the said defendant, is not bound by law to answer nor make return of the same. And this he is ready to verify; wherefore, by reason of the insufficiency of the said writ, the said defendant prays judgment, and that the said writ may be quashed. And the said defendant states and shows to the Court here, the following causes of demurrer to the said writ:

I. The said writ does not show that the relator was at the time when, etc., eligible to the office mentioned in the writ, and which the relator claims in said writ, was at the time when, etc., vacant.—Rev. Stat.—page 329:—art. 6:—sec. 1.

II. Said writ does not aver that the defendant had failed to return the name of the relator to the County Clerk, as required by law.—Rev. Stat.—page 333:—art. 10:—sec. 4.

III. There is no law requiring Town Clerks in Counties adopting township organization, to certify votes for Justices of the Peace to the County Clerk.

IV. Said writ does not aver that the defendant did not return the votes for the relator to the County Clerk, nor that the same had not been returned in due season; said writ only avering that the defendant refused to return said votes when applied to by the relator, which the defendant might very properly have done, for the reason that the said votes had already been returned when so applied to by the relator.

JOSLYN & HANCHETT,
Attorneys for Defendant.

The People ex Rel

**C. W. CRAIG,
vs.
JOSEPH PETRIE.**

And the said Defendant, by Joslyn & Hanchett, his attorneys, comes and defends the wrong, etc., and for answer and return to said writ, or unto such parts thereof as it is necessary for him to answer unto, says that the said office was not vacant at the time when, etc., in said writ mentioned, nor had the said Walkup, at the time when, etc., removed from the said Township, and this he prays may be enquired of by the Court.

JOSLYN & HANCHETT,
Attorneys for Defendant.

The People of, &c. &c.

Joseph Petrie

Dr. &c. return

Filed May 29, 1860
L. Keland
Ch.

State of Illinois, Supreme Court
within & for the Third Grand Division
of said State. } ss.

The People
of the State of Illinois
Greeting;

Whereas it appears to the justices
of our said Supreme Court from the Complaint
of Christopher W. Craig of the County of
McHenry & State of Illinois, that heretofore
to wit- on the fifteenth day of March in
the year of our Lord one thousand eight
hundred and sixty there was a vacancy
in the office of one of the Justices of the
Peace within and for the town of Dorr
within and for said County of McHenry
Christopher Walkup the former incum-
bent of said office having removed out
of and from said town of Dorr; that
Joseph Petrie of said Town was at the
said time acting town clerk of said
town, and as such in pursuance of
the Statute in such case made and
provided did on the twentieth day of
March in the year of our Lord one
thousand eight hundred and sixty call
a town meeting within and for said
town for the transaction of lawful

business which might legally come before said Meeting - which said notice for said town meeting or call therefor was duly given according to law and is in the words and figures following to wit:

Annual Town Meeting

"Notice is hereby given to
"inhabitants of the town of Dorr in the
"County of McHenry and State of Illinois
"that the annual Town Meeting for said
"town will be held at the Court House
"in Woodstock on the third day of
"April A.D. 1860 for the transaction
"of all such business as may in
"pursuance of law come before such
"meeting (signed) Joseph Petrie Town Clerk
"Dated this 20th day of March A.D. 1860."

And whereas it further appears to the Justices of our said Supreme Court that in pursuance of said notice the legal voters of said town of Dorr did assemble on said third day of April A.D. 1860 at the Court House in Woodstock in said County of McHenry and their vote did elect one H. W. Smith as Moderator of said town meeting and that therefore said town meeting

was ^{duly} organized in pursuance of the statute in such cases made and provided; and that the said Christopher W. Craig being a resident of said town and was a candidate for the office of Justice of the Peace to fill said vacancy so existing in said town of Dorr as aforesaid and received votes for said office.

And whereas it further appears to the Justices of our said Supreme Court that upon the counting of said votes the said Christopher W. Craig had a clear majority of twelve (12) votes of all of the votes cast at said election or town meeting for said office of Justice of the Peace, which said fact the said Joseph Petrie admits but defiantly proclaims that he will not certify the said votes as aforesaid to the said County although he has often been requested by the said Christopher W. Craig to do so.

And whereas it further appears to the Justices of our said Supreme Court that the said Christopher W.

Oray did within twenty days from said third day of April A.D. 1860 enter into his official bond as such Justice of the Peace, before the County Clerk of said County of McHenry, which said bond was by said Clerk duly approved and accepted.

And whereas it appears from the records of the Justices of our said Supreme Court that although twenty days has elapsed since said election yet the said Joseph Petrie wrongfully refuses & still doth refuse to certify to the County Clerk of said McHenry County the said votes so cast as aforesaid at said Town Meeting ~~and to do and perform such other~~ as by law he ought to do.

We therefore being willing that due and speedy justice be done to the said Christopher W. Oray in this behalf Command you the said Joseph Petrie that without delay you do forthwith certify said votes so cast by the said Christopher W. Oray for the office of Justice of the Peace as hereinbefore set forth to the County Clerk of

said McHenry County according to
the Statute in such cases made and
provided; or that you appear before
the Justices of our
now in session in
State on the second day of
next and show cause why you
the said Joseph Petrie should not
certify the said votes so cast for the
said Christopher W. Craig for the office
of Justice of the Peace as herein before
set forth to the Clerk of said McHenry County Court.

Witness the Honorable John
D. Caton Chief Justice of
our said Supreme Court and
the seal thereof at Ottawa
this 22nd day of May A.D. 1860
L. Leland Clerk
J. B. Bain Deputy

The People ex rel.
Christopher W. Craig

^{vs}
Joseph Petrie

Alternative writ
of Mandamus

State of Illinois---Supreme Court:

THIRD DIVISION—APRIL TERM, 1860.

THE PEOPLE, EX. REL.,
C. W. CRAIG,
vs.
JOSEPH PETRIE.

Alternative Writ of Mandamus.

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JOSLYN & HANCHETT,
Attorneys for Defendant.

The People ex Rel

C. W. CRAIG,
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JOSEPH PETRIE.

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JOSLYN & HANCHETT,
Attorneys for Defendant.

Joseph Petric

25 ats

The People Ex Rel

C. W. Craig

Filed May 29. 1860

L. Veland
Clk.