

12356

No. _____

Supreme Court of Illinois

Hough

vs.

Hastings

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12356

1857

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X

State of Illinois & Pleas before the Honorable Madison
Sasalle County & E. Hollister Judge of the Circuit
Judicial district of the State of Illinois
and the presiding Judge of the Sasalle County Circuit
Court at a term of said Court commenced and
held at the Court House in Ottawa in said County
on the second Monday in November, the same being
the tenth day of November in the year of our Lord
One thousand Eight hundred and fifty six, and
of the Independence of the United States of America
the eightieth.

Present

The Honorable Madison E. Hollister	Presiding Judge
John A. Clark	Clerk
William H. L. Wallace	State Attorney
Francis Warner	Sheriff

On the 24th day of November 1856 the same being
one of the days of said November term of said Court
for said year - David L. Hough as plaintiff filed
his declaration in Ejectment against John Hastings
in words and figures following, that is to say

" State of Illinois Sasalle County ss - Sasalle
County Circuit Court November Term AD 1856

David L. Hough complains of John Hastings
for that whereas on the 1st day of September AD 1856 the
said David L. Hough was possessed of the South
West quarter (S.W. 1/4) of section fifteen (15) in Township
thirty six (36) North of range one (1) East of the 3^d principal
meridian, the same being situated in the County of
Sasalle & State of Illinois & was so possessed thereof with
a few simple title deeds & being so possessed thereof

the said John Hastings afterwards to wit: on the 5th day of September A.D. 1836 entered into & took possession of said premises & wrongfully withholds possession thereof from the said David S. Hough, to his damage one hundred dollars & therefore he sues
 i.e. David S. Hough plaintiff

" To John Hastings Esq

You will please take notice that the above declaration in Ejectment will be filed with the Clerk of the Circuit Court for the County of LaSalle & State of Illinois on the 13th day of the present term thereof - that upon giving the same a rule will be entered requiring you to appear & plead to said declaration within twenty days after the entry of said rule & that if you fail or neglect to appear & plead a judgment by default will be entered against you & in the plaintiff in said declaration mentioned with recovery of the premises in said declaration mentioned.

September 19th A.D. 1836

David S. Hough plaintiff

" State of Illinois, William W. Gilman being first LaSalle County J. B. duly sworn on oath deposes & says that on the 19th day of November A.D. 1836 he sent a true copy of the within declaration in Ejectment & notice upon the within named John Hastings by delivering the same to him personally.

Subscribed & sworn to before me, W. W. Gilman
 this 19th day of November A.D. 1836.
 C. H. Gilman J.P.

And afterwards to wit: on the same day of the filing
of said Declaration a rule was entered of record in said
Cause in the words and figures following viz:

"David L. Hough vs John Hastings Ejectment
This day the plaintiff comes in
person and by leave of the Court
files his declaration and moves for a rule upon the
defendant to plead herein in twenty days, which
motion is sustained by the Court."

On the 28th day of November 1836 the defendant
filed his plea in the words and figures following viz:

"State of Illinois LaSalle County ss Circuit Court
in & for said County

David L. Hough vs John
Hastings - Ejectment - And the said John
Hastings by Sebaud & Sebaud his attorneys comes &
denies the force & injury where & says that he
is not guilty of the said supposed trespass and
Ejectment as so said to his charge, or of any
part thereof in manner & form as the said David
L. Hough hath above therein complained against
him & of this he puts himself upon the Country
i.e.

Sebaud & Sebaud
for Deft"

And afterwards to wit: on Wednesday February 18th
1837 the same being one of the days of the February
Special term of said Court for the year 1837 the
following order was entered of record in said Cause viz:

(4)

"David S. Kough

vs Ejectment
John Hastings
This day the plaintiff comes by W.
H. S. Wallace his attorney and the
defendant by Island & Island his attorneys, and by
agreement of parties a jury is named and this cause
submitted to the Court for trial, and after hearing a
part of the testimony, the further hearing of this cause
is postponed until the coming in of the Court to
morrow morning."

And afterwards to wit on Thursday February 19th
1837 the same being also one of the days of the said
February term of said Court, the following further
matter was entered of record in said cause viz:

"David S. Kough

vs Ejectment
John Hastings
This day again come the
parties hereto by their counsel,
and after hearing a part of the arguments, the
further hearing of this cause is postponed until the
coming in of the Court to morrow morning."

On Monday February 28. 1837 the same being
also one of the days of said February term of said
Court, the following further order was entered of
record in said cause, that is to say:

"David S. Kough

vs Ejectment
John Hastings
The Court after hearing

the evidence, arguments of counsel and due deliberation thereon had, find the issues for the defendant. +

It is therefore considered by the Court that the defendant has and recovers of the plaintiff his costs and charges by him herein expended, and that he have execution therefor.

And finally on the 24th day of February 1837 and the same being on of the days of said February term another order in words and figures following, was entered & read in said case, viz:

"David L. Kough

vs
John Hastings

Ejectment

It is ordered by the Court that the plaintiff in this suit have ten weeks to prepare and file a bill of Exceptions.

And afterwards to wit: on the 21st day of March 1837 the plaintiff filed his bill of Exceptions in the words and figures following, viz:

"State of Illinois Saballe County and Circuit Court
Sheweth February Special Term AD 1837

David L. Kough vs John Hastings - Ejectment

Be it remembered that on the Eighteenth day of February AD 1837 the same being on of the days of the February Special Term of said Court in the year aforesaid, this cause came on to be tried before the Honorable Madison E. Webster - Judge of said Court - a jury being named by agreement of the parties and the plaintiff to maintain the issue on his part, offered

The plaintiff by his counsel now moves the Court for a new trial which motion is overruled by the Court

(6)

in evidence -

First. - A record of a judgment for taxes rendered by
the County Court of said Saline County at the June
term of said County Court A.D. 1832, which record
was then and there in the words and figures following
that is to say:

County Court June Term 1852
State of Illinois
LaSalle County

3 Pleas before the County
Court of the county of LaSalle in the state
of Illinois at a regular term of said
court in and for said county of LaSalle
commenced and held on Monday the
fourth day of June A.D. 1852

Present Henry S. Cotton Judge
R. Eaton J. J. Ells Sheriff
J. W. Raymond clerk

State of Illinois
Scholar & others
3 Suit for Taxes

Whereas Benjamin
B. Fellows Treasurer of said county, return-
ed to the clerk of the county court of said
county on the 14th day of May 1852 the
following tracts and parts of tracts of Land
Town lots and parts of town lots as having
been assessed for taxes by the assessors of the
several towns of said county of LaSalle for
the year A.D. 1851. and that the taxes thereon
remain due and unpaid on the day of
the date of said Treasurers return, and that
the respective owner or owners have no goods
and chattels within the said county in which
the said collection could levy for ^{the} said taxes
interest and costs due and unpaid on the
following described tracts and parts of tracts of
Land, and town lots and parts of town lots. to wit,

State of Illinois }
LaSalle County } p.

A list of lands and Town Lots reported and returned to the Treasurer of the County of LaSalle in the State of Illinois by the several collectors of revenue of Towns in said County for the year 1851. the Taxes upon which remain unpaid the collector in the Town wherein said lands and ~~town~~ lots lay not having been able to collect the same, and each of said collectors having delivered to said Treasurer an account of the taxes so remaining due and having severally made oath to the account so rendered that the sums mentioned in such account remain unpaid and that he has not used diligent enquiry been able to discover any goods or chattels belonging to or in possession of the person so charged with or liable to pay the same, wherein he could levy the same,

Names of Owners	Acres	Description	Sections	Town	Range	Valuation	Total Tax	Cost
Schindlerment	160	200 1/4	15	36	1	200.00	2 45 12	

State of Illinois }
LaSalle County } p.

J. Benjamin B. Pellens
Treasurer and ex-officio collector of the County of LaSalle of State of Illinois do hereby give notice that I will apply to the County Court

of LaSalle County at the same time thereof
to be holden in the Court House in the town
of Ottawa in said county & state on the
first Monday of June next, for judgment
against the above described lands and
town lots for the taxes interest and costs
due thereon for the year 1851 and also for
an order to sell the said lands and town
lots, for the satisfaction thereof. And on the
second Monday in June next all the land
& town lots, against which judgment shall
be pronounced, and for the sale of which
an order shall be made, will be exposed
to public sale at the door of the Court House
in the town aforesaid, for the amount of
taxes, interest, and costs, said sale will
commence at 10 o'clock in the forenoon, and
continue from day to day until all of said
lands and town lots are sold.

The cost for advertising each tract of
land is twelve cents and each town lot
four cents - The whole cost when sold will
be on each tract of land fifty five cents, and
on each town lot twenty one cents.

B. B. Pellums.

Treasurer and Ex. Officer of LaSalle County.

State of Illinois }
LaSalle County }

} This is to certify that the
following list of lands and town lots in which
taxes remain due and unpaid for the year
1851 in the county of LaSalle and state of

Illinois was published in the Ottawa Free Trader, a weekly newspaper printed at Ottawa, LaSalle County, Illinois, on the first day of May 1852 being one full week previous to the first Monday in June ~~1852~~

that the number of copies of said list corresponded with the number of copies of said paper issued for that week, and that each list is a literal copy of the manuscript copy furnished by the Treasurer

William Moser Osmond Publisher

Ottawa May 15th 1852

State of Illinois }
LaSalle County } ss.

I, S. Benjamin B. Pellens
Treasurer of the said county of LaSalle, do solemnly swear, that the foregoing is a true and correct record of the delinquent lands and town lots within the County of LaSalle as returned to me by the several collectors of the towns in said county, and upon which the taxes have not been subsequently paid to me, since the said return for the year therein set forth, that the taxes now remain due and unpaid, and that due notice for judgment, and of sale has been given as required by Law, Subscribed and sworn before S. B. Pellens, on the eighteenth day }
of May A.D. 1852 }

Samuel W. Raymond clerk

And whereas, due notice has been given
of the intended application for a judgment
against said lands, and town lots, and
no owner hath appeared to make defense,
or show cause why judgment should not
be entered against the said lands and
town lots for the taxes interest and costs
due and unpaid thereon for the year
1851 except as to the following described
tracts of lands and town lots, the rendering
of a judgment against which are objected
to viz.

William Reddick objects to judgment against
lot No. 43 in the S.W. 1/4 Sec. 11, T. 33, R. 3. which
objection after hearing the proofs and allegations
and due deliberation thereon had was sustained
by the Court.

Samuel Wilkison and Cyrus Shaver two of the
trustees of School of Town 33, Range 4 East. object
to judgment against the following described
lands to wit.

76	acres	lot 1	E 1/2	N 8 1/4	Sec. 16,	town 33,	Range 4
57	"		E 1/2	N 30 1/4	"	"	"
43	"		W 1/2	"	"	"	"
50	"	in	E 1/2	S 20 1/4	"	"	"
51	"	in	E 1/2	S 8 1/4	"	"	"

which objection after hearing the proofs and
allegations and due deliberation thereon
had was sustained by the court.

Benjamin Correy objects to judgment
on the N 8 1/4 Sec. 34, T. 31, R. 4 East. which ob-
jection after hearing the proofs and allegations
and due deliberation thereon had was sustained

of the Court.

S. W. P. Lee of S. V. A. Woes objects to judgment against the $20\frac{1}{2}$ Sec. 8. Town 33. N. Range 3 East which objection after hearing the proofs and allegations and due deliberation thereon had was sustained by the Court.

Lewis A. Lindley objects to judgment against 100 a. S. W. $\frac{1}{4}$ Sec. 24. Town 33. R. 1 which objection after hearing the proofs and allegations and due deliberation thereon had was sustained by the Court.

Ira Wenton, objects to judgment on $8\frac{1}{2}$ N. W. $\frac{1}{4}$ Sec. 6. 33. 2. and $20\frac{1}{2}$ N. W. $\frac{1}{4}$ Sec. 6. Town 33. R. 2. which objection after hearing the proofs and allegations and due deliberation thereon had was sustained by the Court.

William Reddick objects to judgment against the following lands to wit.

N. W. $\frac{1}{4}$ Sec. 4. T. 33. R. 2 East

$8\frac{1}{2}$ S. W. $\frac{1}{4}$ " 2. " 33. " 2 "

$20\frac{1}{2}$ S. W. $\frac{1}{4}$ " 2 " 33 " 2 "

which objection after hearing the proofs and allegations, and due deliberation thereon had was sustained by the Court.

Bruce Murray objects to judgment against the following lands to wit.

100 a. N. E. cor S. E. $\frac{1}{4}$ Sec. 30. T. 32. R. 3 East

12⁷⁵ a. S. end $20\frac{1}{2}$ " 20 " 32 " 3 "

48 " 20 cor S. E. $\frac{1}{4}$ " 30 " 32 " 3 "

87 " 8 cor S. W. $\frac{1}{4}$ " 30 " 32 " 3 "

which objections after hearing the proofs and allegations and due deliberation thereon had was ruled as to 100 a. N. E. cor S. E. $\frac{1}{4}$ Sec. 30. T. 32 R. 3. and 12⁷⁵ a. S. end $20\frac{1}{2}$ Sec. 20. T. 32

N. 3 east, and sustained as to the 48 a W co
 SE $\frac{1}{4}$ Sec. 30 S. 32. R. 3 east and also as to
 87 a E co. SW $\frac{1}{4}$ Sec. 30 S. 32. R. 3 east,

Whereupon it is considered by the said
 court that judgment be and is hereby rendered
 and against the aforesaid tract & part of
 tract of land and town lots and part of
 town lots in the name of the state of Illinois
 for the sum annexed to each tract of
 land town lot or part of town lot, and the
 further sum of fifty three (53) cents for costs
 against each tract of land making
 in all the sum of fifty five (55) cents for
 cost, and also the further sum of ten (10)
 cents for cost against each town lot,
 making twenty one (21) cents for costs against
 each town lot subject to the following except-
 ions, to wit,

Lot 42 in Twp. $\frac{1}{4}$ Sec. 11, T. 33, R. 3

76 a. Lot 1 E $\frac{1}{2}$ NE $\frac{1}{4}$ " 16 " 33 " 4

57 a. E fr. NW $\frac{1}{4}$ " 16 " 33 " 4

143 a. W fr. NW $\frac{1}{4}$ " 16 " 33 " 4

50 a. in E $\frac{1}{2}$ SW $\frac{1}{4}$ " 16 " 33 " 4

87 a in E $\frac{1}{2}$ SE $\frac{1}{4}$ " 16 " 33 " 4

W $\frac{1}{2}$ SE $\frac{1}{4}$ " 8 " 33 " 3

150 a SW $\frac{1}{4}$ " 24 " 33 " 1

E $\frac{1}{2}$ NW $\frac{1}{4}$ " 6 " 33 " 2

W $\frac{1}{2}$ NW $\frac{1}{4}$ " " " " " "

NW $\frac{1}{4}$ " 4 " 33 " 2

E $\frac{1}{2}$ SW $\frac{1}{4}$ " 2 " 33 " 2

W $\frac{1}{2}$ SW $\frac{1}{4}$ " 2 " 33 " 2

48 a W co. SE $\frac{1}{4}$ " 30 " 32 " 3

87 a E co. SW $\frac{1}{4}$ " 30 " 32 " 3

160 NE $\frac{1}{4}$ " 34 " 31 " 4

Being the amount of taxes and costs
 severally due thereon and for which said
 lands and lots are chargeable, and it
 is ordered by the Court that the said several
 tracts and parts of tracts of land, town lots
 and parts of town lots or so much thereof
 as shall be sufficient of each of them to
 satisfy the amount of taxes interest and
 costs accrued and charged to them
 severally be sold as the law directs-

Alfred G. Cotton

State of Illinois
~~LaSalle County~~ } p

~~Samuel W. Raymond~~

~~clerk of the~~

The defendant did not object to the introduction of said record in evidence, but objected to its sufficiency because it did not show the place where the Court was held & the record was then given in evidence, its sufficiency as evidence to be determined by the Court.

Second - The plaintiff then gave in evidence a precept issued on said judgment dated the 8th day of June 1852 which precept follows the judgment aforesaid and conforms to it in every respect, and the same was given in evidence without objection.

Third - The plaintiff then gave in evidence an affidavit of D. L. Hough, which affidavit was in the words and figures following that is to say:

State of Illinois
Saballe County } ss

David L. Hough being
first duly sworn on oath deposes and says
that on the 14th day of June A.D. 1852 at a
tax Sale for the County of Saballe & State of Illinois
held at the Court House in Ottawa in said
County & State he purchased the South west
quarter of Section fifteen (15) in Township
Thirty Six (36) North of Range one (1) East of
the third principal Meridian which said
tract of Land was sold as aforesaid for the
tax of A.D. 1851. And affiant further says that in
order to entitle him to a deed for said Tract
of Land, he has complied with the provisions
contained in the Constitution of the State of Illinois
relative to tax deeds & also has complied with
the provisions contained in the Statutes of the
State aforesaid relative to tax deeds a compliance
with which is required by said Statutes in order to
entitle any person to a Tax deed - And affiant
further says that he relies upon the following facts
as such compliances as aforesaid

1st The aforesaid tract of Land was not in possession
of any person when the same was assessed for taxes in
A.D. 1851, but was vacant and unoccupied land
at the time & has remained thus vacant and
unoccupied during the whole time, from that
time until the date of this affidavit

2^d Said tract of land was taxed for the years A.D.
1851, A.D. 1852, & A.D. 1853 in the name of John Dement
who did not at any time during either of said
years reside in said County of Saballe nor has
he resided in said County of Saballe at any

time from the first of said years to the date of this affidavit

3rd This affiant caused the notice hereunto annexed & made a part of this affidavit to be published in the Ottawa Free Trader a weekly newspaper printed in said County of LaSalle which this affiant is informed & verily believes to have the greatest circulation the first of which said insertion was published in said paper on the 4th day of February A.D. 1854 & said notice was inserted three times in said paper three successive weeks the least of which said insertion was not less than three months before the 14th day of June A.D. 1854, the time when the time for redemption of said tract of land expired,

Subscribed & sworn to before

me this 19th day of June A.D. 1854

P. Lindley Clerk

David L Hough

Tax Notice

To, D. McMartin, John Dement, J. H. Taylor, J. S. Bussing, Joel A. Matterson, assignee of Isaac Hardy, William Morton, Campbell & Pratt, J. H. Taylor, J. S. Bussing and the unknown owner or owners of the following Town Lots & tracts of lands, and all others in any way interested in the same.

You will please take notice that on the 14th day of June A.D. 1852 at a tax sale for the County of LaSalle and State of Illinois held at the Court House in Ottawa in said County and State the following tracts of lands and town lots were purchased by me - to wit, the NW $\frac{1}{4}$ Sec 8, in Township 34 North of Range 1 East of 3^d P. Mo, the NW $\frac{1}{4}$

of Section 22 in Township 35 North of range 1 East
of ^{the} 3^d P.M. - The S.W. 1/4 of Section 15 in Township 36 North
of range 1 East of the 3^d P.M., Lot 12 in Block 128
in the town (now City) of LaSalle Lot 12 in Block 120
in Town (now City) of LaSalle, Lot 9 in Block 76 in the
town (now City) of LaSalle, All of said tracts of lands
& town lots were sold as aforesaid, for the tax of
A.D. 1851 and the time for the redemption of the
same will expire two years from the date of
said purchase, to wit, on the 14th day of June
A.D. 1854

David L. Hough
Endorsed "Filed June 20th 1854"

The plaintiff also proved that said affidavits was duly recorded in the County Clerk's office of said County in a book kept for that purpose and that it was so recorded on the day of AD 185-

Fourth - The plaintiff then gave in evidence without objection a deed from Francis Warner Sheriff of said County - after proving that said Warner was Sheriff of said County at the time said deed bears date, which deed was in the words and figures following, that is to say;

"I now all men of these presents that whereas at the June term 1832 of the County Court of LaSalle County a judgment was obtained in said Court in favor of the State of Illinois and against the South West quarter of section fifteen Township thirty six (36) in range one (1) East of the third principal meridian for the sum of three dollars being the amount of taxes assessed thereon upon said land for the year 1831 and the interest and costs which have accrued thereon and whereas on the 14th day of June AD 1832 B. B. Fellows then Treasurer and Collector of the County aforesaid by virtue of a precept issued out of the County Court of the County aforesaid dated the eighth day of June 1832 and to him directed did expose to public sale at the door of the Court House in the County aforesaid in conformity with all the requisitions of the Statute in such case made and provided the land above described for the satisfaction of the judgment so rendered as aforesaid and whereas at the time and place aforesaid David S. Hough of the County of LaSalle and State of Illinois having offered to pay the aforesaid sum for said described lands which was the last quantity

As for the said land was striken off to him at that price, and whereas said David L. Hough has delivered to me an affidavit by which it appears that the said David L. Hough has given the notice of the sale and purchase aforesaid in the manner provided in Section Sixth of "an act to amend the several acts concerning the public lands" approved February 8th 1849.

Now Therefore I Richard Thorne Sheriff of the said County of Adams for and in consideration of the said sum above mentioned to the said R. B. Fellows Treasurer as aforesaid in hand paid by the said David L. Hough at the time of the aforesaid sale and of return of the Statute in such case made and provided, have granted bargained and sold and by these presents do grant bargain and sell unto the said David L. Hough his heirs and assigns the above described land. To have and to hold unto him the said David L. Hough his heirs and assigns forever subject however to all the rights of redemption provided by law.

In Testimony Whereof I Richard Thorne Sheriff as aforesaid by return of the authority aforesaid have hereunto subscribed my name and affixed my seal this 19th day of June A.D. 1854

R. Thorne Sheriff *Seal*

State of Illinois - Be it known that on the day of the said Adams County I duly being personally appeared before me John Lindley Clerk of the Circuit Court within and for said County R. Thorne Sheriff of the County aforesaid personally known to me to be the real person whose name is

Subscribed to the foregoing, and of consequence as
having executed the same in the capacity of Sheriff
of said County and acknowledged the execution thereof
to be his free act and deed for the uses and purposes
therein expressed.

In Witness Whereof I have hereunto set my
Hand and the Seal of said Court at Ottawa
this 19th day of June A.D. 1854
Hendley Clerk Circuit Court

The plaintiff here rested his case—

The defendant to maintain the issue on his
part, then offered in evidence a patent from the
United States to John Demest dated January 15th
1851 which patent is in the words and figures
following, that is to say:

"The United States of America
To all to whom these presents shall come Greeting,
Know ye that in pursuance of an Act of Congress
enacted "An act to raise for a limited time an additional
military force, and for other purposes" approved February
11th 1847 David Westgate Father and heir at law of
Thomas J. Westgate deceased private in Company "K"
First Regiment United States Infantry having deposited
in the General Land Office a Warrant in his favor
numbered 66,570 There is therefore granted by the
United States unto John Demest assignee of the said
David Westgate and to his heirs The South West
quarter of Section fifteen in Township thirty six North
Range one East in the district of lands subject
to Sale at Dixon Illinois containing One hundred
and sixty acres according to the official plat of the Survey
of the said Land returned to the General Land Office

by the Surveyor General which said tract has been located in satisfaction of the above mentioned warrants in pursuance of the act of Congress above mentioned approved February 11th 1847 To Have and to hold the said part of said section of land, with the appurtenances thereto unto the said John Demarest and to his heirs and assigns forever.

In Testimony Whereof I Millard Fillmore President of the United States of America have caused these letters to be made patent and the Seal of the General Land Office to be hereunto affixed.

Given under my hand at the City of Washington the fifteenth day of January in the year of our Lord Our thousand eight hundred and fifty one and of the Independence of the United States the thirty fifth

By the President Millard Fillmore

Attest By M. F. Fillmore Secy

By E. S. Terry Recorder of the General Land Office

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The plaintiff objected to the introduction of said patent in evidence but the Court overruled plaintiff's objection and admitted said patent in evidence, to which decision of the Court in overruling said objection and admitting said patent in evidence the plaintiff by his counsel then and there accepted.

The defendant then offered in evidence a copy of the record of a deed from John Demarest and wife to Charles Demarest which copy was in the words and figures following, that is to say:

This Indenture made the 27th day of September in the
year Eighteen hundred and fifty two Between John Dement
of Lee County and State of Illinois party of the first part and
Charles Dement of the same County and State party of
the second part Witnesses, that the said party of the
first part in consideration of the sum of Four hundred
dollars to him duly paid before the delivery hereof
has granted, bargained sold and of these premises does
grant bargain sell and convey to the said party of
the second part his heirs and assigns forever all the
following described premises situate lying and being
in the County of LaSalle and State of Illinois to wit:
The South West quarter of section fifteen (15) in
Township thirty six (36) North of range one (1) East, and
the North East quarter of section twenty seven (27) in
Township thirty six (36) North range three (3) East
Containing in all three hundred and twenty acres
be the same more or less, With the appurtenances
and all the estate, title and interest of the said party
of the first part therein, And the said party of the first
part hereby Warrant and Defend the above granted
premises in the quiet and peaceable possession of the
said party of the second part, his heirs and assigns
forever, and that they are free from all encumbrance
whosoever.

On Witness whereof the said party of the first part has
hereunto set his hand and seal the day and year
first above written.

John Dement Local
Mary L. Dement Gave

State of Illinois, I Edwin W. Klein Notary Public
Lee County p 3 in and for said County in the State
afore said do hereby certify that John

Dement and Mary S. Dement personally known to me as the persons whose names are subscribed to the foregoing instrument and appeared before me this day in person, and acknowledged that they signed sealed and delivered the said instrument of writing as their free and voluntary act for the uses and purposes therein set forth. And the said Mary S. Dement wife of the said John Dement having been fully examined separately and apart and out of hearing of her husband and the contents and meaning of the said instrument of writing having been by me made known and fully explained to her, acknowledged that she said freely and voluntarily executed the same and relinquished her dower to the lands and tenements therein mentioned without compulsion of her said husband and that she does not wish to retract the same.

Given under my hand and seal this 27th day of September A.D. 1832

Edwin W. Hines

Recd

Notary Public

(Filed Oct 14, 1832 at 8 A.M., Am)

State of Illinois J. F. Nash Clerk of the Circuit
Sasale County of Ill Court in and for said County and
State and Ex. Officer Register of deeds
do hereby certify that the above and foregoing deed from
John Dement & wife to Charles Dement is a true
full, perfect and complete copy of the record as the
same appears recorded in my office in Book N. 29
on pages 529 + 530

In Testimony Whereof I have hereunto set my hand
and the seal of said Court at my office in Ottawa
this 27th day of January A.D. 1837 J. F. Nash Clerk

State of Illinois } On this 27th day of January 1857
Said Court } personally appeared before me
John Hastings who being first
duly sworn deposes & says on oath that the original of the
within deed from John Dement to Charles Dement
is not in the custody or control or possession of him the
said John Hastings
Subscribed & sworn to before me } John Hastings
on this 27th day of January }
1857 } J. A. Clark Clerk

The plaintiff then and there objected to the introduction of said copy of deed in evidence and thereupon the defendant made and filed an affidavit showing that the original deed was not in his possession control or power to produce.

The plaintiff still objected to the introduction of said copy of deed in evidence, but the Court overruled said objection and permitted said copy of deed to be given in evidence to which decision of the Court in admitting said copy of deed in evidence the plaintiff by his counsel then and there accepted.

The defendant then offered in evidence an original deed from Charles Dement to the defendant dated from 15th 1835 and purporting to be acknowledged before a notary Public in the County of Illinois attested by his Notarial Seal - plaintiff objected to the introduction of this deed because there was no sufficient proof of the official character of the person attesting the acknowledgments, but the Court overruled said objection and admitted said deed in evidence to which decision the plaintiff by his counsel then and there accepted said last mentioned deed and certificate of

acknowledgment was agreed to it in all other respects formal and sufficient.

The defendant then proved that he had paid the State Compt and Comm Taxes on the land in controversy for the year 1836.

The defendant then offered to prove that the land in controversy was worth about \$4000. The plaintiff objected to the proof & the Court sustained the objection.

The defendant then called Samuel W. Raymond as a witness who being sworn testified that he was Compt Clerk of LaSalle County & that he had been such Clerk since 1830 and that he had examined the records of his office so far as they show anything in relation to Taxes on the land in controversy. The defendant asked the witness Raymond to "state whether any Taxes appeared to be due on the land in controversy (describing it) by the records in the Compt Clerks office" — The plaintiff objected to said question the Court overruled the objection and permitted the question to be answered — to which decision of the Court in permitting said question to be put to the witness and to be answered by the witness the plaintiff by his counsel then and there accepted — The witness in reply to said question then testified that there appeared to be no Taxes due on the land from 1836. But as there was yet no return of delinquent Taxes for 1836, he had no means from the records in his office of telling whether the Taxes for 1836 were paid or not and that the land in controversy was in 1831 in the name of McQuiden in said County —

The defendant then offered in evidence the

following paper after finding by the witness Raymond that the same was the only return by the Town Collector of delinquent taxes for the year 1851 in the town of Mendon which was on file in his office or had come under his knowledge - It is agreed by the parties that said return contained no heading to show what town it was for or for what years taxes it was the delinquent list and was nothing more than a list of land and town lots in which the land in controversy was set down in the following form

Name of owner	part of Section	Sec	Term	Range	acres	value per ac	Total value	Road Tax	State Tax	County Tax	Prm Tax	Total Tax
John Desmet	S W 1/4	15	36	1	160	125	200	121	110	14		245

It was not signed by the Town Collector but there was attached to the front of said list an affidavit sworn to before said Raymond & which is in the words and figures following

State of Illinois J. Corran Doane Collector of the Town of
Sasalle County J. J. Meiden in the said County of Sasalle
being duly sworn says that the annexed
is a full and true list and description of all the
taxes contained in the Tax List annexed to the
warrant returned to him which remain uncollected
that the several sums mentioned in this distinguish
list remain uncollected; and that he has made diligent
inquiry and has not been able to discover any goods or
 chattels belonging to or in the possession of the person or
 persons charged with or liable to pay the said several
sums wherein he could lay the same
Subscribed and sworn to before me Corran Doane
this 16th day of February A.D. 1832
S. W. Raymond Clerk

which affidavit was on a separate piece of paper but pasted on to said list at the foot thereof—

The plaintiff objected to the introduction of said list, but the Court overruled said objection and admitted said list in evidence, to which decision the plaintiff by his counsel then and there assented.

The defendant then proved that the Board of Supervisors of said County at their annual meeting by an order entered of record ordered that the sum of \$41.56 should be assessed upon the taxable property in the town of Meriden for town purposes for the year 1851— The defendant then proved that the items of town tax on the taxable property in the town of Meriden footed up the sum of \$43.85 upon the whole of the taxable property in said town (it was admitted that the total valuation of property taxed in the town of Meriden for the year 1851 was \$64,242.11 and that the assessed valuation of the land in Connors for that year was \$200.⁰⁰)

The defendant then proved by the witness Raymond that he, as County Clerk of said County, extended the tax for the year 1851 on the assessments with after the adjournment of the Board of Supervisors that the warrant attached to the list for the town collection was signed by the Chairman of the Board in March during the session of the Board & the witness as County Clerk filled the blanks in the warrant & extended the taxes after the adjournment of the Board and that he, witness thought the warrant was attached by him after the extension of the taxes, but of this he was not certain. It was also proved that said extension of taxes was not submitted to & approved

By said Board while in session as a Board, the copy of the assessment roll ^{thus} prepared for the Collectors with the taxes extended & the amount attached were introduced in evidence by the defendant & there was nothing to indicate that the tract in question had been added to the assessors list by the clerk & there was no other evidence as to whether it was in the original assessment or had since been added by the clerk.

The defendant then offered in evidence the list of delinquent lands and town lots for A.D. 1831 filed by the treasurer of said County, in the County Clerk's office on the 14th day of May A.D. 1832 - on which the oath in the form required by law was endorsed some 10 on the 18th day of May A.D. 1832 by the Treasurer in which said delinquent list the tract of land in controversy was set down as follows.

names of owners	Acres	Description	Section	Town	Range	County	Tax	Assessed
Eli B. Baker	80	Cor. S.W. 1/4	8	36	1	100	123	12
Anthony Williams	160	do	15	"	"	200	245	* pd
John Demuth	160	S.W.	"	"	"	200	245	"

it was conceded that said list was regular in every respect, ^{exactly} that the land in controversy was not contained in it otherwise than is shown above, and that the Treasurer's return under oath concerning the same was not made at the proper time & was improperly made on said list & that the assessors were not authorized by law if made as hereafter mentioned.

The defendant then proved by the witness Raymond that there was no other return under oath made by the Treasurer in reference to delinquent lands except the one at the foot of the delinquent list filed by said Treasurer on the 14th of May 1832 which return under

vote was made & sworn to on the 18th day of May A.D.
 1832 - that there was no written report made by the
 Treasurer on the first day of the term at which judgment
 was prayed, other than a check list kept by the Treasurer
 of moneys paid to him after the filing of the delinquent
 list and before the first day of the term at which
 judgment was prayed - This check list was
 brought in on the first day of said term by the Treasurer
 & he & the County Clerk compared the check list
 with the delinquent list & the record thereof, and
 where any tract or lot had been paid on since the
 filing of the delinquent list, that fact was noted on
 the record and on the delinquent list opposite such
 tract or lot, it was either marked paid or else a line
 was drawn across the tract or lot - but the check list
 was not signed by the Treasurer nor filed in the
 County Clerk's office by the Treasurer - The record
 of the delinquent list was made by the witness Raymond
 as County Clerk and was a copy of the delinquent list
 filed by the Treasurer on the 14th of May 1832, and
 the vote of the Treasurer as the first of said delinquent
 list made on said 18th of May was copied onto the
 record by said Raymond as Clerk

On cross examination the witness Raymond
 testified that the use of two tiers in the town of
 Meriden was a little more than sufficient to cover
 the collectors fees - that he (Raymond) intended in
 extending to cover the cost of collection, that he took
 the nearest fraction as a basis or ratio, that would
 cover the amount, that he used the fraction $\frac{7}{10}$ of a
 mill on the \$100, in extending - $\frac{9}{10}$ of a mill would
 not have been sufficient to cover the \$41.56 - the excess
 was less than $\frac{1}{10}$ of a mill on the \$100, - That it has

been the practice for the Town Clerk to extend the taxes after the Board of Supervisors adjourned - It takes from six to eight weeks to extend the taxes and add up and correct them - The taxes on which taxes were paid subsequent to the filing of the delinquent list and before judgments were marked "Pd" & a line drawn through them on the delinquent list & also on the record of the list - from the check list kept by the treasurer - those that were paid subsequent to judgments and before sale were marked thus "F" on the record of the list or judgments.

It also appeared that this record of the delinquent list with the placitas headings & order of Court afterwards put on constituted the judgments.

The defendant then called John Rose as a witness who being sworn on oath testified that he was Town Clerk of the Town of Mendon LaSalle County Illinois in the year 1851 - The defendant then asked the witness Rose "was there any meeting of the Town Clerk Assessor and Supervisors of said town in 1851 in relation to hearing complaints about the assessment?"

The plaintiff objected to this question & the Court overruled said objection and permitted the witness to answer said question - to which decision plaintiff then assented and there accepted - The witness Rose in reply to said question then testified that he heard of no such meeting & thought he would have been likely to have heard of it if any such meeting had taken place - that he was not notified of any such meeting and did not attend any such meeting.

On cross examination the witness Rose testified that he lived on the North line of said town - the assessor lived five miles South of him & the Supervisors

about a mile South of the assassin - that he
saw the assassin and Supervisor possibly once a
month & never heard of their having a meeting

The adm was all the testimony in the case

The Court found the issues for the defendants
The plaintiff moved the Court for a new trial - The
Court overruled the motion and rendered judgment
for the defendants - To which decision of the Court
in overruling plaintiff's motion for a new trial
the plaintiff then and there excepted and prays that
this his bill of exceptions may be signed & sealed
and made a part of the record which is done in
open Court -

Medison E. Hollister True

It is agreed by and between the parties to this writ
that no exception shall be taken in a court of the bill
of exceptions herein being signed out of term time
& that the same when signed & sealed by the judge
shall have the same effect as though it had been
signed & sealed in open court at the term at which
the trial was had

W. H. L. Wallace

Nov. 18. 1837

for plff

E. S. Leland

for defts

State of Illinois, John F. Nash Clerk of the
Saballe County Circuit Court and for
said County and State do
hereby certify that the above and foregoing is a
true, full, perfect and complete record in the
case of David S. Hough vs John Hastings as
the same appears from the records and files
of said court in my office.

In Testimony Whereof I have hereunto set
my hand and the seal of said Court at
Attain this 10th day of April AD 1857
J. F. Nash Clerk

State of Illinois

Supreme Court, 3rd Grand Division

April term 1857.

David L. Hough, plaintiff in error:

vs

John Hastings, defendant in error

} Error to LaSalle.

}

And now comes the said plaintiff in Error by B. C. Cook & M. Hill Wallace his counsel, and shows to the court that there is manifest error in the record of the proceedings and judgment aforesaid, and for such error assigns the following.

1st The court erred in admitting the patent offered in evidence by defendant.

2nd The court erred in admitting the copy of the record of the deed from John Dement and wife to Charles Dement.

3rd The court erred in admitting the deed from Charles Dement to defendant.

4th The court erred in permitting the witness Raymond to testify in relation to what the record showed concerning taxes on the land.

5th The court erred in admitting in evidence the delinquent list of the town of Meriden for 1851.

6th The court erred in admitting the testimony of the witness Rose.

7th The court erred in admitting improper testimony offered by defendant.

8th The court erred in finding the issues for defendant.

9th The court erred in overruling plaintiff's motion for a new trial

10th The court erred in rendering judgment in favor of defendant.

10th The court erred in rendering the judgment aforesaid in manner and form aforesaid -

Wherefore for these errors and others apparent upon the face of the record said plaintiff in error prays this court to reverse the judgment of the court below and remand this cause for a new trial &c

B. C. Cook & W. H. Walker
of counsel for plaintiff in error

And Now Comes the defendant in error by Seland Seland his attys & says there is no such error in said record & proceedings as above assigned to keep as the prays for an affirmance of said prays

Seland Seland

for deft in error

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David L. Hough

Is

John Hastings

Recd

Filed April 23, 1859

L. Leland

Clerk

a better filed

Filed 8/12/55

paid by D. L. Hough

1

Oath required to be made by Town Collector on return of delinquent list was made before Clerk of County Court & not before Treasurer or Justice of the peace.

2 Purples Stat p 1154 s 165

13 Vermont 612

11. Wheat 77

20 " 15

25 Maine 362

2

Board of Supervisors ordered \$41.56 to be raised for Town purposes. Amount extended by the Clerk on copy of a report roll was \$43.85. If clerk had authority to extend the taxes at all his authority was exceeded.

2 Purples Stat p 1152 s 149

1 General Rpt 335. (Not in library. See Blackwell p 192

2 " " 375

19 Ohio 308

3 Cuth 567

1 Foster 327

20 Pick 423

1 N H 166

15 " 23

3

The Treasurer should make a written report (which should be signed & filed) on 1st day of term of Court showing the taxes on which taxes had been paid since return of delinquent list. Although the Statute does not ^{contain} the word "written" considering the nature of the preceding report means a written one. Report of a list

Means in writing because there can not be
a verbal list. 2 Purpus Stat p 905 s 166

- 4 Measuris return or affidavit of taxes now
due & unpaid &c should have been made
on 1st day of Term of Court. & should have
been on the record book. This is a plain re-
quirement of the Statute, incorporated to amend
the law which was otherwise before. It is sub-
stantial not merely directory. A time & place
are fixed when & where it may be certainly
ascertained whether a tract of land is then
liable to be sold at the then approaching sale.
A purchaser about to purchase the tract, or
amending the record book & finding no such return
on the ^{record} book may well omit to enquire further
at any rate not finding the return required
by law, he might be misled & throw off his
guard. 2 Purpus Stat. 905. s 166

12 Ill 409

17 Vermt 121

9 Ohio 93

15 Ohio 134

4 McLean 138

15 Ill 282

4 Blackf 258.

6 Wheat 119

11 Ill 636

- 5 The land does not appear in the delinquents list
When the fragments ^{was} returned there was no such

that as the one is contrary in it. The delin-
quent list should furnish the magistrates with
a record evidence to authorize the Court to render
the magistrates without an enquiry in pais.
The fact that the clerk had no authority
to change the delinquent list after it was placed
on file will not help the plaintiff because, a
purchase at a tax sale must see to it that
the proceedings are regular. & the failure of
officers to perform the requirements of law are
always the causes why a tax title is not good.
How could a person who had an interest in
knowing whether the tract in controversy was among
the delinquent lands ascertain it without enquiring
in pais? Saphar said person had examined the
list on the 1st day of the term or a few days before
he would ^{not have found} ~~never find~~ this tract on the list.

- 6 The magistrates does not show the place where
the Court was held. The notice was that the
application for magistrates would be made at the
Court house & the record should show that the
Court was held at such place. This Court has
decided that the record must show the time when
the Court was held. & surely there can be no distinc-
tion in principle between time & place 14 Me 380
The precise question in this case has been decided
in Tennessee. 7 Humphrey 129. See also 1 Phil ex pt 2 p 870

7

The delinquent list of the Town Collectors is entirely insufficient. It does not appear for what year taxes were delinquent. (See recent abstract does not show this) Not signed. No heading. True list of lands with affidavit of Collectors pasted on the front part of it. The law & forms under it were not carefully adapted to the existing condition of things. The fact that there were several town collectors seems to have been overlooked. See Papers, Stat p 905 sec 166, also p 1148. See 123. The practice has been for the Treasurer to modify the form in Sec 166 so that the statement was ~~that the Town~~ upon which the several Town collectors have been made. The delinquent list of the Town Collectors being the source of information or basis ^{upon} which the Treasurer relies to make his return, it may be enclosed as a part of the Mayor's return & of so should be as formal & regular as the collector's report was required to be in Counties which had not adopted the Township organization.

4 Grand	72	9 Acmt	282
15 Maine	27	12 Ill	409
15 Ill	279		

8

The meeting of the Apapa Town Clerk & Supervisor to their complaints, it was not held as required (2 Papers Stat p 1150 S 139, 140, 141)

1st This was a question of fact & this Court

should in support of the finding below consider that the Court below decided as there was evidence tending strongly to show it - that the meeting was not held at all. (See evidence of Case p 33 of Record) This Court will not disturb a finding below although the evidence ~~may~~ not produce the same effect on the minds of your Honor. The finding should have been clearly & helpfully against the evidence. The authorities on this point are referred to in the case of McCully vs Selwyn, tried at this term.

2 Even if it may be inferred that a meeting was held by the Agents & Supervisors still of the Loan Club was not present advising & the decision of the two would not have been a valid one. nor would such a meeting have been one at which any valid act could have been done. ^{would be} it ~~is~~ as though no meeting had been held. The presumption that the whole had been pursued ^{have arisen} ~~and~~ if it had been found that two had acted, has been rebutted by proof that one was not present.

3 Denis 594

7 Conn. 555

14 Ill 224

21 Pick 67

15 Ill 262

9 The taxes were not extended by the Board of Supervisors nor did they though the act was done by another body & approve of it. 2 Pursh Stat 151. Secs 146, 148, 149, 150

5 Mead 227

18 Conn 189

8 Blackf 350

5 Blackf 98

3 Const 396

3 Denis 594

5 Binney 481

The fixing the amount of the liability which the citizen is to pay & for which his estate may be sold is surely in the nature of a judicial act. The power is conferred upon the Board on account of their peculiar fitness to discharge the duty & such a power cannot be delegated. In order to exercise this power the acts of the Legislature in relation to the several kinds of ^{state} taxes are to be examined & construed. The taxes are to be equalized among the different towns. The taxes should be kept separate so that one illegal one will vitiate all the apportionments are to be made. It is an intricate matter requiring the care & judgment of the whole Board. whose members represent all the towns in the County. It seems to me that the clerk of the Court might as well enter up a judgment on a note. When the Court had omitted to do it as to fix the amount of the liability for taxes - When there is no judicial condemnation, this ascertainment of the amount of the liability is analogous to a judgment. See Blackwell p 184

It seems to be clear that it was the intention of the Legislature that the extension should be made by the Board or under their supervision & when completed the Chairman then presiding should sign the warrant. A signing the warrant in blank would be as a signing when it was filled up. Suppose there was a chairman pro tem (See Sec 106 p 1147 2 Purple's Stat.) who would sign the warrant in vacation after term. He or the regular chairman.

As to the duty of the Board to

See that the taxes are kept separate & not blended
together so that one involved one may notice the whole
See 3 Green M 326 21 Pick 69 10 Vernt 506

- X Are the 4 Points the only defenses that can be
- 1 That the Land was not subject to taxation
 - 2 Taxes for which land sold were paid.
 - 3 Land never listed or assessed for taxation
 - 4th Land redeemed from tax sale.

See 2 Purpus Stat p 888 See 73 It was
insisted below that these four are the only defenses
allowed by law to be made against a tax title
The law of 1839 & the law as in said See 73 are
the same as affecting this question.

Blackwell p 233

or Purpus Real Estate

Statute. p 260

If no other defenses than the 4 can be made
then the deed is conclusive instead of prima facie
evidence of the 4 5 6 & 7 Particulars mentioned in
said See 73 And the Legislation in See 219 p
1276 Purpus Stat was unnecessary. Also the hallan
city decisions of this Court are erroneous & should
be overruled. 141 Ill 223. 15 Ill 219
12 Ill 413 - 15 Ill 282 141 Ill 254
15 Ill 131 13 Ill 251 13 Ill 714
11 Ill 476-322-383 12 Ill 442 15 Ill 300
3 Gilm 161

The Statute if as construed by the other side would
be so unfair that such a construction should not
be given to it unless the language unambiguously demands it

* The question to Ragsdale was well enough to cause the issue arising a negative that the Govt. here did the State. What could not well be otherwise found

The foregoing is an abridgement of the argument said to be, mislaid. It and still and for apt in every

It is said in the 11th PA 128.9 that a statute depriving a person of all defenses against a tax title would be a moral fraud & its constitutionality may well be questioned. Having as we believe severely valid defenses that neither of the four, the operation of the act would be to deprive or arbitrarily of all the defenses and hence if such authority should be given to it & its constitutionality should be sustained.

Objection was made to the patent because it did not describe the land as on the Map. It was said that it did not appear to be East of the 3^d P.M. The Court will take notice of the boundary of the land districts & if in the District Land District it was in Range — East of the 3^d P.M.

There was also objection to the ^{copy of} deed from John Semant to Charles Semant.

And to the deed from Charles Semant to Hastings. The objection herein was that there was no evidence that the Notary was a Notary. The Seal is enough Acts of ^{or 1817?} 1837 p 57. To one of the deeds there is only a general objection which will not cover a defective ^{proof of} execution of Scan-7 5 Gilman 281

*

David L. Mough
vs
John Hastings

Error to La Salle

The only objection to the judgment for taxes is that it does not recite the place where the Court was held -

The Court was named "The County Court of La Salle County"

The law fixes the place where this Court shall be held, and this Court will presume that it was held in the proper place especially where the

~~and~~ question comes up collaterally

The case relied upon by the plaintiff was a capital case and came up directly on error brought in that case -

We insist that the defendant did not put himself in a position to attack our tax title -

st because his patent does not describe the land - The description is as follows S W 1/4 of Sec 15 - Town 36. Range 1 East - without stating East of what Meridian - It does state that it was in the district of land subject to sale at Dixon Ill, but these land Districts are not fixed by act of Congress but by regulation of the land department

over

The boundaries of land Districts are not matters of public law of which this Court will take judicial notice -

2 The copy of the record of the deed from John Dement to Charles Dement was improperly admitted, because there was no proof of its execution other than the copy of the certificate of Reines who purported to be a Notary Public in Lee County - That copy does not show that that acknowledgment was taken in Lee County - We insist that the copy of such a certificate does not prove the execution of a deed -

3 The deed from Charles Dement to Deft was improperly admitted in evidence. The only proof of its execution was the certificate of Reines and he does not purport to be a Notary in the County where the land lay -

In relation to the deed from John Dement to Charles Dement I submit that evidence of the official character of the Notary was necessary his seal could not prove his official character in this case for only a copy of his certificate is given and his official seal is not thereto

annexed -

The Court could not take judicial notice that he was a notary for he belonged in another county, they could not inspect his seal, for nothing but a copy of his certificate was given. I refer to
Stout v Slattery 12 Ill 162 -
Mason v Brock 12 Ill 273 -

Not taken in fact -
See McCall p 28

4th Defendant p 28

Defendant did not show that all taxes had been paid on the land -

~~Raymond~~ only testified as to what appeared in his office -

This cause was tried February 1857 - at that time the taxes for 1856 - had been assessed and were due and there was no proof whatever that they were paid

But if Deft was in position, the objections he urges are not such as he can take advantage of -

Revised Stat. Chap 89 Sec 73 - limits the defences that may be made to a title under a collectors deed to four points - to wit:

1st That the land was not subject to Taxation -

2^d - That the taxes had been paid

3^d - That the land was not listed & assessed for Taxation as required by law - Purples Stat. Page 888 - sec 73 -

4th That the land had been redeemed from sale -

None of the objections made by Deft fall within either of these classes unless it may be the objection that there was no meeting of the Supervisor Town Clerk and Assessor for the purpose of reviewing the assessment this point I shall discuss in its order -

The first objection made by Deft is that the Return of Delinquent Lands &c made by the Town Collector was sworn to before the County Clerk and not before the Treasurer or Justice of the Peace I think that this objection is fully answered by the case of *Fergus v. Hoard* 15 Ill. 357 -

As to the 2^d objection that the board of Supervisors ordered \$41.50 to be raised in the Town of Meriden for Town purposes and that the amount was extended \$43.85 by the Clerk - I answer

1st This is not one of the four points which the defendant could contest

2^d The difference was accruing cost of collection - see testimony of Raymond page 3. Absen

3. According to Raymond's testimony, the excess was less than one tenth of a mill on one hundred dollars. The valuation of this tract was \$2000 so that the entire excess of tax collected from this tract was less than two tenths of a mill so that the principle "de minimis non curat lex" applies -

Jackson v. Commis. 15 Ill. 449 -

As to the 3^d objection, "that the Treasurer should have made a written report on the first day of the term"

This statute is directory and a non compliance with it does not oust the jurisdiction of the Court to render judgment - 2 - Gilm. R. - 450 -

15 - Ill. - 451 -

The same answer and the same authorities apply to the 4th objection taken by Deft - b

But a conclusive reply to the 3^d & 4th points of Deft is that such list was filed by the Treasurer - The Erasure was in consequence of the tract immediately preceding this tract in the list having been paid after the list had been returned and crossed out in the manner provided by law

That it was not made on the first day of the court is not material

see the two cases above cited -

As to the 5th objection that the land does not appear in the delinquent list - we say the land is mentioned in it -

In relation to this matter the abstract is wrong - see page 31 of the Record - This tract is not crossed out in the list, the tract immediately preceding which is the N E 1/4 is erased according to law the taxes having been paid, the tract is stricken out by a black line drawn through it, the law requires this to be done when taxes are paid after the return of the delinquent list

As to the 7th objection that delinquent list of Town Collector is insufficient - "No Seal - Not Signed - No Reading -"

There is no form given in the Statute - Purples Stat page 960 - Sec 160

This return is in manner prescribed by the Statute & if it were not, it is not one of the points that diff could contest, at all events this objection is obviated by Sec 51 - Purples Stat 950 - Lawrence & Wilson 9 Pa. State R. 270

As to the 8th objection that there was

no meeting of Supervisor, Town Clerk
Assessor.

1st It does not appear from the
case that there was no such meeting,
it only appears that the Town Clerk
did not attend it - For all that
appears in the record, the Assessor
may have given the notices mentioned
in Sec 139 - and the law presumes he
did, and the Town Clerk may not
have attended -

See Sec 51+52. Purples Stat. 950 -

" Sec 73 Purples Stat page 888 -
provides that "No person shall be per-
mitted to contest the title acquired by
a Collectors deed without showing (in this
case) that the land the land had never
been listed and assessed for taxation" -
we insist that the fact that the
Town Clerk did not attend the
meeting of the board, does not
render the assessment invalid

B. B. B. only
Of Counsel for
Appellant -

David L. Keough

vs
John Keating

Error To

San Juan

Argument

Book

Wright
vs
Hastings

3
3 Error to Salsalle -
3

The point made by the defendants counsel that "no meeting of the Supervisor town clerk & assessor was held for the purpose of reviewing the assessment" has no force in this case - By the law in force at that time (2 Purpl's Statutes p. 948 sec (342-344) the clerk was required to add to the assessors list any tract that may have been omitted by the assessor, and the board of supervisors are required to assess such tracts - There is no evidence in this case tending to show but that this course may have been pursued in this case - None of the proceedings in reference to this tract prior to the town collector return are in evidence here - If the defendant wished to raise that question he should have shown by proof that this tract was included in the assessment made by the town assessor.

B. B. Cook

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Wough is Hastings

additional point
for appellant