

12373

No. _____

Supreme Court of Illinois

Jackson.

vs.

Cummings.

Be it remembered that heretofore, to wit on the ninth day of May in the year of our Lord one thousand eight hundred and fifty three, there was filed in the office of the clerk of the Circuit Court in and for the county of Peoria in the State of Illinois a declaration in ejectment, which with the notice ^{affidavit} thereto attached is in the words and figures following, to wit,

In the Circuit Court of Peoria County,
November Term 1852.

Declaration: James Jackson

vs

Ejectment,

William Cummins.

James Jackson plaintiff in this suit complains of William Cummins defendant in this suit for that whereas on the first day of September A.D. 1852, the plaintiff was possessed of the following described real estate, to wit: Lot number One in Block number Ten in the Town of Princeton in the County of Peoria and State of Illinois, reference being had to the plat of said Town, now on record in the Records Office of said County, the title to which he claims in fee, and the said plaintiff being so possessed thereof, the said defendant on the 2nd day of September A.D. 1852, entered into said premises and unlawfully with holds from the plaintiff

the possession thereof, to the damage of the said
plaintiff of one hundred dollars, and therefore he brings
suit &c.

Purple & Sanger

Attys for Plff.

Mr. William Cummins,

notice =

You are notified that on the first day
of the next term of the Circuit Court to be holden in
and for the County of Peoria or as soon thereafter as
counsel can be heard, the foregoing declaration in
ejectment will be filed and thereupon a rule will be
entered requiring you to appear and plead thereto with-
in twenty days after the entry of such rule and that
if you neglect so to appear and plead, judgment by
default will be entered against you, and the plaintiff
will recover possession of the premises described in said
declaration,

Purple & Sanger

Attys for Plff

September 30th 1852,

State of Illinois, ss.

Peoria County, ss. James Riggs being duly sworn says
that he served the foregoing declaration and notice on
the defendant within named by giving him a true
copy of the same, this 7th day of October A.D. 1852,

James L. Riggs

Subscribed and sworn to before me
this 11th day of October A.D. 1852

C. D. Sanger,

Master in Chancery T. Co.

Proceedings at a term of the Circuit Court begun and
held at the Court House in Peoria, in and for the county
of Peoria in the State of Illinois on the second Monday of
May in the year of our Lord one thousand eight hundred
and fifty three, it being the ninth day of said month,
Present the Honorable Anselm Peters, Judge of the six-
teenth Judicial Circuit in the State of Illinois, Leonard
B. Cornwell, Sheriff, Elbridge S. Johnson, State attorney
and Jacob Sal, clerk, to wit:

Monday May 9th A. D. 1853,
James Jackson,

Pleas to plead -

vs

Ejectment.

William Cummins.

This day came James Jackson, by
St. H. Purple, his attorney and filed his declaration in
this cause and joined to the satisfaction of the court
due service thereof and of the notice thereto attached
upon the said William Cummins ten days before this
date, whereupon on his motion it is ordered that the
defendant plead to this declaration in twenty days.

Plea -

And afterwards on the 18th day of May A. D. 1853
the defendant filed his plea in the words & figures following to wit:
James Jackson, In the Circuit Court of Peoria County,
vs May Term, A. D. 1853,
William Cummins. Ejectment.

And the said William Cummins
by his attorney comes and defends the force and injury

When re, and says that he is not guilty of unlaw-
fully withholding the possession of the premises in said
Plaintiffs declaration mentioned and of this he puts
himself upon the country re,

John T. Lindsay

Atty for said defendant,

Proceedings in the Circuit Court in and for the county
of Peoria in the State of Illinois at a term thereof begun
and held at the Court House in the City of Peoria in said
County, on the first Monday in the Month of March in
the year of our Lord one thousand eight hundred and
fifty four, it being the sixth day of said month.
Present the Honorable Anselm Peters Judge of the
Sixteenth Judicial Circuit in the State of Illinois,
Edwidge S. Johnson States Attorney, Leonard B. Cornell,
Sheriff and Jacob C. Clark clerk, to wit:

Monday March 13th A.D. 1854.

James Jackson,

v

Ejectment.

Empannelling jury - William Cummings.

This day came the Plaintiff by
Purple & Sanger his attorneys and the defendant Sander
and Lindsay his attorneys and it is ordered by the
Court that a jury be empannelled to try the issue
joined in this cause, whereupon came a jury of
twelve good and lawful men, to wit: Monahan D,

Billings, George S. Parker, George M^r Lee,
William Linclack, George Brewer, Austin Nixon, Lorenzo
Mitchcock, Matthew Brown, George C. Babcock, Sampson
Shockley, John Jones and John Johnston, who being duly
chosen, tried and sworn, well and truly to try the issue
joined and a true verdict give according to evidence,
were adjourned to meet the Court again to-morrow
morning.

Tuesday March 14th A.D. 1854.

James Jackson,

vs

Ejectment.

William Cummins.

Verdict =

This day came the jury empannelled
in this cause on yesterday and on their oath aforesaid, do
say. We the Jury do find the defendant not guilty;
Therefore it is considered that the said William Cummins
go hence without day and have and recover of the said
James Jackson his costs and charges by him about his
defense in this behalf expended and that he have
execution therefor.

Indgment -

Monday March 13th A.D. 1854.

James Jackson,

vs

Ejectment

William Cummins.

Motion for
new trial

This day came the Plaintiff by Norman
H. Purple his attorney and entered a motion for a new
trial in this cause, on consideration whereof, the court

Motion overruled - being fully advised in the premises overruled said motion,
the plaintiff prayed an appeal in this cause to the
Supreme Court of this State which is allowed on his
appeal - filing bond to the defendant in the penal sum of
two hundred dollars with John Elting as surety,
in the office of the clerk of this court in forty days
conditioned according to law.

And afterwards on the 20th day of March A.D. 1854 the following Bill
of Exceptions was filed in said cause to wit,

Bill of Exceptions - James Jackson, Peoria County Circuit Court,
vs. March Term A.D. 1854,
William Cummings, Plaintiff.

Be it remembered that upon the
trial of this cause the plaintiff to prove the issue
on his part read in evidence,

1st A Patent from the United States to Almon
Clark for the St. W. & C. Dec. 24, 1818, 5 C. dated 3rd
Nov. 1840, which said Patent is as follows,

" The United States of America
certify & To all to whom these presents shall come,
No 7343. Greeting: Whereas Almon Clark of Peoria
County, Illinois has deposited in the General Land Office
of the United States, a certificate of the Register of the
Land Office, at Quincy whereby it appears that full pay-
ment has been made by the said Almon Clark according
to the provisions of the Act of Congress of the 24th of April
1820, entitled 'An act making further provision for the

Sale of the Public Lands", for the North West quarter of
Section Twenty Four, in Township Ten North of the base
line of Range Five East of the fourth principal meridian,
in the District of Lands subject to sale at Quincy, Illinois,
containing one hundred and sixty acres, according to the
official Plat of the survey of the said lands, returned to
the General Land Office by the Surveyor General, which said
Tract has been purchased by the said Almon Clark.

Patent

Now, Know Ye, that the United States of America, in
consideration of the premises, and in conformity with the
several Acts of Congress, in such case made and provided,
have given and granted, and by these presents do give and
grant, unto the said Almon Clark and to his heirs, the
said tract above described. To Have and To Hold the same,
together with all the rights, privileges, immunities and appur-
tenances of whatever nature thereunto belonging, unto
the said Almon Clark, and to his heirs and assigns forever.
In Testimony whereof, J. Martin Van Buren,
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
third day of November in the year of our Lord one thousand
and eight hundred and forty, and of the Independence
of the United States the sixty fifth.

E. J.

By the President Martin van Buren
by M. van Buren Jr Secy

Jo: S. Wilson, Acting Recorder of the General Land Office, ad interim
Recorded Vol. 15, page 150

General Land Office,
January 27. 1854.

I, John Wilson, Commissioner of the General Land Office, do hereby certify, that the annexed is a true and literal exemplification from the patent records of this office.

ESD

In Testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the City of Washington, on the day and year above written.

John Wilson,
Commissioner of the General Land Office.

Ind A plat of the Town of Brimfield, duly certified, which is as follows,

The defendant objects to the introduction of said plat.

Situate on the North West Quarter of Section Twenty four (24) Township 10 North 5 East as corrected
by the Act of the General assembly March 2, 1843 by reference to said Act the name of this Town was changed to
Charleston **Brimfield**

Whereas the Plat of the Town of Charleston in Peoria County is Recorded as being upon the South West quarter of Section 24 in Township 10 N 5 E. of the 1st P. M. when in fact it is located entirely upon the North West quarter of said section and whereas the said Plat. is Recorded in an inverted position the North being changed for the South side thereof, therefore Sec 1 Be it enacted by the people of the State of Illinois represented in General Assembly That the Recorder of Peoria County be authorized and directed to correct the aforesaid errors as appear of Records in his office.

Sec 2 That the name of said town of Charleston be and the same is hereby changed to Brimfield

Assured March 2^d 1843

Commenced as required by the foregoing act November



1st. 1843

Charles Kettelle Recorder, P.C.

6 7 8 9 10 11 12	6 7 8 9 10 11 12	6 7 8 9 10 11 12	6 7 8 9 10 11 12	6 7 8 9 10 11 12	6 7 8 9 10 11 12
1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5

Monroe

Street

The Avenues are 100 feet wide the Streets 80 feet Except Jefferson which is 58 feet wide The Alleys are 18 feet wide
The Lots 72 ft front by 177 ft deep. This Town is situated on the South West of Section 24 Township 16 North Range 5 East
Principal Meridian in Illinois, 18 miles N.W. from Peoria on the corner of Lot 11th Block 15 Set a Stone two feet by 18 Ins.
Streets run North, South, East & West

County Surveyors Office Peoria June 6th 1836 Thomas Phillips County Surveyor in and for the County of Peoria say that the within
is a correct Survey to the Best of my Knowledge Thomas Phillips Co Surveyor.

State of Illinois Peoria County on this Ninth day of June A.D. 1836 personally appeared before me one of the Justices of
the Peace in and for said County Almon Clark proprietor of the town of Charleston to me personally known who acknowledged
the within to be a true copy and correct Plot of said Town of Charleston, together with the Streets and alleys thereof
Given under my hand and Seal at Peoria this Ninth day of June A.D. 1836. A. M. Hunt Jus Peace Seal
Approved by me Almon Clark June 9 1836.

State of Illinois
Peoria County

I, Jacob Gale, clerk of the Circuit Court and
ex officio Recorder of the County of Peoria in the State
of Illinois do hereby certify, that the within is a full
and correct copy from the Records of the Plat
of the Town of Brimfield, formerly Charleston,
and of the Certificates thereto as the same stand
recorded on pages 428 & 429 in Book 7 in my office.

In testimony whereof, I have hereto set my hand and affixed the seal
of said Circuit Court at my office in Peoria this seventh day of March
in the year of our Lord one thousand eight hundred and fifty four.
Jacob Gale, clerk & Recorder.

3. A deed from Almon Clark to Jacob D. Shewalter, dated 24th June 1836, which is as follows,

Almon Clark
To
J. D. Shewalter
29 June 1836
No 460,

This Indenture made and entered into this twenty fourth day of June in the year of our Lord one thousand eight hundred and thirty six, between Almon Clark of the County of Coles and State of Illinois of the first part and Jacob D. Shewalter of the County and State aforesaid of the second part, that the said Almon Clark party of the first part, for and in consideration of the sum of five hundred dollars in hand paid the receipt whereof is hereof acknowledged, doth grant, bargain, sell, convey and confirm unto the said party of the second part his heirs and assigns forever, the following described tract of land, situated, lying and being in the County of Coles as being the North West quarter Section No. Twenty Four Township Ten North Range Five East of fourth principal meridian. Together with all and singular the appurtenances thereto belonging or in any wise appertaining. To have and to hold the above described premises, unto the said party of the second part, his heirs and assigns forever. And the said party of the first part will warrant and defend the aforesaid premises unto the said party of the second part, his heirs and assigns against the claim or claims of all and every person whatsoever, do and will warrant and forever defend, by these presents. In Testimony whereof the said party of the first part have hereunto set his hand and affixed his seal the day and year first above written.

Signed, sealed and delivered
in presence of Isaac Underhill

State of Illinois ss. I, Andrew Mc. Hunt a
Teoria County, 3 Justice of the Peace, of the county,
do certify that Almon Clark whose signature appears
to the foregoing deed of conveyance and who is personally
known to me to be the identical person who signed the
same, this day appeared before me and acknowledged that
he had signed, sealed and delivered the same as his
free act and deed for the uses and purposes therein ex-
pressed. Given under my hand and seal of office,
at Teoria, this 25 day of June in the year of our Lord
one thousand eight hundred and thirty six.
A. Mc. Hunt, J. Peace L.D.

It. A deed from Jacob D. Shewalter to
Adolphus Meyer, dated 5th January 1838, which
is as follows,

J. D. Shewalter To
Adolphus Meyer
Recorded June 15th 1839.
"This Indenture made this fifth day of January in the
Year of our Lord one thousand eight hundred and 38, between
Jacob D. Shewalter of Teoria, Teoria County, Ill^{ts} of the
one part and Adolphus Meyer of Teoria, Teoria County,
Ill^{ts} of the other part, Witnesseth, that the said party
of the first part for and in consideration of the sum of one hundred
sixty dollars, current money of the United States, to him in hand
paid at or before the sealing and delivery of these presents, by the
said party of the second part, the receipt of which is hereby ac-
knowledged, hath given, granted, bargained and sold, effected,
conveyed, released and confirmed and by these presents doth

give, grant, bargain and sell, enfeoff, convey, rebale
and confirm, unto the said party of the second part, his heirs
and assigns forever, the following described lots or parcels of
land, Lot No Six (6) in Block Eight (8), Lot No One
(1) in Block Ten (10) Lot No One (1) in Block Fifteen (15),
Lot No Five (5) in Block No Nine (9), Lot Ten (10) in
Block No Nine (9) and Lot No One (1) in Block
Eight (8) in the Town of Charleston, Leonia County, Ill:
as per plat on record in the Records Office in said county
Together with the buildings, improvements, rights, privileges ap-
purtinances and other hereditaments to the same belonging or in
any manner appertaining, and the remainders, reversions, rents,
issues and profits thereof, and all the right, title and interest
and estate of him the said party of the first part, in and to the
same, To have and to hold the said lots and premises
with the appurtinances, unto him the said party of the second
part, his heirs and assigns, to his and their sole use, benefit
and behoof forever. And the said party of the first part
for his heirs, executors and administrators by these presents, cove-
nants, promises and agrees, to and with the said party of the second
part, his heirs and assigns, that he the said party of the first
part and his heirs, shall and will warrant and forever defend,
the said lots and premises with the appurtinances hereby
bargained and sold, unto him the said party of the second
part, his heirs and assigns, said from and against his the
said party of the first part, his heirs and assigns and all
persons claiming or who may claim by, under or through them

or any of them against and against all manner of persons and claims whatsoever, and further that he the said party of the first part and his heirs, shall and will at any time and at all times hereafter, at the request and cost of the said party of the second part, his heirs and assigns make and execute any and every other deed or assurance in law. For the more, sure and effectual conveyance of said lots and premises with the appurtenances, to the said part of the second part, his heirs or assigns, that the said party of the second part, heirs or assigns or his or her counsel learned in the law shall or may devise, advise or require. In Testimony whereof, the said Jacob D. Shewalter hath hereunto set his hand and affixed his seal, the day and year first herein before written.

Jacob D. Shewalter

Signed, Sealed and delivered in
Presence of Geo B. Parker, 

State of Illinois }
County of } to wit: Be it remembered that on this
8th day of January in the year of our Lord one thousand eight
hundred and thirty eight before the undersigned George B.
Parker, personally appears Jacob D. Shewalter, party Grantor
within named, personally known to me to be the identical
person who executed the foregoing deed of conveyance and
who acknowledged the within and foregoing Instrument
of writing to be his act and deed and the aforesaid lots
and premises with the appurtenances therein mentioned
to be the right and estate of the therein made named

grantee Adolphus Meyer his heirs and assigns
forever. Taken before and certified by
George B. Parker *G. B. P. Secy*

5th Plaintiff offered a deed from John W. A.
Meyer to Benjamin Adams, dated 15th July A. D.
1851, which is as follows,

Deed of
Meyer to Adams - "This Indenture made the fifteenth day of July in the
year of our Lord one thousand eight hundred and fifty-
one between John W. A. Meyer of the City of Buffalo,
County of Erie and State of New York of the first
part and Benjamin Adams of Peoria, County of Peoria,
and State of Illinois of the second doings, witnesseth that
the said party of the first part, for and in consideration
of the sum of one dollar lawful money of the United
States of America, to him in hand paid by the said party
of the second part, the receipt whereof is hereby confessed
and acknowledged has granted, bargained, sold, remised,
released, and by these presents does grant, bargain, sell,
remise, release and forever quit claim unto the said
party of the second part and to his heirs and assigns, for-
ever, all that certain piece or parcel of land, Lot N^o
One (1) in Block N^o Ten (10) Lot N^o Ten (10) in Block
number Nine (9) Lot number One (1) in Block number
Eight (8) in the Town of Charleston, Peoria County, Il-
linois, as per plat on record in the Recorder's Office in said
county, Together with all and singular the hereditaments and

appurtenances thereto belonging or in any wise appertaining,
and the reversion and reversions, remainder and remainders,
rents, issues and profits thereof, and all the estate, rights,
title, interest, claim or demand whatsoever of the said party
of the first part, either in law or equity of, in and to the
above bargained premises with the said hereditaments and
appurtenances. To have and To hold the said described lots
to the said party of the second part, and to his heirs and as-
signs to the sole and only proper use, benefit and behoof of
the said party of the second part, his heirs and assigns
forever, In Witness whereof, the party of the first part has
hereunto set his hand and seal the day and year first
above written.

John W. A. Meyer & J. J.

Signed, Sealed and delivered in presence of

State of New York, ss.

City of Buffalo Erie County, ss. On this 15 day of July 1851,
before me the subscriber appeared John W. A. Meyer
and acknowledged that they had severally executed the above
instrument, And I further certify, that I know the
persons who made the said acknowledgement to be the
individuals described in and who executed the above
instrument.

Wm Andre Com. of deeds for the
City of Buffalo.

State of New York, ss.
Erie County, Clerk's Office. ss. I Wells Brooks Clerk of
said county and of the courts thereof do hereby certify, that
Wm Andre whose name is subscribed to the proof or acknow-

ajgment of the annexed instrument in writing was at the time of taking such proof or acknowledgement a commissioner of deeds for the city of Buffalo in said county, dwelling in said city, duly commissioned, sworn and authorized to take the same, and further that I am well acquainted with his hand writing and verily believe that the signature to the said proof or acknowledgement is genuine, and further that the annexed instrument is, ^{executed and} acknowledged according to the laws of the State of New York.



In Testimony whereof, I have hereunto set my hand and affixed the seal of said County at Buffalo, this 15 day of July A. D. 1851. Wells Brooks, Clerk,
For Wm Andre, Dep. Clk.

To the introduction of which in evidence the defendant objected, because the same was defectively acknowledged & proved and also because it did not appear that Adolphus Meyer to whom Shewalter had conveyed and the said John W. Meyer who had executed said deed were one & the same person and that it did appear on the face of the deeds that they were different persons.

The Plaintiff then proved by two witnesses that in the year 1837 & 1838, there lived in Teoria a man whose full name was John William Adolphus Meyer, that he usually went by the name of Adolphus Meyer, that he kept a Grocery and Bakery & the name on his sign was A. Meyer, that he bought lots in Brimfield

at the time of a public sale of lots made by Jacob D. Shewalter in said town, in the year 1837 & that some time in the year 1838 or 1839 he left Peoria and removed to Buffalo in the State of New York.

To all this evidence the defendant objected and excepted to the opinion of the court in admitting the same & the said deed in evidence to the jury.

6th. A deed from Benjamin Adams to James Jackson the plaintiff dated 24th Dec. 1851, which is as follows,

Deed from Adams to Jackson. "Know all Men by these presents, That I Benjamin Adams of the county of Peoria and State of Illinois, for divers good causes and considerations thereunto moving, especially for fifty dollars received to my full satisfaction of James Jackson of said county have remised, released and for ever quit claimed, and by these presents do for myself, my heirs, executors and administrators jointly and absolutely remise, release and forever quit claim unto the said James Jackson and to his heirs and assigns forever, all such right and title as I the said Benjamin Adams have or ought to have, in or to Lot number One (1) in Block number Ten⁽¹⁰⁾ in the Town of Springfield in the County of Peoria and State of Illinois as per plat will appear now on record in said county. To have and To hold the above released premises, unto him the said James Jackson his heirs and assigns to his or their only

proper use and behoof forever: so that neither he the said Benjamin Adams or any other person in his name and behalf, shall or will hereafter claim or demand any right or title to the premises, or any part thereof; but they, and every of them, shall by these presents be excluded and for ever barred. In Witness whereof, I have hereunto set my hand and seal the twenty fourth day of December in the year of our Lord one thousand eight hundred and fifty one. Benj. Adams *Edeat*
Signed, sealed and delivered in the presence of. *Lucas*

State of Illinois, ss.
Peoria County, ss. I, Norman H. Purple, a Notary Public, in and for Peoria City, County and State aforesaid, do certify, that on this day personally appeared before me Benjamin Adams to me personally known to be the same person who executed the foregoing deed and acknowledged that he had executed the same for the uses and purposes therein expressed.

E. H. P.

Witness my hand and official seal at Peoria, aforesaid, this 30th January A. D. 1852. N. H. Purple,
Notary Public.

which was read without objection.

The defendant admitted that he was in possession of the lot described in the declaration at the time of the service of the declaration on him.

The Plaintiff also proved by Charles H. Freeman that the Town of Charleston now Brimfield was in fact laid out & surveyed on the N. W. $\frac{1}{4}$. Sec. 24. 10. N. 5. E. in Peoria County.

The Defendant also excepted to the opinion of the Court in admitting this evidence.

Here the Plaintiff rested.

The defendant then offered in evidence a judgment for taxes, rendered at May Term Ct. D., 1845. for the tax of 1844, which is as follows,

Tax - paid -

At a Circuit Court begun and held at the Court house in the Town of Peoria in and for the county of Peoria and State of Illinois on Monday the twenty sixth day of May in the year of our Lord one thousand eight hundred and forty five Present the Honorable John Dean Caton associate Justice of the Supreme Court of the State of Illinois, assigned to perform the duties of Judge of the ninth Judicial Circuit,

Monday, May 26th 1845,

State of Illinois, ss,

Peoria County, ss, Whereas Smith Frye, collector of said county, returned to the Circuit Court of said county, on the twentieth day of January A. D. 1845, the following tracts and parts of tracts of land as having been assessed for taxes by the assessor of said county of Peoria

For the year 1844, and has also returned that the taxes thereon remained due and unpaid on the day of the date of the said collector's return and that the respective owner or owners have no goods and chattels within his county on which the said collector can levy for the taxes, interest and costs due and unpaid on the following described lands, situated in the county of Peoria and State of Illinois, to wit:

Princeton in Township 10. N. 5. E.

Description	Lot	Block	Tax		Costs
			\$	C. m.	
	9	9		3.5-	40
	1	10		3.5-	40
	6	10		3.5-	40

And whereas due notice has been given of the intended application for a judgment against said lands and no owner hath appeared to make defense or show cause why judgment should not be entered against said lands for the taxes, interest and costs due and unpaid thereon for the year herein set forth. Therefore it is considered by the court that judgment be and is hereby entered against the aforesaid tracts and parts of tracts of land in the name of the State of Illinois for the sum annexed to each parcel or tract of land, being the amount of taxes and costs due severally thereon, and it is ordered by the court

that the said several tracts of land, or so much thereof as shall be sufficient of each of them to satisfy the amount of taxes and costs assessed to them severally, be sold as the law directs."

To the introduction of this evidence the plaintiff objected, because said judgment was not rendered in conformity to law and the several requirements of the statutes and because it was not shewn for what amount or sum said judgment was judgment rendered and was altogether illegal & informal.

The Court over ruled the objection and admitted the evidence & plaintiff then & there excepted.

Defendant next offered a precept purporting to have been issued on said judgment, with the return of the sheriff thereon, which is as follows,

Precept -

" The People of the State of Illinois
To the Sheriff of Peoria County, Greeting;
Monday May 26th 1845

State of Illinois, & ss
Peoria County, & Whereas Smith Frye, collector of said county returned to the Circuit Court of said county, on the twentieth day of January A.D. 1845, the following tract and parts of tracts of land, as having been assessed for taxes by the assessor of the said county of Peoria for the year 1844, and has also returned that the taxes thereon remained due and unpaid on the day of the date of the said collectors return, and that the respective owner or owners have

no goods and chattels within his county in which the said Collector can levy for the taxes, interest and costs due and unpaid on the following described lands, situated in the County of Teona and State of Illinois, to wit:

Princeton in Township 10, N. T. C.

Lot	Blk	Tax			Costs
		\$	cts	m	
"	"		"	"	"
"	"		"	"	"
9	9		3	5	40
1	10		3	5	40
6	10		3	5	40
"	"		"	"	"
"	"		"	"	"

And whereas due notice has been given of the intended application for a judgment against said lands and no owner hath appeared to make defence or show cause why judgment should not be entered against said lands for the taxes, interest and costs due and unpaid thereon for the year herein set forth, Therefore it is considered by the court that judgment be and is hereby entered against the aforesaid tracts and parts of tracts of land in the name of the State of Illinois for the sum annexed to each parcel or tract of land being the amount of taxes and costs due severally thereon, and it is ordered by the court that the said several tracts of land or so much thereof as shall be sufficient of each of them to satisfy the amount of taxes and costs annexed to them severally, be sold as the law directs.

Saturday June 1th 1845

This day came Charles Ballance and entered a motion that the judgment heretofore entered during the present term of this court against so much of Bigelow and Underhills Addition to Peoria as is situated on the South West quarter of section Nine of Township Eight North of Range Eight East of the fourth principal meridian, be set aside and that said Ballance be permitted to show cause why judgment should not be entered against said promises. On consideration whereof the court overruled the said motion, whereupon the said Charles Ballance claimed an appeal to the Supreme Court of the State of Illinois on the judgment of the court overruling his said motion, which was allowed on condition that the said Ballance files an appeal bond conditioned according to law in the penal sum of three hundred dollars, in the office of the clerk of this court on or before the hour of ten o'clock in the forenoon of Monday next, with Francis Boris or Henry Schnell as surety.

State of Illinois,
Peoria County, ss. I, J. Jacob Gale, clerk of the Circuit Court within and for the said county of Peoria do hereby certify that the foregoing is a full and perfect copy of a judgment and order of the said court, made at the May Term thereof A. D. 1845, and of all proceedings had at said term of said court, on or concerning the list of delinquent lands for the taxes of the year 1844, lying in said

Peoria County. In Witness whereof, I have hereunto
set my hand and the seal of said court at Peoria,
this seventh day of June A.D. 1845.
J. J. J. Jacob Gale, clerk,

State of Illinois, ss.
County of Peoria, ss. By virtue of the foregoing process I
did with the assistance of the clerk of the County Commissioners
Court of said county by his deputy attend at the court house
in the Town of Peoria in said county, on the ninth day of
June A.D. 1845, at the hour of ten o'clock A.M. and
between that time and three o'clock P.M. of that day, pro-
ceeded to sell each lot or parcel of land described in the
foregoing list at public auction, commencing with the first
lot therein described and sold all the lots & tracts (except
those on which the taxes were paid to me before sale.) to the
W. 2. N. E. q. of section 32 of township 7 North 6 East
inclusive, and afterwards, to wit: at 3 o'clock P.M. ad-
journed the sale to 10 o'clock A.M. of the 10th day of June
instant; and on June 10th at 10 o'clock A.M. proceeded to
sell in like manner the lands described in said list from
E. h. of N. E. L. of 8 North 6 East, and sold to the pt. N. W. 2
of Township 10 North 8 East inclusive and afterwards at
3 o'clock of the last mentioned day adjourned the sale to 10 o'clock
A.M. of 11th day of June instant, and on the 11th day
of June A.D. 1845 at 10 o'clock A.M. proceeded to sell
in like manner the remainder of the lands described in said

list to the end of Bigelow & Underhill's Addition to Peoria (excepting also such lots of said addition as are situated on the South West quarter of section Nine of Township 1, N. 1. E.) and afterwards at 3 o'clock P.M. of the last mentioned day adjourned the sale to 10 o'clock A.M. of the 12th day of June instant: and on the 12th day of June A.D. 1845, at 10 o'clock A.M. proceeded to sell in like manner the lands described in said list, from Morton, Bond & Saville's addition to Peoria and sold to the end of said list inclusive. The lands in this list were so sold in the order the same are therein described, by offering the whole tract or lot of land for the amount of taxes and costs due thereon and striking them off severally to the person or persons who would pay the amount due on each tract of land or town lot for the least number of acres or the least quantity thereof. The said clerk kept a Register of said sales in which was entered each lot or parcel of land exposed to sale by me as aforesaid, the name of the purchaser, his place of residence and the quantity of land sold.

Dated June 20th A.D. 1845,

Smith Fry, Sheriff.

Plaintiff objected to its introduction, for the same reasons as before stated as objections to the judgment, and also for variance between the judgment read and the one recited in the precept; the court overruled the objection & admitted the evidence & the plaintiff then & there excepted.

Defendant next offered a Sheriff's deed, which is as follows,

Tax Deed -

Know all Men by these Presents That whereas at the May term 1845, of the Circuit Court of Peoria County, a judgment was obtained in said court, in favor of the State of Illinois, against lot No One in Block No Ten in the Town of Springfield in the County of Peoria and State of Illinois for the sum of forty three and $\frac{3}{4}$ cents being the amount of taxes, interest and cost, assessed upon the said tract of land for the year 1844; and whereas on the seventh day of June 1845, Smith Frye, then Sheriff of the county aforesaid, by virtue of a precept issued out of the Circuit Court of the county aforesaid, by dated the seventh day of June 1845, 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 tract of land above described, for the satisfaction of the judgment as rendered as aforesaid, and whereas at the time and place aforesaid Messrs Powell & Bryan of the County of Peoria and State of Illinois having offered to pay the aforesaid sum of forty three and three fourth cents for the whole of said lot, which was the least quantity bid for, the said tract of land was stricken off to them at that price, and whereas afterwards on the ninth day of June A.D. 1849, said Powell & Bryan for value received by endorsement on the certificate of purchase issued to them on said sale assigned & transferred the same to Thomas W. Welles

of said county. Now Therefore I Wm. Cornpher,
Sheriff of said county & successor in office of said
Smith Frye, late Sheriff as aforesaid, for and in conside-
ration of the sum of forty three & $\frac{3}{4}$ cents, to him in
hand paid by the said Powell & Bryan at the time of
the aforesaid sale, and by virtue of the Statute in such
case made and provided, have granted, bargained and
sold, and by these presents do grant, bargain and sell,
unto the said Thomas St. Welles, his heirs and assigns,
Lot No. One in Block No. Ten in the Town of
Brimfield, County of Teoria & State of Illinois. To
have and to hold unto him the said Thomas St. Welles
his heirs and assigns, forever; subject, however, to all the
rights of redemption provided by law. In Witness whereof,
I Wm. Cornpher, Sheriff as aforesaid, by virtue of the
authority aforesaid, have hereunto subscribed my name
and affixed my seal, this 27th day of August 1847.

Wm. Cornpher Sheriff

State of Illinois,

Teoria County, ss. 3 Be it known that on the date day
of the date hereof, personally appeared before me Jacob
Gale, clerk of the Circuit Court within and for said county,
Wm. Cornpher, personally known to me to be the real person whose
name appears subscribed to the foregoing deed of conveyance as
having executed the same in the capacity of Sheriff of said
county, and acknowledges 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 Peoria, this 27th day of August
A. D. 1849. Jacob Gale, clerk,

Plaintiff objected to the said deed because of a
variance in the judgment recited therein and the
one read in evidence and because of a variance be-
tween the judgment read in evidence and the amount
recited in said deed for which the lot was sold,
and because of a variance in the recital in said
deed of the day on which said lot was sold and
the return of the Sheriff on the precept & for other
reasons. The court overruled the objections and
admitted the deed and the Plaintiff then & there excepted.
Where the defendant rested.

The Plaintiff then (the defendant having first admitted
that all taxes due upon said lot of land in contro-
versy up to the time of trial had been paid) offered
and read in evidence the assessment of the said lot
of land as returned by the Assessor and filed in
the proper Clerks Office for the year 1844, which is as
follows,

Tax assessment = "Filed in the office of the clerk of the County Commissioners Court
of Peoria County, Illinois, this fifteenth day of July A.D. 1844
William Mitchell, clerk of said Court

Abstract of lands lying in the County of Peoria,
State of Illinois, subject to taxation for the year
A. D. 1844.

Brinfield laid off on 10 St. S. E.

Present owner	Description	Lot	Blo	value		lts	m	lts	m	lts	m
				\$							
"	"	"	"	"		"	"	"	"	"	"
		10	9	5		1		2		5	
		1	10	5		1		2		5	
		2	10	5		1		2		5	

State of Illinois,
Peoria County. I, William M. Dodge, Officer within
for the said County do hereby certify that the within contains a
full and perfect asessment of the real and personal property
subject to taxation for state, county and road purposes in the
said county of Peoria for the year 1844, so far as the same has
come to my knowledge. Given under my hand this fif-
teenth day of July in the year of our Lord one thousand eight
hundred and forty four.

William M. Dodge, "

The plaintiff next offered and read in evidence the adver-
tisement of the list of lands to be sold for taxes for the year
1844 and the notice, & certificate of the printer of the pub-
lication of the same, which is as follows,

Tax advertisement =

List of lands and other real estate situated in the County of Peoria and State of Illinois, on which taxes remain due and unpaid for the year 1844

Brimfield in Township 10. N. 5. E.

Lt.	Bk.	W.	Tr.	Lt.	Bk.	W.	Tr.
"	"	\$	" c. m	1	10	\$5	c 3 m 5
9	9	5	3 5	6	10	5	3 5

The costs on each of the above tracts of land and town lots and part town lots already accrued is 10 cents.

Notice is hereby given that application will be made to the Circuit Court of Peoria County at the next term thereof to be held at the Court house in the town of Peoria within and for the county of Peoria in the State of Illinois on the fourth Monday of May next, for a judgment against the lands and town lots above enumerated for the tax and costs due thereon for the year 1844, and for an order to sell the lands and town lots for the satisfaction thereof and all such lands and town lots against which judgment shall be pronounced, will be exposed to public sale at the Court house of said County on the second Monday next succeeding the said term of the said court for the amount of taxes and costs due thereon for the year 1844.

Smith Frye, Collector
for the year 1844.

Peoria January 15, 1845.

We hereby certify that the foregoing was duly published on the 15th of January 1845 in the Peoria Democratic Press, ^{published in Peoria} Peoria County, Illinois, and that the number of transcripts so published corresponds with the number of newspapers printed and distributed for that week.

Gieber & Hoan."

The Plaintiff then moved the court to exclude the defendants evidence from the Jury, because the said Assessment, advertisement, notice & certificate were irregular, illegal and not in manner ~~for~~ prescribed by the statutes. The court overruled said motion and Plaintiff then and there excepted.

This was all the evidence in the cause.

The Plaintiff requested the court to instruct the Jury as follows,

"1. That the record of the assessment given in evidence in this case shows that the lot was not legally assessed for taxation for the year 1844, and that if such assessment was not legally made and the Plaintiff had shown title to the land he is entitled to recover.

2. That when lands are advertised for taxes the advertisement should show the name of the

Pliffs instructions
Refused =

present owner if known and that if such name is known or might have been easily ascertained, an advertisement omitting it would be illegal and a title obtained under it void."

The Court refused said instructions and plaintiff then & there excepted.

Depts instructions - The defendant requested the Court to instruct the jury as follows:
That if the Jury believe from the evidence that the defendant to substantiate his defence has exhibited ^{first} a valid judgment against the lot in question for the non-payment of taxes thereon due for the year 1884 -
Second, a valid Precept authorizing the Sheriff of Peoria Co. to make sale of said lot for such non payment of taxes and
third. A proper conveyance from said Sheriff to Wm. Welles the person under whom defendant claims title and that defendant was in possession of said premises at time of commencing this suit claiming under said title they will find defendant not guilty."
Which were given by the court and the plaintiff then and there objected to the same and excepted to the opinion of the court in giving said instructions.

The Jury found a verdict for the defendant.
The plaintiff entered a motion for a new trial for the following reasons,

Reasons for
new trial }

1st Because the verdict was against law
and evidence.

2. Because the Court refused Plaintiffs
instructions as asked & gave defendants.

3. Because the Court refused to exclude
the defendants evidence from the Jury.

The Court over-ruled said motion and gave judg-
ment for the defendant upon the verdict and the
Plaintiff then and there excepted to the opinion & to
judgment of the Court as aforesaid & requested the
Court to seal this bill of exceptions, which is done.
March 20th 1854. Anslow Peters Seal

And afterwards on the 21st day of March A.D. 1854 the
defendant filed his appeal bond in the words & figures following, to wit,

Appeal Bond = I know all Men by these presents that we James
Jackson and John Elting Jun. are held and firmly
bound unto William Humming in the penal sum of
two thousand dollars lawful money of the United States
to which payment well and truly to be made and done,
we do bind ourselves, our heirs, executors and administra-
tors jointly and severally by these presents, Witness our
hands and seals this 20th March A. D. 1854.

The condition of this obligation is this, whereas at
the present March Term of the Peoria County Circuit

Court U. S. 1854, in a certain action of ejectment
pending in said court, wherein the said James Jack-
son was plaintiff and said William Cummings was
defendant a judgment was rendered in said court
against the said plaintiff from which judgment
the said James Jackson has taken an appeal
to the Supreme Court of the State of Illinois -
Now if the said James Jackson shall duly
prosecute his appeal, and shall pay the judg-
ment, costs, interest and damages in case the
judgment of the Circuit Court shall be affirmed
in the Supreme Court, then this obligation shall
be void, otherwise in force.

James Jackson 
J. Elting 

State of Illinois
County of Proia } I Jacob Gale clerk of the Circuit
Court of said County of Proia do hereby certify, that the
foregoing is a full and correct transcript of the
Record and proceedings in a certain cause in said
Court wherein James Jackson is plaintiff and William
Cummings is defendant as the same remains of
Record and on file in my office.

In witness whereof I hereunto set
my hand and affix the seal of said
Court at Proia this third day of
June A.D. 1854 -

Jacob Gale. Clerk.

James Jackson appellant } Appeal from
 vs } Poria
 William Cummings appellee }

And now comes the said Appellant says
 that in the Record and proceedings and
 in the rendition of the Judgment aforesaid
 there is manifest Error in this to wit

- 1st The Court Erred in admitting the Judgment
for taxes in Evidence
2. The Court Erred in admitting the pre-
cept and Sheriff's deed offered by defendant
in Evidence
- 3 The Court Erred in refusing to exclude the
defendants evidence from the Jury
- 4 In refusing the instructions asked by
Plaintiff and giving the one asked by defendant
- 5 In Overruling the Plaintiffs motion for a new
trial & giving Judgment for defendant

For these and other manifest errors said Appellant
 prays that said Judgment may be reversed
 set aside and wholly for nothing esteemed

Done 1st 1854.

M. E. Purple
 Appellants atty

"In nulla est erratum"
 Having. for debt.

37
James Jackson
vs.
William Cummings
Record & errors.

Filed June 12th 1854.
S. Leland Clk.
By P.R. Leland Depy.

~~37~~ 37

James Jackson

Wm Cummings

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