

STATE OF ILLINOIS, } THIRD GRAND DIVISION,
SUPREME COURT. } APRIL TERM, A. D. 1859.

JAMES M. SHACKELFORD

vs.

SAMUEL P. BAILY.

Appeal from Tazewell.

Abstract of Record.

Record page 2 This was an action of ejectment brought by Shackelford against Baily, to recover the southeast quarter of the southeast quarter of section two, town twenty-four, range five west of third principal meridian.

Shackelford introduced a patent from the government to him for the land in question, and then proved that Baily, at the time of the commencement of this suit, was in the possession of the above land.

Page 3 Defendant then introduced a deed from R. W. Briggs, Sheriff of Tazewell county, which recited that, at the September term, 1843, of the Tazewell Circuit Court, the State of Illinois recovered a judgment against the land in question, for taxes, interest and costs for the year 1842; and whereas, on the 18th day of September, 1843, the sheriff, by virtue of a precept to him directed, exposed the same to sale in conformity with the statute; and that at the time of sale, M. Tackaberry bid the sum of one dollar and sixteen cents for seven (7) acres; which being the least quantity bid for, the same was struck off to him; and that Tackaberry having assigned his certificate to Baily, the deed is made to Baily.

Page 6 To the introduction of which the plaintiff objected, for the reason that there was no date, no judgment and precept to support the deed, and no sufficient description of the land; all of which objections were overruled, and the deed admitted, and exceptions taken.

Second Tax Deed, page 7. The defendant then introduced another deed from the sheriff for taxes, which recites a judgment at the September term, 1844, against the land in question, and described the land as thirty-four (34) acres of the land above described. To the introduction of which the plaintiff at the time objected, for the reason that there was no sufficient description of the land in question, no date to the deed, and no judgment and precept; all of which objections were overruled, and exceptions taken.

Tax Receipts, page 6. The defendant then introduced tax receipts, and proved the payment of the taxes on the land in question for the years 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, and 1857; also tax receipts for the year 1843, taxes paid by M. Tackaberry, assignor of Baily.

Record, page 10. The plaintiff then proved that there was no regular judgment entered against the land in question for any year for taxes; that the land in question was sold in 1848, for taxes of 1847.

Page 10. And then proved by the county clerk, that there were no certified lists of assessments of 1842 or 1843; that there were books in his office labeled "Assessors' Lists," but none of them were certified to be such.

Record page 11. The plaintiff then proved by R. W. Ireland, that the labels were put on the books for the convenience of the clerks in 1847. Alexander B. Davis was the assessor for

the year 1843; that there was no record of the return of the assessment for that year in any place.

The plaintiff then proved that Baily had been a practicing lawyer since 1837.

Page 12.

The court then gave the following instruction for the defendant:

Instructions.
Page 12.

"The date of the patent is no evidence of the time the land was entered;" which was excepted to.

The jury found a verdict for defendant.

Motion for
new trial.
Overruled,
Page 12.

The plaintiff moved for a new trial, Because the verdict was against the evidence; Because the Sheriff's Deeds were improperly admitted. The court gave improper instructions; which motion was overruled, and excepted to.

B. S. PRETTYMAN and JAMES ROBERTS, for Appellants.

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Shackelford

no

Bail Abstract

Filed May 5. 1889
L. Lincoln
Clerk