

No. 12860

Supreme Court of Illinois

Morrison et al

vs.

City of Chicago

71641  7

99 - 157

C. Morrison & others

vs

The City of Chicago

99

1859

12860

Rebursed

1859

437
257
117

United States of America }
State of Illinois }
County of Cook } P

Pleas before the Honorable
John M. Wilson, Judge of the Cook County Court
of Common Pleas, within and for the County
of Cook and State aforesaid, at a Special Term
of the Cook County Court of Common Pleas, begun
and held at the Court House in the City of
Chicago, aforesaid County, in pursuance of an
Order of the Judge thereof, and to public notice
given in accordance with the Statute in
such case made and provided. On the
first Tuesday, being the Eighth day of
June in the year of our Lord, one thousand and
Eight hundred and fifty Eight, and of the
Independence of the United States the Eighth
second.

Present the Honorable John M. Wilson Judge.
Leahor Haven, Prosecuting
Attorney of Cook County.
John H. Wilson, Sheriff of
Cook County.

Attest.

Walter Kimball Clerk

Be it remembered that heretofore, to wit, on
the twenty seventh day of January in the year of
our Lord, one thousand eight hundred and fifty
eight, Joseph M. Hendricks, City Collector of the
City of Chicago, reported and filed with the Clerk
of this Court, a list of lands, lots and parcels of land
and other Real Estate situated in the City of Chicago,
aforesaid on which taxes remained due and
unpaid for the year therein set forth, and that
attached thereto was a Certificate signed by
Scrpps Bros & Spears, by Spears of the due pub-
lication, as required by law, of the making and
delivering of the warrant for the collection of said
taxes to the said Joseph M. Hendricks, City
Collector, as aforesaid, And that attached
thereto was a certificate signed by Scrpps
Bros and Spears, ^{by Spears} of the publication in
the Daily Democratic Press of the notice
of the intended application of a Judgment
against said lands and other Real
Estate, as required by the law of this
State, appeared February the fourteenth,
in the year of our Lord, Eight hundred and
fifty seven which Report is in the words and

3

figures following to wit

Of the January Term of the Cook
County Court of Common Pleas. in the
year of our Lord. one thousand Eight
hundred and fifty eight

To the Hon John Mc Wilson
Judge of Cook Co Ct of
Com Pleas

The Report of Joseph A Hen-
dricks City Collector, of the City of Chicago
respectfully represents, that the Special
Warrants mentioned in the schedule
hereunto attached issued for the coll-
ection of the Special Assessments and
taxes authorized by law for the purpo-
se therein severally set forth made out
in the manner required by law, and
countersigned by the City Comptroller
were delivered to him the said City
Collector on or before the second Tuesday
of October A D 1857. That forthwith
after the delivery of the said warrants
to him he published a notice in the
Daily Democratic Press, the Corporation
Newspaper of said City, that such
warrants were in his hands for collec-
tion, briefly describing the nature of each
of said warrants, and requesting all

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persons forthwith to make payment thereof, at his office at, and that in default of such payment the said taxes and assessments would be collected at the cost and expence of the persons liable to the payment of such taxes and assessments, which said notice were severally published for thirty days in said Corporation Newspaper.

That he has given ten days notice of his intended application to this Court for judgment against the lands lots and parcels of land for the amount of taxes assessments, interest and costs respectively due thereon, before the first day of ^{July} January Special term of this Court A.D. 1855 briefly specifying the nature of the said warrants upon which said application was to be made and requesting all persons interested therein to attend at such term, a copy of which said notice is herewith filed together with a certificate of the due publication of said notice from Spear, one of the publishers of the Chicago Daily Democratic Press the newspaper in which said notice was published. That the annexed schedule is a

5

correct list of the lands, lots and parcels
of land together with the amount
of taxes and assessments interest
and costs respectively due thereon
as set forth in the said warrants
which remain unpaid

Jas W Hendricks
City Collector

Macadamizing Canal Street
Van Buren Street to Old Street

6
Document No. In Common Council May the 11th 1857.

"Also by the same Committee, the following orders.

"Ordered - That Canal Street from Van Buren Street to Old Street be filled graded and Macadamized in accordance with estimate and specifications of the City Superintendent herewith submitted.

Ordered - That the sum of Twenty Thousand Eight Hundred and fourteen dollars be assessed upon the Real Estate in the West Division of the City of Chicago, deemed benefitted by the said improvements and that the Common Council do elect by ballot three respectable and disinterested freeholders of the City of Chicago to make such assessment.

The orders were passed and the Council proceeded to the election of Commissioners thereunder -

On the first ballot J. H. Kneiss J. C. Haines and H. Whitbeck received each 13 votes and were declared elected -

Attest H. Kneissmann City Clerk.

In Common Council May 18th 1857.

H. Whitbeck and J. C. Haines declined serving as Commissioners for Macadamizing Canal Street - accepted and a new Election ordered to fill the vacancy - On the first ballot Ruben Taylor and E. J. Chapin received each 14 votes and were declared elected.

Attest H. Kneissmann City Clerk.

In Common Council May 25. 1857. Alderman Carter gave notice that E. J. Chapin declined serving as Commissioner for Macadamizing Canal Street - accepted and a new Election ordered - On the first ballot A. F. Throop rec^d 15 votes and was declared elected -

Attest H. Kneissmann City Clerk.

OATH OF COMMISSIONERS.

STATE OF ILLINOIS, }
CITY OF CHICAGO, }

WE, the undersigned, Commissioners appointed by the Common Council of the City of Chicago, to assess the sum of Twenty Thousand Eight hundred and fourteen Dollars upon the real estate by us deemed benefitted by

Macadamizing Canal Street from Van Buren Street to Old Street in accordance with the above order -

in proportion to the benefits resulting thereto as nearly as may be, do solemnly swear that we will faithfully and impartially execute our duty according to the best of our ability.

Sworn to and subscribed before me, the
30 day of May 1857

H. Kneissmann
City Clerk.

21220-47

J. H. Kneiss

Ruben Taylor

A. F. Throop

Commissioners.

Macadamizing Canal Street
Van Buren Street to Old Street

6
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H. Kneissmann

City Clerk.

21220-47

J. H. Kneiss

Ruben Taylor

Amos J. Throop

Commissioners.

The People of the State of Illinois to the Collector of the City of Chicago,

GREETING:

WHEREAS the common council of the city of Chicago did on the *fifth* day of *October* 185 *7* confirm the assessment duly made and filed in the clerk's office, by the commissioners appointed by the said common council to assess the sum of *Twenty Thousand Eight Hundred and fourteen* dollars upon the real estate in the *West* Division of said city deemed benefitted by *Macadamizing Canal Street from Van Buren Street to Old Street.*

8
in proportion to the benefits resulting thereto, in pursuance of an order for said assessment, made by the said common council on the *Eleventh* day of *May* 185 *7* after duly revising *_____* the same, and did thereby assess the said sum of money upon the real estate described in the roll of said assessment, in the respective proportions thereof marked "Assessment," set opposite to each lot, part of lot, and real estate described in said roll; which roll is in the words and figures following, to wit:

Assessment Roll.

A description of the real estate in the *West* Division of the city of Chicago, deemed benefitted by the *Macadamizing Canal Street from Van Buren Street to Old Street.*

with the valuation thereof, and the sums of money severally assessed thereon for benefits, by the commissioners, to wit:

The People of the State of Illinois to the Collector of the City of Chicago,

GREETING:

WHEREAS the common council of the city of Chicago did on the *fifth* day of *October* 185 *7* confirm the assessment duly made and filed in the clerk's office, by the commissioners appointed by the said common council to assess the sum of *Twenty Thousand Eight Hundred and fourteen* dollars upon the real estate in the *West* Division of said city deemed benefitted by *Macadamizing Canal Street from Van Buren Street to Old Street.*

8
in proportion to the benefits resulting thereto, in pursuance of an order for said assessment, made by the said common council on the *Eleventh* day of *May* 185 *7* after duly revising *_____* the same, and did thereby assess the said sum of money upon the real estate described in the roll of said assessment, in the respective proportions thereof marked "Assessment," set opposite to each lot, part of lot, and real estate described in said roll; which roll is in the words and figures following, to wit:

Assessment Roll.

A description of the real estate in the *West* Division of the city of Chicago, deemed benefitted by the *Macadamizing Canal Street from Van Buren Street to Old Street.*

with the valuation thereof, and the sums of money severally assessed thereon for benefits, by the commissioners, to wit:

9

It is agreed that the property and names of
Owners set forth in the assessment Roll is correct
and that the same shall be used as the particularly
set forth in this Warrant.

17/11

Now, therefore, you are hereby commanded to levy, make and collect of the goods and chattels of the respective owners of the real estate above described, the several sums of money assessed thereon, for which each may be liable as aforesaid, and hereof make due return in what manner you shall execute this writ, within thirty days from the date hereof.

10
WITNESS *John Wentworth* Mayor of the
city of Chicago, and the corporate seal thereof, this
teenth day of *October* 1857.

John Wentworth Mayor.
ATTEST, *H. Huismann*. City Clerk.

Saml. D. Ward

STATE OF ILLINOIS, }
CITY OF CHICAGO. }
Collector's Return. *Comptroller*.
City Collector's Office, 185 .

The undersigned, Collector of the city of Chicago, makes return to the common council of the within and foregoing warrant, that he has collected the assessments on all the real estate described in said warrant opposite to which in the appropriate column the word "Paid" is written, that a demand of payment has been made of the several other assessments not marked "Paid," in every case, of the persons mentioned in said warrant as liable to the payment thereof, and that he has not been able to find any personal property belonging to any of them subject to the payment thereof.

He therefore returns the said warrant unsatisfied as to all assessments not marked "Paid" on the face of the said warrant.

City Collector.

A DESCRIPTION of the real estate in the West. Division of the City of Chicago, deemed benefitted by macadamizing Canal Street from VanBuren Street to

12 Old Street -

with the valuation thereof, and the sums of money severally assessed thereon for benefits, by the Commissioners,

to wit:

School Section Addition.

NAME OF OWNER.	PART OF LOT OF LAND.	S. LOT.	LOT.	BLOCK.	VALUATN.	ASSESS'T.
E. Morrison			1	53	3000	76 92
Jas. Quager			2	"	2500	47 73
Jas. Mahan			3	"	2500	34 71
"			4	"	2500	34 71
J. Corney			5	"	2500	34 71
John Glochlin			6	"	2500	34 71
P. Ohise			7	"	2500	34 71
"			8	"	2500	34 71
W. Stewart			9	"	2500	34 71
Henry Tracy			10	"	2500	34 71
David Turnan			11	"	2500	34 71
O. Oshewinsky			12	"	2500	34 71
W. G. Brary			13	"	2500	34 71
"			14	"	2500	34 71
John Escubier			15	"	2500	34 71
J. Peacock			16	"	2500	34 71
"			17	"	2500	34 71
"			18	"	2500	34 71
J. E. McGin			2	54	4000	78 90
James Quindlan			3	"	4000	78 90
"			6	"	4000	78 90
Let. of W. L. Dehovan			7	"	4000	78 90
W. Ward			10	"	4000	78 90
"			11	"	4000	78 90
J. E. McGin			14	"	4500	91 92
Clark Thraught			15	"	5000	117 95
C. S. Hurstman				55	15000	389 28
W. S. Johnston Jr.			1	55	3000	57 33
"			2	"	3000	63 11
"			3	"	3000	63 11
"			4	"	3000	63 11
"			5	"	3000	63 11
J. A. Sprague			1	56	2500	43 93
Joseph Jacques			2	"	2500	43 93
S. N. Havens			3	"	2500	53 79
Jas. Young			4	"	2500	73 52
F. N. Kella			23	"	2500	72 33

13

NAME OF OWNER.	PART OF LOT OF LAND.	S. LOT.	LOT.	BLOCK.	VALUATN.	ASSEST.
<i>Wm Metzger</i>			24	56	2500	52 61
<i>to Milbauer</i>			25	"	2500	42 74
"			26	"	2500	52 99
<i>John Gaviechi</i>			32	"	2500	55 36
<i>Fred Schock</i>			33	"	2500	45 10
<i>Louis Eschepur</i>			34	"	2500	52 99
<i>G F Lubanab</i>			35	"	2500	68 77
<i>Lot of J. E. Higgins</i>			6	57	2500	27 50
<i>J Frink</i>			"	"	2500	23 80
<i>Lot of J E Higgins</i>			7	"	3000	82 50
<i>J Frink</i>			"	"	3000	71 41
<i>W. McGinn</i>			8	"	2500	27 45
<i>J E McGin</i>			"	"	3000	82 36
<i>W McGin</i>			9	"	2500	16 47
<i>J E McGin</i>			"	"	3000	49 42
<i>Geo Buchanan</i>			20	"	3000	43 61
"			21	"	5000	130 85
<i>H Glasgow</i>		1	58	58	2500	45 09
<i>H Wilson</i>		2	"	"	2500	43 11
"		3	"	"	2500	42 13
"		4	"	"	2500	40 16
"		5	"	"	2500	35 23
		8	"	"	6000	151 09
		9	"	"	4000	50 36
<i>S B & M O Walker</i>		1	59	59	2500	35 48
"		2	"	"	2500	42 87
"		3	"	"	2500	45 83
"		4	"	"	2500	47 31
"		5	"	"	2500	35 49
<i>Chs. Walker</i>		6	59	59	4000	107 57
<i>J. S. Buchanan</i>		"	"	"	3500	33 26
<i>J H Widge</i>		"	"	"	3500	709 61
<i>Chs Walker</i>		8	"	"	6000	153 03
"		9	"	"	4000	51 01
<i>Wm St Brown</i>		20	"	"	4000	51 01
"		21	"	"	6000	153 03
<i>David Gibson</i>		7	60	60	4000	59 32
"		8	"	"	6000	177 97
"		9	"	"	6000	174 09
"		10	"	"	4000	53 03
"		23	"	"	4000	60 36
"		24	"	"	6500	131 08
<i>C B Farwell +</i>		1	61	61	6500	193 31
"		2	"	"	4500	64 81

NAME OF OWNER.

PART OF LOT OR LAND.

S. LOT. LOT. BL'K. VAL'T'N. ASSESSM'T.

14 Andrew Austin		15	1/2	4500	61 16
"		16	"	6500	183 49
P. Dean		17	"	6500	186 93
Z. C. Foot		18	"	4500	62 31
A. Moore	N 1/2	1	1/2	3500	89 13
Hugh Monaghan	S 1/2	"	"	3500	69 13
A. Morse	N 1/2	2	"	2500	29 70
Hugh Monaghan	S 1/2	"	"	2500	23 05
Chas. Walker		15	"	3000	52 76
"		16	"	5500	158 26
Wm. Jones		17	"	5500	160 32
Mark Skinner		18	"	3000	53 44
John Burden		12	1/3	2500	35 17
"		13	"	2500	41 80
"		14	"	2500	43 84
"		15	"	2500	44 85
"		16	"	2500	46 89
"		17	"	2500	56 06
"		18	"	2500	46 38
"		19	"	2500	45 37
"		20	"	2500	43 33
"		21	"	2500	38 23
"		22	"	2500	45 88
"		23	"	2500	48 94
"		24	"	2500	50 46
"		25	"	2500	53 52
W. E. Parsons		1	1/4	5000	136 24
"		2	"	4000	45 42
A. B. Munkin		15	"	4000	53 07
"		16	"	6000	159 21
"		17	"	6000	158 26
"		18	"	4000	52 75
Wm. H. Brown	Area 1/4	1	1/5	2000	41 81
Chas. Walker	" 1/4	"	"	6000	125 44
Wm. H. Brown	" 1/4	2	"	1500	13 94
Chas. Walker	" 1/4	"	"	4500	41 82
W. B. Stewart	N 3/4 ft.	334 34	"	3000	78 05
J. D. Young	40 ft. S. 40 ft. N 3/4 ft.	"	"	3000	74 34
Wm. Owen	S 40 ft.	"	"	3000	69 53
Isaac Shelby		35	"	6000	167 26
"		36	"	4000	55 76
F. Detrick	N 1/2	1	1/2	5000	100 05
W. Ward	S 1/2	"	"	4000	80 34
F. Detrick	N 1/2	2	"	4000	33 35

M Ward
B B Wilcox

S 1/2

2 66 2500 26 78

31 " 3000 53 76

32 " 6000 161 29

33 " 6000 167 26

34 " 4000 55 76

St Wayne RR C'y.

11 67 2500 31 85

12 " 2500 31 85

13 " 2500 31 85

14 " 2500 44 99

15 " 2500 72 86

16 " 2500 71 26

17 " 2500 44 99

18 " 2500 31 85

19 " 2500 31 85

20 " 2500 31 85

21 " 2500 31 85

22 " 2500 31 85

23 " 2500 31 85

24 " 2500 31 85

25 " 2500 52 95

26 " 2500 79 23

St Wayne RR C'y.

Int. p. 54 S 1/2 SW of Charles st

68 9000 212 37

9 27 2500 53 03

10 " 2500 53 03

11 " 2500 53 03

12 " 2500 53 03

13 " 2500 53 03

14 " 2500 53 03

15 " 2500 66 17

16 " 3500 92 45

Thainards Evans Addition -

High Vinagie

10 1 2500 56 58

11 " 2500 59 33

12 " 2500 57 64

13 " 2500 54 28

14 " 2500 53 52

15 " 2500 56 57

16 " 2500 58 10

17 " 2500 55 05

43 F Baperette

1 2 2500 51 74

2 " 2500 45 83

3 " 2500 44 35

4 " 2500 41 39

5 " 2500 34 00

B. F. Barrett.

6 2 2500 34 00

17

"

7 " 2500 41 39

"

8 " 2500 44 35

"

9 " 2500 45 83

Dart Mainard

10 " 2500 50 86

"

1 5 2500 53 22

"

2 " 2500 56 18

"

3 " 2500 57 66

Rich Tremain

4 " 2500 63 57

Dart Mainard

110 ft. on canal ft. by 120 ft. on front ft.

" 11000 280 94

"

10 6 2500 55 05

"

11 " 2500 58 10

"

12 " 2500 56 58

"

13 " 2500 53 52

"

14 " 2500 53 52

"

15 " 2500 56 57

"

16 " 2500 58 10

"

17 " 2500 55 05

"

10 7 2500 55 05

"

11 " 2500 58 10

"

12 " 2500 56 58

"

13 " 2500 53 52

"

14 " 2500 52 28

"

15 " 2500 57 64

"

16 " 2500 59 33

P. Brumman

17 " 2500 56 58

Dart Brumman

1 8 2500 53 22

M. Walph

2 " 2500 56 19

Dart Brumman

3 " 2500 54 71

"

4 " 2500 51 75

"

5 " 2500 52 49

"

6 " 2500 55 74

"

7 " 2500 57 37

"

8 " 2500 60 62

Canal Trustees Subdivision of S.W. 74 and
so much of S.E. 74 of S. 21. T. 39 R. 14, as lies W
of Chicago River.

G. W. Purney

1 43 20000 555 06

"

2 " 20000 555 06

J. F. Irwin

1 44 20000 536 76

Artemus Carter

1 4 " 2500 29 57

"

2 " " 2500 35 48

"

3 " " 2500 35 48

"

4 " " 2500 35 48

Lancaster

5 " " 2500 35 48

6	4	44	2500	35 48
7	"	"	2500	35 48
8	"	"	2500	35 48
9	"	"	2500	35 48
10	"	"	3000	87 21
11	"	"	2500	33 25
12	"	"	2500	30 00
13	"	"	2500	28 38
14	"	"	2500	25 12
15	"	"	2500	21 50
16	"	"	2500	18 50
17	"	"	2500	15 50
18	"	"	2500	12 50

18
Canal Trustees Subdivision of N. W 74 S. 21 T 39 R 14.

1	1	49	2500	50 26
2	"	"	2500	49 97
3	"	"	2500	48 37
4	"	"	2500	48 78
5	"	"	2500	42 13
6	"	"	2500	42 87
7	"	"	2500	44 35
14	"	"	12500	277 99
5	50	"	12500	337 93
20	47, 48, 49, 50	"	2500	46 64
21	"	"	2500	45 87
22	"	"	2500	42 05
23	"	"	2500	46 64
24	"	"	2500	50 00
25	"	"	2500	51 69
26	"	"	2500	55 05
5	51	"	12500	337 93
6	"	"	12500	337 92
1	12, 13, 14	52	2500	56 19
2	"	"	2500	49 98
3	"	"	2500	48 35
4	"	"	2500	48 78
5	"	"	2500	42 13
6	"	"	2500	42 87
7	"	"	2500	44 35
16	"	"	2500	44 35
17	"	"	2500	42 87
18	"	"	2500	42 13
19	"	"	2500	48 78
20	"	"	2500	48 35

Mich Kehoe +

Chic: St. Paul & M. & A. R. R. Co.

J. J. Simonds

"

"

"

Henry Farwell

Joseph Haeger

Wm Melzer

"

"

Wm McCarthy

"

Canal Trustees Subdivision of NW 74 S2 T39 R14.

Wm M. Carthy
John Rush

21 12 13 14 52 2500 49 98

22 " " 2500 52 12

1 59 12500 326 78

1 14 59 2500 41 99

2 " " 2500 42 87

3 " " 2500 42 13

4 " " 2500 48 79

5 " " 2500 48 35

6 " " 2500 49 98

7 " " 2500 53 22

1 5 60 2500 53 53

2 " " 2500 50 47

3 " " 2500 48 94

4 " " 2500 45 89

5 " " 2500 42 06

6 " " 2500 45 88

7 " " 2500 46 65

6 " 12500 337 97

5 61 12500 337 98

1 6 " 2500 53 53

2 " " 2500 50 47

3 " " 2500 48 94

4 " " 2500 45 89

5 " " 2500 42 06

6 " " 2500 45 88

7 " " 2500 46 65

1 1 62 2500 48 79

2 " " 2500 49 97

3 " " 2500 48 34

4 " " 2500 48 79

5 " " 2500 42 13

6 " " 2500 42 87

7 " " 2500 42 87

1 14 62 2500 41 39

2 " " 2500 42 87

3 " " 2500 42 14

4 " " 2500 48 79

5 " " 2500 48 35

6 " " 2500 49 97

7 " " 2500 53 22

420814 00

Charles Gillis

"

"

"

"

"

E. McGraw

Friedrich Oberhart

Friedrich Leib

C. Kinnega

"

J. Blowny

The undersigned, freeholders and residents of the City of Chicago, duly elected and appointed by the Common Council of said City, to assess the sum of *Twenty — Thousand Eight hundred & fourteen* Dollars, upon the real estate in the *West*. Division of said City, by us deemed benefitted, in proportion as nearly as may be to the benefits resulting thereto, by reason of

Macadamizing Canal Street from Van Buren Street

to La Street.

do hereby report and return to the Common Council:

That in pursuance of said appointment, they were duly qualified before entering upon their duties, as appears by the oath recorded herein—that they published a notice of the time and place of their meeting, for the purpose of making said assessment in the *Democratic press* — the Corporation Newspaper, for the period of six consecutive days previous to such meeting—a certificate of which publication is hereunto attached; that they were present at the time and place, and for the purpose designated in said notice, and having first fixed a valuation on the real estate described and set forth in the proper column of the foregoing Assessment Roll, we did, then and there, and do hereby, in pursuance of said appointment, assess the said sum of money upon the real estate hereinbefore set forth and described, as the only real estate benefitted by said improvement, and that the benefits resulting thereto, is the proportion of said sum, set opposite to each lot, part of lot and land respectively in said Assessment Roll.

And we further report that such assessment does not exceed three per centum per annum on the property assessed.

All of which is respectively submitted.

John H. Krizie
Ruben Taylor
Amos G. Throop

Commissioners.

CHICAGO,

July

the

18

1857.

This Certifies that the appended Notice

has been published in the *Democratic press* the Corporation Newspaper of the City of Chicago, County of Cook, and State of Illinois, six days consecutively, commencing with *June 9th* 1857.

CHICAGO,

June 15 1857.
Scupper Bros & Co

Publishers.

21

Notice.

Commissioners Notice - Public Notice is given to all persons interested that the undersigned Commissioners appointed by the Common Council of the City of Chicago to assess the sum of Twenty Thousand Eight Hundred and fourteen dollars (\$20,814) upon the Real Estate in the West Division by them deemed benefitted by filling, grading and Macadamizing Canal Street from Van Buren Street to Old Street, will be at room #4 in the Merchants Exchange Building, North West corner of Lake and Wells Street on the fifteenth day of June 1857. at the hour of 10 o'clock A.M. for the purpose of making such Assessment -

John H. Kruger

Ruben Taylor

A. G. Throop

Commissioners

Chicago June 8th 1857.

I do Hereby Certify, that the foregoing Assessment Roll was returned to me
and filed in my office by the Commissioners, this 22nd day of July 1857

W. Weissmann CITY CLERK.

This Certifies that the appended Notice

has been published in the Daily Democratic Press the Corporation
Newspaper of the City of Chicago, County of Cook, and State of Illinois, ten days consecu-
tively, commencing with July 23^d 1857.

CHICAGO, October 3rd 1857.

Scrapps Bros & Spears PUBLISHERS.

ORDER OF CONFIRMATION.

IN COMMON COUNCIL, October the 9th 1857.

Whereas due notice has been given by the City Clerk, of the return of the foregoing Assessment Roll, and
objections thereto having been filed and well ruled
it is therefore ORDERED, that the said Assessment as revised and corrected by the Common
Council, be, and the same is hereby CONFIRMED. It is further ordered that a warrant be issued for the collection thereof, re-
turnable in thirty days after its date.

PASSED:

W. Weissmann CITY CLERK.

MEM. Warrant issued Oct. the 9th 1857.

Notice above referred to

*Assessment Notice City Clerks Office
Chicago July 22^d 1857.*

*Public Notice is hereby given to all persons interested
that the Commissioners appointed by the Common Council of the
City of Chicago to assess the sum of Twenty Thousand Eight
hundred and fourteen dollars upon the Real Estate in the West
Division of said City deemed benefited by Macadamizing
Cass Street from Van Buren Street to Old Street*

*Any persons wishing to appeal from said Assessment
must file their objections in writing in my Office on or
before Monday the 3^d day of August 1857 at 7 P.M. as the
Common Council will at that time in the said Council Room
hear all objections to said Assessment and revise and confirm
or annul the same*

W. Weissmann City Clerk.

Corporation Notices

23

City Collectors Notice- Public Notice is hereby given that I shall apply to the Cook County Court of Common Pleas, on the first day of a special Term thereof to be holden at the Court House, in the City of Chicago, on the 27th day of January A.D. 1858, for judgment against all blocks, lots, sublots, pieces and parcels of land, together with the improvements, if any, situated thereon, for all taxes, assessments, interest and costs thereon, remaining unpaid, as appears from the following described warrants now in my hands for collection.

The warrants for the collection of taxes for general and Special purposes, assessed for the municipal year 1857, said warrant being dated October 1. 1858

West Division

Special Warrant No. 306, west, dated October 5, 1857, for macadamizing Canal Street from Van Buren to Old Street.

All persons therein interested, are requested to attend at said term.

Jos. H. Hendricks, City Collector
Room No. 13, Court House, up stairs,

24

This certifies that the appended Notice of the intended application of the City Collector for judgment &c. has been published in the "Daily Democratic Press," the Corporation Newspaper of the City of Chicago, County of Cook and State of Illinois, ten days consecutively commencing with January Sixteenth 1885.

Chicago January 27th 1885.

Scipps, Bros & Spear Publs.

25 And afterwards, to wit, on the twenty eighth
day of January, in the year of our Lord, one
thousand eight hundred and fifty eight, came
Samuel Brainard and others, by Beckwith
and Merrick their attorneys, and filed
in the office of the Court of
Common Pleas, their objections, in the words
and figures following, to wit -

City of Chicago Cook County
 vs. Court of Common Pleas.
 John Doe et al

Application for a judgment upon
 Special Warrant N^o 306. issued Oct. 9th
 1857. for Macadamizing Canal Street
 from Van Buren Street to Old Street.

26

And now comes Daniel Brainard, S.
 Morrison and James Grainger and say that judgment
 ought not to be rendered against the following
 lots mentioned in said assessment, to wit, in Block
 53. School Section addition to Chicago, lots 1 & 2
 and Blocks 5, 6, 7 & 8. in Brainard and Evans
 additions - for the following reasons -

- 1st That the amount levied and assessed is greater
 than the cost of the work authorized to be done by said Order.
- 2^d That the assessment made is unequal between
 the parties assessed and not in relative proportion to
 amount of benefit to them respectively, from said
 improvement. -
- 3^d That the valuation of the property assessed
 is estimated by the Commissioners in making said
 assessment greatly beyond its real value.
- 4th That the amount of benefit assessed on
 the property of these Defendants is much greater
 than upon adjoining property appraised by the
 Commissioners under such Order, at the same
 amount as the property of these Defendants, and

42

in any way similarly situated and equally benefitted by said improvement -

5th

That said Assessment was informally made and is otherwise unequal unjust and oppressive and that the same was unnecessary.

6th

That the work done upon said Street is so defectively executed as to render the same of little or no Benefit to the Owners of property adjoining so assessed -

7th

That the Stone used upon said Street has not been so broken as to make the same a macadamized road; but on the contrary, the greater part of the Stone used has been thrown upon the Street as the same came up from the Quarry.

8th

The work done upon said Street does not exceed one foot in depth and twenty two feet and a half in width, causing a heavy loss on each lineal foot, the estimate calls for.

9th

That the work done does not correspond with the Specification drawn by the City Superintendent.

10th

That the City Council were not authorised to assess for certain purposes set forth in the estimate of the Superintendent, and on account of which certain amounts were computed and assessed for, in said assessment, to wit, for Engineering or Superintending, the sum of \$75⁰⁰ was computed in the sum to be assessed for

For collecting the sum of \$150⁰⁰

For assessing the sum of 75⁰⁰

Whereas the duties of Engineering, Superintending collecting and a portion of the assessing appertain ^{Certain} to, and are to be performed exclusively by salaried

28 Officers.
11th

That the work upon said Sheet is not done in accordance with the specifications set out in the estimate of the Superintendent, and then Defendants represent that the following is the estimate of said Superintendent.

Distance to be improved 7300 feet linearly	
requiring 1520 Cordas Stone at \$12 ⁰⁰	\$18.240 ⁰⁰
Engineering & Superintending	75 ⁰⁰
7240 Yds	2.258 ⁰⁰
Printing	16 ⁰⁰
Collecting	150 ⁰⁰
Assessing	75 ⁰⁰
	\$20.814 ⁰⁰

And then Defendants say that omitting from said calculations, Sums which the City Council were unauthorized to assess - and deducting for work not done and materials not used, the Estimate will be as follows.

Filling not put in	\$2.258 ⁰⁰
Collecting Superintending	270 ⁰⁰
313 Cordas Stone less.	3764 ⁰⁰

The difference in cost of doing the present work and the kind estimated for

\$1.50 Pload for 1520 Cordas.	2280 ⁰⁰
-------------------------------	--------------------

The Amount the Contractors receive

24

less than the amount assessed

\$ 2126.00

They receive \$ 236 for burial ft.

\$ 10.698 00

12th

The said Assessment was not delivered to the City Clerk within forty days from the appointment of the Commissioners

13th

That the notice gives no description of the lands or lots or of the amount of taxes or assessment, interest or Costs.

14th

That work was done before assessment was collected -

15th

That said Assessment upon said property assesses the same at an amount greater than three per Cent Per Annum.

Beckwith & Merrick

Atty's for ^{Depts.} Probationers

32

And after said writ, on the thirtieth day of January, in the Year aforesaid, said day still being one of the days of the January Special Term of said Court, the following among other proceedings were had and entered of Record in said Court, to wit:

The City of Chicago - }
v. }

E. Morrison & Co. } Suit for assessment
on Warrant No 306. West, dated Oct. 19. 1857
for macadamizing Canal Street from Van Buren
to Old Street.

This day come the said City by Mr. H. Miller, its Attorney, and Daniel Brainerd and others, owners of lots described in the above named warrants come and file their Objections - And the Court hearing said Objections, takes the same under advisement and continues these cases ~~the~~ next term.

31

and afterwards to wit on the twenty fourth day of June in the year aforesaid, said day being one of the days of the June Special Term of said Court the following among other proceedings were had in said Court and entered of Record to wit

The City of Chicago

E. Morrison & others

Suit for assessment on warrant No 306 West dated October 9th 1837 for macadamizing Canal Street from Van Buren Street to Old Street

And now on this twenty fourth day of June of this June Special Term comes the said City of Chicago plaintiff by Elliott Anthony her attorney and Daniel Brainerd & others having heretofore filed their objections, herein and the Court having heard said objections at the January Special Term last of this Court, and having taken the said objections under advisement and being now fully advised in

the premises overrules said objections
Therefore it is considered by the Court
432 that judgment be and is hereby entered
against the said lands, lots and parcels
of lands and other Real estate described
in the aforesaid warrant, in the cause in
the name of the City of Chicago for the
sum annexed to each lot or parcel of
land, being the amount of assessment
thereon and for costs of suit thereon
And that the said City of Chicago
have and recover the further sum of
ten percent upon the amount of as-
sessment, respectively due and
unpaid upon each, of the lots lands
parcels of land & other Real estate
therein set forth as for her legal dam-
ages

And it is further ordered by the Court
that the said several tracts and parcels
of land or so much thereof as shall
be deemed sufficient of each of them
to satisfy the amount of assessment
damages and costs annexed to
them severally be sold as the law
directs

State of Illinois }
Cook County } ss

33 Cook County Court of Common Pleas
I Walter Kimball Clerk of the Cook
County Court of Common Pleas, do hereby
certify that the foregoing is a true and
correct copy of the order and judgment
of the Court, in the case therein above
set forth, together with the proceedings
and collectors reports to the aforesaid
case hereinbefore certified to.

Seal } Witness Walter Kimball Clerk
of the Cook County Court of
Common Pleas, and the seal
of said Court this twenty fourth
day of June in the year of our
Lord one thousand eight hun-
dred and fifty eight

Walter Kimball Clerk

334

And afterward & went on the 31st day of July, in the year aforesaid, Daniel Prainard and others - by their Attorneys, filed in the office of the Clerk of said Court, their bill of Exceptions, in words and figures following, to wit;

The defendants to sustain the issue upon their
part joined, offered in evidence the estimate of the
City superintendent of public works, of the cost for
grading and macadamizing Canal street, from the
centre of Van Buren street, to the centre of Old street,
35 — which said estimate is hereto attached, as part of
this bill of exceptions, and marked (A) — The defen-
dant further to sustain their said case offered in
evidence the certificate of the City Clerk of the City of
Chicago, which is hereto attached and made
part of this Bill of exceptions and marked (B)

This was all the evidence offered in the case by
either side: The Plaintiff by its counsel then & there
objected to said evidence so offered by the Defendant.
the Court ruled the evidence so offered by said
defendants to be inadmissible and refused to
allow said defendants to read the same: For
which said ruling of the Court, said defendants
by their Counsel except, and pray the Court to sign
and seal this, their bill of exceptions

John M Wilson (Seal)

6
O.A. — To admit that the defendant offered in evidence a paper, a copy of which is hereto
annexed and marked ("A") and that the paper offered by defendant was the original of
paper on file in the clerk's office. E. Anthony City Atty.

The Supt. Public Works under a requisition from the
committee on Streets and Alleys of the West Division
submits the following as an estimate of the cost
for grading and macadamizing Canal street from
the centre of Van Buren street to the centre of Old Street
the same to be performed as follows, to wit;

Said Canal street from Van Buren to Polk
street shall be filled one and one half feet deep,
on the average, & from Polk to Old street, one foot
deep on the average, and well graded Twenty four
feet wide in centre with a crown of at least nine
inches

After graded as aforesaid, the said twenty four
feet roadway, shall be covered with stone, four
inches deep, broken so as to pass through a four
and one half ($4\frac{1}{2}$) inch ring, the first course
to be thoroughly rammed with a rammer weigh-
ing not less than fifty pounds, the second or top
course to be ten inches deep of stone broken so as
to pass through a two and one quarter ($2\frac{1}{4}$) inch
ring, laid in separate courses of five inches deep
and each course rammed as aforesaid.

Whole distance Lincoln	7.300 feet	
1520 cords stone broken & set @ \$12.		18240.00
7340 cu yds earth filling	45¢.	3258.00
Advertising		16.00
Engineering & Superintendence		75.00
Commissioners for making assessment.		75.00
Collecting		150.00

Total estimated cost

\$30.814.00

Dated Chicago May 9th 1857

At St. Paul Minn. Supt.

Per Shipman.

37

State of Illinois }
City of Chicago } ss. J. H. Kreismann Clerk
of the City of Chicago aforesaid, do hereby certify that
the foregoing is a true copy of an original document
now on file in my office.

(Seal)

Witness my hand and the
Corporate seal of said City this
Seventeenth day of July A.D. 1858.
J. H. Kreismann City Clerk

State of Illinois }
City of Chicago } ss. J. H. Kreismann Clerk
of the City of Chicago aforesaid do hereby certify
that it appears from an Assessment Roll now on
file in my office for planing Van Buren street from
Canal street to the south-west plank road, which
said assessment was confirmed on the sixth day of
July A.D. 1857. That lot 1. of Block 53 of school
section addition to Chicago was assessed in the
name of E. Morrison at a value of \$3500 and to
pay \$53.54 for said planing. That it further appears
by a warrant now on file in the office of the City Com-
ptroller of said City that said assessment has been paid.



Witness my hand and the
Corporate seal of said City of
Chicago this 17th day of July
A.D. 1858.

W. Weissmann City Clerk

It is admitted that the defendants offered in
evidence the within paper marked (B) - which
was objected to by the Plaintiff & the Court sustained
the objection. It is agreed that the paper so offered
shall have the same force and effect as the orig-
inal paper to which it refers and none other.

El Anthony.

City Atty.

R. T. Moenick

Atty. for Defdr.

The foregoing bill of exceptions is correct I believe.

El Anthony

City Atty.

State of Illinois
County of Cook } S.S.

I Walter Kimbree Clerk
of Cook County Court of Common Pleas in and
for said County, do hereby certify that the
above and foregoing is a full and true transcript
of the paper on file in my office and of the pro-
ceedings entered of Record in said Court in the
case of The City of Chicago, Plaintiff and

C. Morrison and Others Defendants, do hereby
relates to the amount under Special Warrant
Number Three hundred and six.

In testimony whereof I hereunto
subscribe my name and affix
the Seal of said Court, at the
City of Chicago in said County.
This 2nd day of August. A.D. 1858
Walter Kimball Clerk

39 And now come Jurymen Clowrey,
John Courshie, Phillip Dean, C. B. Farnwells,
Michael Kehoe, P. Brennan, R. Fierman, M.
Tanner, Michael Walsh, J. F. Irwin, George W.
Perry, & David Gibson

Defendants by their Counsel assign the
following errors in the aforesaid Cause -

1st: Indignors should have been for ~~Def't~~
and not for Plff.

2nd: The objections of Defendants should
not have been overruled.

3rd: The Court should have admitted the
evidence offered by Def't 2 set forth in
Exhibit A & B in bill of exceptions.
Respectfully submitted,
Atty for Def'ts

And the said defendant
in Error by Elliott Anthony its
attorney comes & says that there is
no error in the record & proceedings
aforesaid or in giving the judgment
aforesaid - in manner & form
as above alleged. This &c wherefore
the said defendant prays that the
said judgment may be in all
things affirmed

Elliott Anthony
att. for Deft in Error

Let a supersedeas issue restraining the
Sale of those lands which by the most recent
record appear to belong to ^{Levi H. Clowry} J. Prwin, John
Gooch, Philip Dean. to. B. Farnell ~~John~~
George W. Penny, Michael Kehoe P. Brennan
B. Farnum or Michael Moloh David
Gibson. Plaintiffs in Error Surety Bond
ten thousand dollars. Gen. as Cobb
Surety

J. D. Barton
Ch. Just.

22-10-21

Filed August 6, 1894
J. H. Lewis
Clerk

79-157
B. Brennan & others
The City of Chicago
Plaintiffs
vs
The City of Chicago
Defendants

Let a supersedeas issue restraining the
Collection of the assessments upon lots
one & two in Block fifty three in the
School Section addition to Cheaps
and also upon Blocks five, six, seven
& eight in Grainard & Evans addition
to Cheaps. Bond \$3000. J. T. Irwin
& Co. Beckwith the sureties.

Ida Con

Ch. J. Con

And now said plff in error by leave of court, assigns the
following additional errors

- 1st That said assessment roll and warrant are invalid because neither
of them show by any marks signs letters or words, the amount of the
assessment nor the assessed value of the property assessed, nor do
said judgment ^{for the like reasons} show the amounts rendered against the property.
- 2nd The ^{court} erred in continuing the case to and rendering judgment
at a time subsequent to the one at which the application
for judgment was made
- 3rd The court erred in rendering judgment for ten per cent
damages
- 4th For other errors upon the face of the record.

By the Atty)

C. B. Smith

And now comes the said defendant
by E. Anthony, its atty & says that there is no error in the
record & proceedings ^{affirmed in manner & form as above}
set forth nor in the rendition of judgment &c & prays
that said judgment be affirmed E. Anthony, Atty -
for Def -

S U P R E M E C O U R T .

APRIL TERM, 1859.

EZEKIEL MORRISON *et al.*,

vs.

THE CITY OF CHICAGO,

Error to Cook County Court of Common Pleas.

AND

RECORD.

DAVID GIBSON *et al.*,

vs.

THE CITY OF CHICAGO.

6 On the 11th day of May, 1857, the Common Council of the city of Chicago ordered that Canal street, from Van Buren street to Old street, be filled in accordance with estimate and specifications of the City Superintendent, and also ordered that \$20,814.00 be assessed upon the real estate in the west division of the city, deemed benefited by said improvements, and elected J. H. Kinzie, J. C. Haines and H. Whitbeck, three disinterested freeholders, to make such assessment. On the 18th day of May, 1857, H. Whitbeck and J. C. Haines having declined acting as commissioners, Reuben Taylor and E. I. Chapin were elected to fill the vacancies; and on the 25th day of May, 1857, E. I. Chapin having declined acting, A. G. Throop was elected to fill his place.

36 The estimate of the City Superintendent above referred to was made on the 9th day of May, 1857, under a requisition of the committee on streets and alleys of the west division, and after stating the general character of the work to be performed, states that the cost will be as follows:

Whole Distance (lineal) 7,300 feet.

1,520 cords stone broken and delivered, \$12,	-	-	\$18,240 00
7,240 cubic yards earth filling, 45c.,	-	-	2,258 00
Advertising,	-	-	16 00
Engineering and Superintendence,	-	-	75 00
Commissioners for making assessment,	-	-	75 00
Collecting,	-	-	150 00
Total estimated cost,			\$20,814 00

6 On the 30th day of May, 1857, were duly sworn to discharge their duties as commissioners.

21 On the 8th day of June, 1857, the commissioners gave notice in due form that they would attend to the duties of their appointment on the 15th day of June, 1857; 20 which notice was published in the corporation newspaper six days consecutively, commencing with June 9, 1857.

On the 18th day of July, 1857, the commissioners reported that they had assessed said sum of \$20,814.00 upon the real estate therein described, as the only real estate benefited by said improvement, and that the benefits resulting thereto were in the proportion of said sum set opposite to each lot, part of lot and land respectively in said assessment roll. They further reported that said assessment did not exceed three per cent. per annum on the property assessed. The following is a copy

RECORD.

of the assessment roll so far as the same relates to the property of the plaintiff in error:

ASSESSMENT ROLL.

A description of the real estate in the west division of the city of Chicago, deemed benefited by Macadamizing Canal street, from Van Buren street to Old street, with the valuation thereof, and of the sums of money severally assessed thereon, for benefits, by the commissioners, to wit:

School Section Addition.

Name of Owner.	Part of Lot of Land.	ot.	Lot.	Block.	Valuation.	Assessment.
E. Morrison			1	53	\$3,000	\$76.92
Jas. Granger			2	53	2,500	47.73
John Gooche			32	56	2,500	55.36
David Gibson			7	60	4,000	59.32
"			8	60	6,000	177.97
"			9	60	6,000	174.09
"			10	60	4,000	58.03
"			23	60	4,000	60.36
"			24	60	6,500	181.08
C. B. Farwell			1	61	6,500	193.81
"			2	61	4,500	64.61

Brainard and Evans' Addition.

Daniel Brainard			1	5	2,500	53.22
"			2	5	2,500	56.18
"			3	5	2,500	57.66
"			4	5	2,500	63.57
Richard Finneman	160 ft. on Canal st. by 120 ft. on Judd st.			5	11,000	280.94
Daniel Brainard			10	6	2,500	55.05
"			11	6	2,500	58.10
"			12	6	2,500	56.58
"			13	6	2,500	53.52
"			14	6	2,500	53.52
"			15	6	2,500	56.57
"			16	6	2,500	58.10
"			17	6	2,500	55.05
"			10	7	2,500	55.05
"			11	7	2,500	58.10
"			12	7	2,500	56.58
"			13	7	2,500	53.52
"			14	7	2,500	54.28
"			15	7	2,500	57.64
"			16	7	2,500	59.33
"			17	7	2,500	56.58
P. Brennan			1	8	2,500	53.22
Daniel Brainard			2	8	2,500	56.19
M. Walsh			3	8	2,500	54.71
Daniel Brainard			4	8	2,500	51.75
"			5	8	2,500	52.49
"			6	8	2,500	55.74
"			7	8	2,500	57.37
"			8	8	2,500	60.62

Canal Trustees' Subdivision of S. W. $\frac{1}{4}$, and so much of S. E. $\frac{1}{4}$ of Sec. 21, T. 39, R. 14, as lies west of Chicago River.

G. W. Penny			2	43	20,000	555.06
"			1	44	20,000	555.76
J. F. Irwin		1	4	44	2,500	29.57

Canal Trustees' Subdivision of N. W. $\frac{1}{4}$ of S. 21, T. 39, R. 14.

Michael Kehoe			14	49	125,000	277.99
J. Clowry		4	14	62	2,500	48.79
		5	14	62	2,500	48.35
		6	14	62	2,500	49.97
		7	14	62	2,500	53.22

RECORD.

The assessment roll shows that the whole assessment is less than three per cent. upon the assessed value of the whole property assessed.

22 The commissioners' assessment was returned to and filed in the city clerk's office, July 22nd, 1857. The city clerk gave notice, by publication in the corporation newspaper, to file objections to the assessment, on the 22nd of July, 1857, which notice was published ten days consecutively, commencing July 23rd, 1857. The assessment was confirmed by the Council, October 5th, 1857.

8-10 A warrant was issued to the collector in due form, October 9th, 1857. On the
2 27th day of January, 1858, the collector reported to and filed with the clerk of the Cook County Court of Common Pleas, a list of lands, lots, parcels of land, and other real estate, situated within the city of Chicago, on which said assessment remained due and unpaid, attached to which report were certificates of the publisher of the corporation newspaper, of the publication of a notice by the city collector that said warrant had come into his hands, and requiring payment of the same; and also, of a notice of his intended application for judgment, at a special term of the Cook County Court of Common Pleas, to be held on the 27th day of January, 1858. The notice
23 of the application for judgment described the warrant as follows:

WEST DIVISION.

"Special warrant No. 306, dated October 5, 1857, for macadamizing Canal street from Van Buren to Old street."

26 On the 28th day of January, 1858, Daniel Brainard, E. Morrison, and James Granger, filed their objections to the rendition of a judgment against block 57, S. S. Addition to Chicago, and blocks 5, 6, 7 and 8, in Brainard & Evans' Addition to Chicago.

Among other objections filed were the following:

1st. That the amount levied and assessed was greater than the cost of the work authorized to be done by said order.

2nd. That the assessment made was unequal between the parties assessed, and not in relative proportion to amount of benefit to them, respectively, from said improvement.

4th. That the amount of benefit assessed on the property of the objectors, was much greater than upon adjoining property, appraised by the commissioners under such order at the same amount as the property of these defendants, and in every way similarly situated and equally benefited by said improvement.

10th. That the City Council were not authorized to assess for certain purposes set forth in the estimate of the superintendent, and on account of which certain amounts were computed and assessed in said assessment; to wit, for engineering and superintending, the sum of \$75 was computed in the sum to be assessed; for collecting, the sum of \$150; for assessing, the sum of \$75; whereas, the duties of engineering, superintending, collecting, and a portion of the assessing, appertain to and are to be performed exclusively by certain salaried officers.

12th. That the assessment was not delivered to the city clerk within forty days from the appointment of the commissioners.

13th. That the notice gives no description of the lands or lots, or of the amount of taxes or assessment interest, or costs.

15th. That said assessment upon said property, assesses the same at an amount greater than three per cent. thereon.

7 On the trial, on the 28th day of January, 1858, the plaintiff offered in evidence the above warrant.

35 The defendants offered in evidence the estimate of the city superintendent above referred to, which was objected to by plaintiff, and excluded by the court. The

RECORD.

defendants also offered in evidence a certificate of the city clerk, showing that an assessment roll was then on file in his office, for planking Van Buren street from the southwest plank road, which said assessment was confirmed July 6th, 1857; that lot one of block 53, of School Section Addition to Chicago, was assessed in the name of E. Morrison at a value of \$2,500, and to pay \$53.54 for said planking, and showing that it appeared by a warrant on file in the office of the city comptroller of said city, that said assessment had been paid; which it was agreed should have the same force and effect as the original papers to which they refer, and none other.

38

30

The court, after hearing the case, took the same under advisement, and continued it until the next term. At the June term, 1858, the court rendered a judgment against the lands and lots described in the warrant, for the sum annexed to each lot and parcel of land, and for costs, and for ten per cent. thereon for damages, and ordered a sale of the property against which judgment was rendered.

Daniel Brainard, E. Morrison, and James Granger, bring the case to this court by writ of error. David Gibson, John Gooche, C. B. Farwell, R. Finneman, P. Brennan, Michael Walsh, George W. Penny, J. F. Irwin, M. Kehoe, and Jeremiah Clowry, also bring the case to this court by writ of error, (which is No. 100 upon docket.) The errors assigned in both cases are:

- 1st. Judgment should have been for defendants, and not for plaintiff.
- 2nd. The objections of the defendants should not have been overruled.
- 3rd. The court should have admitted the evidence offered by defendants, and set forth in bill of exceptions.
- 4th. The assessment roll and warrant are invalid, having nothing upon them to indicate the assessed value of the property, nor the amount assessed upon the same.
- 5th. The court had no authority to continue the case to and render judgment at a term subsequent to the one at which the application for judgment was made.
- 6th. The judgment is a nullity, it not appearing for what sums it was rendered.
- 7th. The court erred in rendering judgment for ten per cent. damages.

BECKWITH, MERRICK & CASSIN,

Attorneys for Plaintiffs in Error.

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99 & 100

Morrison vs. City of Chicago

&

Gibson vs. Same

Abstract

12860

Filed April 29, 1869

L. Leland
Clerk

S U P R E M E C O U R T .

APRIL TERM, 1859.

EZEKIEL MORRISON *et al.*,
vs.
 THE CITY OF CHICAGO, } *Error to Cook County Court of Common Pleas.*

AND

RECORD.

DAVID GIBSON *et al.*,
vs.
 THE CITY OF CHICAGO. }

6 On the 11th day of May, 1857, the Common Council of the city of Chicago ordered that Canal street, from Van Buren street to Old street, be filled in accordance with estimate and specifications of the City Superintendent, and also ordered that \$20,814.00 be assessed upon the real estate in the west division of the city, deemed benefited by said improvements, and elected J. H. Kinzie, J. C. Haines and H. Whitbeck, three disinterested freeholders, to make such assessment. On the 18th day of May, 1857, H. Whitbeck and J. C. Haines having declined acting as commissioners, Reuben Taylor and E. I. Chapin were elected to fill the vacancies; and on the 25th day of May, 1857, E. I. Chapin having declined acting, A. G. Throop was elected to fill his place.

36 The estimate of the City Superintendent above referred to was made on the 9th day of May, 1857, under a requisition of the committee on streets and alleys of the west division, and after stating the general character of the work to be performed, states that the cost will be as follows:

<i>Whole Distance (lineal) 7,300 feet.</i>			
1,520 cords stone broken and delivered, \$12,	-	-	\$18,240 00
7,240 cubic yards earth filling, 45c.,	-	-	2,258 00
Advertising,	-	-	16 00
Engineering and Superintendence,	-	-	75 00
Commissioners for making assessment,	-	-	75 00
Collecting,	-	-	150 00
Total estimated cost,			\$20,814 00

6 On the 30th day of May, 1857, were duly sworn to discharge their duties as commissioners.

21 On the 8th day of June, 1857, the commissioners gave notice in due form that
 20 they would attend to the duties of their appointment on the 15th day of June, 1857; which notice was published in the corporation newspaper six days consecutively, commencing with June 9, 1857.

On the 18th day of July, 1857, the commissioners reported that they had assessed said sum of \$20,814.00 upon the real estate therein described, as the only real estate benefited by said improvement, and that the benefits resulting thereto were in the proportion of said sum set opposite to each lot, part of lot and land respectively in said assessment roll. They further reported that said assessment did not exceed three per cent. per annum on the property assessed. The following is a copy

RECORD.

of the assessment roll so far as the same relates to the property of the plaintiff in error:

ASSESSMENT ROLL.

A description of the real estate in the west division of the city of Chicago, deemed benefited by Macadamizing Canal street, from Van Buren street to Old street, with the valuation thereof, and of the sums of money severally assessed thereon, for benefits, by the commissioners, to wit:

School Section Addition.

Name of Owner.	Part of Lot of Land.	ct.	Lot.	Block.	Valuation.	Assessment.
E. Morrison			1	53	\$3,000	\$76.92
Jas. Granger			2	53	2,500	47.73
John Gooche			32	56	2,500	55.36
David Gibson			7	60	4,000	59.32
"			8	60	6,000	177.97
"			9	60	6,000	174.09
"			10	60	4,000	58.03
"			23	60	4,000	60.36
"			24	60	6,500	181.08
C. B. Farwell			1	61	6,500	193.81
"			2	61	4,500	64.61

Brainard and Evans' Addition.

Daniel Brainard			1	5	2,500	53.22
"			2	5	2,500	56.18
"			3	5	2,500	57.66
"			4	5	2,500	63.57
Richard Finneman	160 ft. on Canal st. by 120 ft. on Judd st.			5	11,000	280.94
Daniel Brainard			10	6	2,500	55.05
"			11	6	2,500	58.10
"			12	6	2,500	56.58
"			13	6	2,500	53.52
"			14	6	2,500	53.52
"			15	6	2,500	56.57
"			16	6	2,500	58.10
"			17	6	2,500	55.05
"			10	7	2,500	55.05
"			11	7	2,500	58.10
"			12	7	2,500	56.58
"			13	7	2,500	53.52
"			14	7	2,500	54.28
"			15	7	2,500	57.64
"			16	7	2,500	59.33
"			17	7	2,500	56.58
P. Brennan			1	8	2,500	53.22
Daniel Brainard			2	8	2,500	56.19
M. Walsh			3	8	2,500	54.71
Daniel Brainard			4	8	2,500	51.75
"			5	8	2,500	52.49
"			6	8	2,500	55.74
"			7	8	2,500	57.37
"			8	8	2,500	60.62

Canal Trustees' Subdivision of S. W. $\frac{1}{4}$, and so much of S. E. $\frac{1}{4}$ of Sec. 21, T. 39, R. 14, as lies west of Chicago River.

G. W. Penny			2	43	20,000	555.06
"			1	44	20,000	555.76
J. F. Irwin		1	4	44	2,500	29.57

Canal Trustees' Subdivision of N. W. $\frac{1}{4}$ of S. 21, T. 39, R. 14.

Michael Kehoe			14	49	125,000	277.99
J. Clowry		4	14	62	2,500	48.79
		5	14	62	2,500	48.35
		6	14	62	2,500	49.97
		7	14	62	2,500	53.22

The dollar mark and the mark of separation in the valuation and assessment columns are mistakes of the printer in printing the sheet. No such are in the Record.

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The assessment roll shows that the whole assessment is less than three per cent. upon the assessed value of the whole property assessed.

22

The commissioners' assessment was returned to and filed in the city clerk's office, July 22nd, 1857. The city clerk gave notice, by publication in the corporation newspaper, to file objections to the assessment, on the 22nd of July, 1857, which notice was published ten days consecutively, commencing July 23rd, 1857. The assessment was confirmed by the Council, October 5th, 1857.

8-10

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A warrant was issued to the collector in due form, October 9th, 1857. On the 27th day of January, 1858, the collector reported to and filed with the clerk of the Cook County Court of Common Pleas, a list of lands, lots, parcels of land, and other real estate, situated within the city of Chicago, on which said assessment remained due and unpaid, attached to which report were certificates of the publisher of the corporation newspaper, of the publication of a notice by the city collector that said warrant had come into his hands, and requiring payment of the same; and also, of a notice of his intended application for judgment, at a special term of the Cook County Court of Common Pleas, to be held on the 27th day of January, 1858. The notice of the application for judgment described the warrant as follows:

23

WEST DIVISION.

"Special warrant No. 306, dated October 5, 1857, for macadamizing Canal street from Van Buren to Old street."

26

On the 28th day of January, 1858, Daniel Brainard, E. Morrison, and James Granger, filed their objections to the rendition of a judgment against block 57, S. S. Addition to Chicago, and blocks 5, 6, 7 and 8, in Brainard & Evans' Addition to Chicago.

Among other objections filed were the following:

1st. That the amount levied and assessed was greater than the cost of the work authorized to be done by said order.

2nd. That the assessment made was unequal between the parties assessed, and not in relative proportion to amount of benefit to them, respectively, from said improvement.

4th. That the amount of benefit assessed on the property of the objectors, was much greater than upon adjoining property, appraised by the commissioners under such order at the same amount as the property of these defendants, and in every way similarly situated and equally benefited by said improvement.

10th. That the City Council were not authorized to assess for certain purposes set forth in the estimate of the superintendent, and on account of which certain amounts were computed and assessed in said assessment; to wit, for engineering and superintending, the sum of \$75 was computed in the sum to be assessed; for collecting, the sum of \$150; for assessing, the sum of \$75; whereas, the duties of engineering, superintending, collecting, and a portion of the assessing, appertain to and are to be performed exclusively by certain salaried officers.

12th. That the assessment was not delivered to the city clerk within forty days from the appointment of the commissioners.

13th. That the notice gives no description of the lands or lots, or of the amount of taxes or assessment interest, or costs.

15th. That said assessment upon said property, assesses the same at an amount greater than three per cent. thereon.

7

On the trial, on the 28th day of January, 1858, the plaintiff offered in evidence the above warrant.

35

The defendants offered in evidence the estimate of the city superintendent above referred to, which was objected to by plaintiff, and excluded by the court. The

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defendants also offered in evidence a certificate of the city clerk, showing that an assessment roll was then on file in his office, for planking Van Buren street from the southwest plank road, which said assessment was confirmed July 6th, 1857; that lot one of block 53, of School Section Addition to Chicago, was assessed in the name of E. Morrison at a value of \$2,500, and to pay \$53.54 for said planking, and showing that it appeared by a warrant on file in the office of the city comptroller of said city, that said assessment had been paid; which it was agreed should have the same force and effect as the original papers to which they refer, and none other.

30 The court, after hearing the case, took the same under advisement, and continued it until the next term. At the June term, 1858, the court rendered a judgment against the lands and lots described in the warrant, for the sum annexed to each lot and parcel of land, and for costs, and for ten per cent. thereon for damages, and ordered a sale of the property against which judgment was rendered.

Daniel Brainard, E. Morrison, and James Granger, bring the case to this court by writ of error. David Gibson, John Gooche, C. B. Farwell, R. Finneman, P. Brennan, Michael Walsh, George W. Penny, J. F. Irwin, M. Kehoe, and Jeremiah Clowry, also bring the case to this court by writ of error, (which is No. 100 upon docket.) The errors assigned in both cases are:

- 1st. Judgment should have been for defendants, and not for plaintiff.
- 2nd. The objections of the defendants should not have been overruled.
- 3rd. The court should have admitted the evidence offered by defendants, and set forth in bill of exceptions.
- 4th. The assessment roll and warrant are invalid, having nothing upon them to indicate the assessed value of the property, nor the amount assessed upon the same.
- 5th. The court had no authority to continue the case to and render judgment at a term subsequent to the one at which the application for judgment was made.
- 6th. The judgment is a nullity, it not appearing for what sums it was rendered.
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