

8412

No. _____

Supreme Court of Illinois

James Haynes

vs.

City of Washington

71641  7

Copy of transcripts from Justice
Jes. Washington County June 12th / 57

J F White

Rountree &
Craun The
County Court per
Wm Woodrume
Supervision of lotter
Muddy road district
vs

James P Haynes

Demand	\$1.00
Justs fees Sum	18 3/4
Shocking	12 1/2
2 Supts	18 3/4
2 Carts	12 1/2
Judgment	25
Bond	25
Transcripts	25
Const McGills fee	
Surci	25
3 Juries of Supts	37 1/2
4 Miles	20

Action brought for the use of said
County against James P Haynes
Defendants in the Amount of \$1.00 for
a failure to work the road - Blue
field - Summons issued to Constable
McGill - returned on the 20th day
of June 1857 at the hour of 1 O'clock
P. M. Constable returned summons
served in due time the Defendant
waived a Supt for Joel Woodrume
& A Carter which was returned
served on said Woodrume - The day
and hour waived for trial the Parties met
the case called and after hearing
the evidence it is considered that the
Plaintiff recovers a Judgment against
the Defendant for \$1.00 & cost of suit
this 20th day of June 1857

James Smith J.P.

I hereby certify that the above transcripts
and Papers contains a full & perfect Statement of all the
proceedings in the above case this 20th day of June 1857
James Smith J.P.

Copy of Summons

State of Illinois }
Washington County } ss To the Sheriff Washington County - Greeting
We command you to summon J F White L Rountree
& L W Craun County Judges of Washington County Illinois
if to be found in your County to appear before the Circuit
Court of Washington County, on the first day of the next
Term thereof, to be holden at the Court house in Nashville

on the fourth Monday in the Month of August next, to answer James P Haines on an Appeal taken from the docket of James Smith a Justice of the Peace in and for said County wherein the said J P White & others was Plaintiff and the said J P Haines was Defendant and bereof made due return to our said Court as the Law directs

Witness H. H. Taltor, Clerk of our said Court, and the Judicial seal thereof, at Nashville; this 8th day of July A D 1857

H. H. Taltor Clerk

Copy of Bill of Exceptions
Washington County

Appeal

James P Haines } It is remembered that in the trial of the above styled cause the Deffs proved that the Defendant James P Haines was summoned or notified by the Supervisor of the Ashley road district to work on the Public high road in his district on the 8th day of June 1857 and that the Defendant James P Haines lived within his District and that said Haines lived & was an inhabitant of the Town of Ashley at the time he was notified to work & gave 2 reasons to the Supervisor who warned him to work on the road viz that he was 1st too lazy and secondly that he lived in the Town of Ashley which was incorporated & had the right to his labor or the roads within the incorporation limits - And that the Haines was warned to work on a Part of the road within the Supervisor's district and about a half mile from the Town of Ashley - 4 days before the day he was warned to come to work, and that so Haines did not appear with the Tools & work said road at the time & Place required by his warning aforesaid which was all the evidence in the part of the Deffs, on the Part of the Defts it was proven that the Town of Ashley was incorporated by Act of the

Legislature of this State passed on the 7th February 1857
 (here insert act of the Legislature and Carlisle act was
 to incorporate the Town of Carlisle) that pursuant to
 said act 4 Trustees - a Town Constable and a Justice of
 the Peace were elected and all sworn in according to Law
 on the 4th day of June 1857 excepting the Justice of the Peace
 who was not sworn in as said Justice ~~for~~ President Protem
 was appointed to act in the Place of the President at the Meetings
 of the board - That said Justice had a Certificate of his Election
 but did not receive his Commission within the 20 days after
 his Election and was not sworn in as si Justice of the Peace
 qualified nor gave Bond as required by Law but was sworn
 in by the County Clerk of Washington County as President
 of the incorporation of the Town of Ashley within 20 days
 after his Election - The Trustees and President protem held
 a Meeting of the board on the 19th June 1857 where That a
 Street Commissioner was appointed under act of incorporation
 by the board to keep the road & Streets within the incorporation
 in repair and work had been done on the roads inside
 the limits of the incorporation by si Street Commissioner
 under his Appointment which was on the 19th June 1857
 at a regular meeting of the board of Trustees and after the
 Depo't was warned to work on the road by the Supervisor
 of Ashley road district, and it was further proved That
 the Clerk of the board of Trustees had before the Depo't
 was warned to work on the road notified the Defendant
 & other Citizens of the Town of Ashley that they were required
 to work the Streets and roads inside the limits of incorporation
 & on the day that Supervisor warned the hands amongst
 whom was the Depo't to work the roads the Supervisor was
 told by the Clerk of the board that the Town was incorporated
 & that the Section of the Law which gave to the Town of Ashley
 exclusive jurisdiction was read to him by the Clerk of the
 incorporation - which was all the evidence in the case on

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 & that the Section of the Law which gave to the Town of Ashley
 exclusive jurisdiction was read to him by the Clerk of the
 incorporation - which was all the evidence in the case on

(4)

The part of the Decree - whereupon the Court gave
Judgment for the Pliffs for \$1. & costs of suit - to which
Judgment of the Court the Defendant at the time excepts
& prays this his Bill of Exceptions to be signed, sealed
& made a Part of the record which is done accordingly

Lidney Breese Secy

Copy of Order

August Term Washington Circuit Court Thursday August 27 1857

County of Washington

vs

Appeal

James B Haynes }

On Monday this suit is called
and run on Wednesday Pliff by Hosmer Their Atty
on Motion ask leave to change the name of Pliff to
County of Washington - Leave granted & said change made
And run on Thursday this suit is again called & issue
being joined by consent of Parties herein, this cause is
tried by the Court, And the Court after bearing the evidence
& argument of Counsel finds for Pliff - Judgment below
affirmed - Thereupon Judgment is entered against said Def't
& in favor of said Pliff for one Dollar & costs of Suit
& Execution is awarded therefor -

State of Illinois } I Harry H Talbot Clerk
 Washington County } of the Circuit Court in and
 for said County do certify that the foregoing
 is a full & complete Transcript of the Record in the
 above entitled cause as taken from the Papers on file
 & Records of said Court in said cause

Given under my hand & the
 seal of said Circuit Court
 this October 13 - 1857

H H Talbot Clerk

Clerk's Fees

for Transcript \$2.00

James P. Haines plaintiff in error

" ³ error to Washington
 County of Washington defendant in error

In the Supreme Court 1st Grand Division
 in and for the State of Ills. Nov term A.D. 1857

Came this day the plaintiff Nelson & Johnson
 his attorneys & say that there is error in
 the record and process aforesaid in
 this that Judgment was rendered for
 the defendant in error, in the Circuit
 Court of Washington County, Illinois by
 the Law of the land Judgment ought
 to have been rendered for the plaintiff
 and in assigning special error upon
 the record aforesaid the ^{the Judgment is erroneous} plaintiff says that

because the Judgment of the Court was contrary
 to Law

- (6) 2^d Because the Judgment of the Court below is Contrary to Law and evidence
 3- Because the verdict of the Court below is Contrary to evidence
 4th Because the Circuit of Washington Court reversed Judgment in favor of debt in error for \$1. & Costs of suit against the the plaintiff in error & for there and other

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Washington County

vs

J. S. Haynes

Transcript

James S. Haynes, defend-
 ant in the Court below,
Plaintiff in Error,

vs

The County of Washington,
 plaintiff in the Court below
Defendant in Error

Clerk will please issue
 writ facias in the above
 styled cause, returnable
 &c - Nelson & Johnson

Prepared atty for Plffs
 in error
 Filed 30th October 1857.
 Noah Johnson C.M.

error apparent on the face of the record
 aforesaid the plff avers that the Judgment
 affirmed of the Circuit of Washington
 is unjust and erroneous and that he
 the plff is ready to verify - Wherefore
 he the plff prays that the Judgment
 aforesaid of the Circuit below may be reversed
 & for nothing litigated &c

Nelson & Johnson for
 plff in error

London in error

P. E. Hasner

Atty for Defendant in error

No 46

Nov 1857

James P. Haynes

my

County of Washington

8412

County of Washington

Affirmed

**In the Supreme Court of the State of
Illinois.—1st Grand Division.**

JAMES P. HAYNES, *Plaintiff in Error,*

NOVEMBER TERM, 1857.

Page
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COUNTY OF WASHINGTON, *Defendant in Error.*

} ERROR TO WASHINGTON.

ABSTRACT OF PLAINTIFF'S CASE.

THE town of Ashley was incorporated by a special act of the Legislature of this State, under what is called the Carlinville Act, which Ashley act was passed at the last session of the Legislature of this State—that said Carlinville act gave the incorporation of the town exclusive jurisdiction over the roads, streets, etc., lying within the incorporation—and the act incorporating the town of Ashley took effect from and after its passage, which was at the last session of the Legislature of this State, that the incorporation of the town of Ashley met, and elected all their officers, including a street-commissioner, who was ordered to work the roads in his districts—That the president of the board of trustees ~~was, ex-officio, town justice,~~ and was sworn in as president, but did not qualify himself to act as justice within the time prescribed by law, and the Board appointed a president pro tem., to act in his place until he should qualify, who presided at all their regular meetings of the Board, at one of which regular meetings said ordinance was passed—That after the passage of said ordinance, and the hands had been warned to work by the corporate authorities, the road-supervisor of the district of which the town of Ashley was included, notified the defendant, HAYNES, to work the highroad outside of the incorporation of the town of Ashley, which the said HAYNES refused to do. A judgment was obtained against said HAYNES, by said supervisor, for one dollar (\$1.00) and costs, before a Justice of the Peace in Washington county, from which judgment ssid HAYNES appealed to the Circuit Court of Washington county, who affirmed the judgment of the Justice, with costs—And the plaintiff in error brings this case into this Court by a writ of error, and alleges that the said judgment of the said Circuit Court is erroneous, for the reasons in the bill of exceptions, which contains all the evidence in this cause.

NELSON & JOHNSON, *for plaintiff in error.*

Noted 1855 & 185-141
Mormonite Co case

**In the Supreme Court of the State of
Illinois.—1st Grand Division.**

JAMES P. HAYNES, *Plaintiff in Error*,

vs.

COUNTY OF WASHINGTON, *Defendant in Error.*

NOVEMBER TERM, 1857.

ERROR TO WASHINGTON.

ABSTRACT OF PLAINTIFF'S CASE.

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NELSON & JOHNSON, *for plaintiff in error.*

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[8412-6]

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Shirley

in

Washington County

People in Prison
4 below

Shirley

Shirley

Shirley

Shirley

Shirley

Shirley

123
738

An act to Incorporate the town of Ashley
in Washington County.

Section 1

Be it enacted by the People of the State of
Illinois, represented in the General Assembly;

That the Inhabitants of the Town of Ashley
in the County of Washington are hereby declared a
body politic and corporate with all the rights, priv-
ileges and powers conferred upon the town of Carl-
insville by an act entitled "an act to Incorporate
the town of Carlinsville approved February 9th 1853
and all the provisions of the act aforesaid are hereby
declared applicable to the said town of Ashley.

Section 2

This act to be in force and take effect from
and after its passage.

Saml. Holmes

Speaker of House Reps

John Wood.

Speaker of the Senate

Approved Feb 16. 1857

Wm H. Russell.

United States of America

State of Illinois

I O. M. Hatch Secretary of State of the State
of Illinois hereby certify the foregoing to be a true copy
of an enrolled law on file in my office.

In testimony whereof I hereunto set my hand &
affix the Great Seal of State, this 24th day of Feb
A.D. 1857

O. M. Hatch,
Secretary of State.

STATE OF ILLINOIS, }
SUPREME COURT. } ss.

1st Grand Division
THE PEOPLE OF THE STATE OF ILLINOIS,

To the Sheriff of *Washington* County,

Because in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the Circuit Court of *Washington* County, before the judge thereof, between *The "County of Washington"*

Plaintiff, and James P. Haynes

defendant, it is said that manifest error hath intervened to the injury of said

James P. Haynes

as we are informed by *his* complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Mt. Vernon; before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said

"County of Washington"

that *They* be and appear before the Justices of our said Supreme Court, on the first day of the next term of said Court, to be holden at Mount Vernon, in said State, on the *first Tuesday after the* Second Monday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if *They* shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *"County of Washington"* notice, together with this writ.

John D. Baton,

Witness, the Hon. ~~Samuel H. Tamm~~, Chief Justice of our said Court, and the seal thereof, at Mount Vernon, this *30th* day of *October* in the year of our Lord, one thousand eight hundred and fifty-*Seven*.

Josh Johnston

Clerk of Supreme Court.

State of Illinois } John White Sheriff of M.C. have this day served the writ
 Washington Co } in summons by Read in the same to J. H. White & Co. judges this
 31st day of October AD 1857. So. No. 1000000 & S. W. Crane
 as deans Justices not seen this 1st day of November 1857
 John White Sheriff M.C.

James P. Haynes
 vs { See for
 County of Washington
 Geo
 sum 50.
 100 Mts 50
 Rating 15
 Post 113
 John White Sheriff M.C.

STATE OF ILLINOIS

Wm Vanon Esq

12 Jan 1858

Hon^{ble} Judge Skinner

Sir

Judge Breese was Circuit
Judge & decided Haines vs Washington County
and the people in Ashley are in the greatest
surprise about the opinion of the Court.
Hosmer def^t Counsel gave it up & told
the people at Ashley that Haines was bound
to gain the Case. I myself don't care any
thing about it only that I should like to
know what the opinion is and if there
was no mistake in entering the word "opinion"
on the Docket (as was done once before you
came on the Bench) in the name ^{my} of Clients
I should like to ask for the opinion.

Every thing is there now in the
greatest confusion some Gambling &c & there
has been at least 1 Murder since Mr^r lost
decided from the want of a Corporation as
they say. Nor can they even take steps to orga-
nize. Again until the hear your reasons
for annulling this incorporation thus far.

as the act is not in the Statute
at large I send enclosed the entire copy

of the act incorporating the town of which
can be returned with the other papers
to Mayor Johnston clerk.

Hoping that I shall
not be considered too impetuous on
this occasion I hereby leave to
Susanne M. M. M.

Very respectfully yours
Thos. S. Nelson
aty for Haines

38412-108
Honorable. O. C. Skinner
Associate Justice
Supreme Court
Springfield
Illinois

James P. Haines

County of Washington

Error to Washington

- 1 The town of Ashby was incorporated under the act to incorporate the town of Carlisle passed 9th Feb 1853 Statutes of 1853 page 135
- 2 The Government of town of Carlisle to be vested in president & 4 trustees see 3rd it
- 3 The board shall determine qualifications of its own members see 4th it
- 5 The president shall take oath see 5th.
- 6 The election provided for to be on on the 1st Monday in the month of April 1853
- 7 Board may appoint officers &c see 12th it & open streets and alleys - but cannot enforce the act before they are incorporated
- 8 The inhabitants shall be exempt from the payment of road labor see 20 page 140 under the County Court -

9 There is a wide difference
between passing ordinances to
join Geo and making Haynes
bind to work outside the
incorporation. The evidence shows
the act was passed to incorporate
the town of Carlinville on the
7th February 1857 and the
act was in full force & after its
passage. Haynes was summoned
to work on the 8th of June
but the 20th sec of the act expressly
excepts him from labor under
the County see Carlinville act
see 20 -

W. Shelton Jr. pleads
error

Jos. P. Haynes } In Supreme Court
vs. } New Term AD 1857
County of Washington }

The Town of Ashley not an incorporated
Town because act of Incorporation not complied
with Laws of Ills. 1853 P 135-6 Sec. 3
& 6

John J. P. is ex officio President
of Board of Trustees & tho J. P. never
having qualified ergo no J. P. &
no President & corporation merged
in the County

The words of incorporation in present
are used yet by fair construction
the acceptance of the Charter by
organization thereunder is contemplated
before the Town becomes a corporation

Gen. P. Haynes

vs

Co. of Washington

Deft's Brief

STATE OF ILLINOIS
SUPREME COURT,

{ SS. *1st Grand Division* WRIT OF ERROR.
THE PEOPLE OF THE STATE OF ILLINOIS;

To the Clerk of the Circuit Court for the county of *Washington* GREETING,

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the
Circuit Court of *Washington* county, before the Judge thereof, between *the*

County of Washington

plaintiff, and *James P. Haynes*

defendant it is said manifest error hath intervened, to the injury of the aforesaid

James

P. Haynes

as we are informed by *his*

complaint, and we being willing that error, should be corrected if any there be, in due form and manner, and that
justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly
without delay, send to our Justices of the Supreme Court, the record and proceedings of the plaint, aforesaid,
with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at

Mount Vernon, in the county of jefferson, on the *1st Tuesday after the 2^d Monday of*
November next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the
error, what of right ought to be done according to law:

John D. Catron

Witness, the Hon. ~~WALTER B. SCATES~~ Chief Justice
of our said court, and the seal thereof, at Mount Vernon this

Thirtieth day of *October*

in the year of Our Lord One Thousand Eight Hundred
and Fifty- *Seven*.

Josh Johnston

Clerk Supreme Court.



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James P. Hager

Mr { Mrs of Emma

County of Washington

Issued filed 30 October

1857

North Sherman CLK