No. 13947

Supreme Court of Illinois

People

vs.

Worthington

Worthington vs People

SUPREME COURT.

OF

ILLINOIS.

SECOND GRAND DIVISION.

156

Hon J. L. Catron
Chief Justice
Supreme Court
Springfield
Illinois

Naples Jany 27/59

To the Supreme court
On reflection I believe I have
forgotten to embody in writing,
before the Court my protest
to the assumption, by the State's
Attorney of my general waiv-
er of my preexisting rights
before the case came to your
honorable court —
It will, I think be distinctly
recollected that, merely refused
to avail myself of any quirks
or quibbles — But pleaded, & claimed
all rights that went to the
merits of the question, as to
facts, law, or constitution, or as to
truth, right reason, or justice —

Additional brief of T. Worthington—

Pittsfield January 30th 1859

~~To the Supreme Court of Illinois~~

By the kindness suggested by the Court, I return to scribbling, from reflecting that in my anxiety to condense all I had to say—verbal, or written within the practicable delivery of an hour, I had misapprehended the true meaning & intent of the rule—and recollecting that I had made references to authorities; expecting the court to make the application,—I perceive that I erred, in not ~~and~~ showing the application of the authority to the case, by reasoning.

And first as to the unconstitutionality of distinguishing between two debtors, of $20000 one of whom has the same sum owing to him, but the other, has nothing owing to him—and consequently is not allowed any deduction for his debt—whilst the debt of the first offsets against his "credits",—thus demonstrably destroying the proportion of ~~property~~ ~~that~~ to the value of property—and that too, allowing the ~~statute~~ rule to be true—But that credits are property the act (Rev. Laws, Page 1051 Sec 11 Sect 46) practically admits to be untrue. or, is as manifestly, unequal and unjust 46—

Again in proof that these credits are not property in the nature of things, or in contemplation of the constitution, Article 7th Sec 2 in the proviso it gives the legislature the power to tax that numerous class of persons whose business involves the largest use of their "Moneys and Credits" but preserves their rights against unwise or unjust legislation by requiring the principles, previously embodied to be conformed to —

To illustrate A C E G & I each sells his farm to A to B & C to D & E to F & G to H & I to J — Each sells for $20,000 dollars, payable in ten years — Suppose the purchasers have nothing owing to them — hence can get no deduction for what they owe, but they have added $100,000 by giving their notes to the property of the State and of course to themselves or they credits have their notes $100,000 richer by being $100,000 in debt — If this be true, all we need to increase our wealth, is, to to multiply the number and amount of our debts —

This the State once tried, and failed; and individuals and communities have since done, and are, doing the same thing; even when actual property is received they fail of wealth — What then must be the consequence of relying on that as property which begins and ends with paper promises —

A	B

Let these two squares represent any thing of exchangeable value from diamonds, to townships of land, and of as equal value as two silver dollars. A, sells his for $100,000 to D— but that will not make room for another township on God's plan of making them, nor will any amount of trading make one silver dollar be of the value of two— nor can you condense two silver dollars, nor two townships of land into one. But by the sale of A— in this T. A. B, C, D, & E, $200,000 of wealth is added to the parties and to the state, of course, (and all from the labors of a few hours of conversation) when the state steps in and violates all our ideas of the salutary effects of protection to domestic manufactures— none of which can compare with these for facility & the state actually taxing these wonderful creators of wealth. $3,000 each year— (at our lowest average of taxes, I think) and in the ten years takes $30,000, for this newly created property, and of course as much more for the original property traded about, which gives for taxes the snug little sum of $60,000 in ten years— and in a little over 30 years the entire $200,000 would be paid in taxes—

So if the credit had a little over thirty years to run; it would take the last dollar to pay the taxes — at what I have been told was about the average in this county —

The court will perceive that the first sheets of my brief are torn off — and that late at night, after I had agreed to take the case up the next morning — so that what little brief I left was hurriedly prepared — these reasons; with the great importance to the State; that the impartial administration of just and equal laws shall be the rule that guards & protects its free citizens must plead my excuse for again troubling you

All which is very

Respectfully submitted

T. Withington

P.S.

* I made a mistake in computing the taxes at $60,000 for ten and $200,000 for thirty years it would be $120,000 in ten & $400,000 in a little over thirty years double its value — to say nothing about its doubling in the same ratio every time it was sold to one who could not deduct his debt from his credits —

W.

Additional brief of T. Worthington—

Pittsfield January 30th 1859

~~To the Supreme Court of Illinois~~

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This the State once tried, and failed; and individuals and communities have since done, and are, doing the same thing; even when actual property is received they fail of wealth — What then must be the consequence of relying on that as property which begins and ends with paper promises —

To the Supreme Court of Illinois

The Court will perceive by reference to the Auditors Schedule for 1857 the very insignificant sum returned under the head of Moneys & credits by the city of Chicago and that Chicago had not returned anything - (though the Auditor had previously sent back a trifling amount for correction, as I was told)

Now the assessments in Pike will show a greater amount under the head of "Moneys & Credits" ~~xxxx in extra all~~ in the little township of Pittsfield than in either of these principal Cities. Not taken for invidious distinction but because they were the only conspicuous means of illustrating the workings of the law. And by its working I judge it. And when taken in connection with the fact that the first election under the law, were vacated by the refusal of intelligent and conscientious men to take the Assessors oath ~~on~~ making his return - thus foreshadowing the inequality of assessments under

lips & unscrupulous agents. Thus making good Government impossible —

For whilst the good citizens feels and manifests a pleasure & pride in meeting this equal proportion of the public taxes under this law there has been incessant complaint, and in our great commercial and intellectual centers a conviction of its inherent injustice — or a moral derilicion of that we cannot believe to exist in any community —

The attempt to compound promissory notes with Bonds whose 6 & 8 so much sought after for their certainty as where a State or the Known value of millions is pledged to secure hundreds, and where the integrity & punctuality of whole communities are involved — seems to me absurd, with their punctual semiannual payment of interest — so much sought after by all men of wealth — as compared with the difficulty and delay of collecting promissory notes —

7

Auditors Office Illinois
Springfield Dec. 21st 1857

Austin Parker Esq
Clerk of the County Court of
Pike County Illinois

Sir

Your statement of the assessment of the personal property of Thomas Worthington Esq of Pike County for the year 1857 is received. It appears from the said statement, and the petition of Mr Worthington accompanying it that said Worthington sold certain real Estate on credit and received therefor notes of hand or written obligations to pay the amount for which the property was sold or such part thereof as was not paid at the time of sale which notes he owns and holds as evidence of the indebtedness to him, the cash value of which after deducting for indebtedness is $26.314 and it further appears that said amount was assessed to and as the property of said Worthington for taxation in the current year 1857 and so returned by the proper officer to your office and that afterwards to wit on the 16th day of Sept. 1857 the Board of Supervisors of said County upon the petition of said Worthington before mentioned abated or cancelled said assessment for the reason, as appears that the notes or written obligations were not taxable property or that the property was not taxable. I understand the only question for my decision to be, are the notes or

written obligations referred to in the aforesaid statement, and petition, subject to taxation or not under the laws now in force? On the second section of an act entitled "An act for the assessment of property and the Collection of taxes in Counties adopting the township organization law" approved Feb 12. 1863 it is declared that the term Credits wherever used in said act" shall be held to mean and include every claim or demand for money, labor, or other valuable thing due or to become due or every annuity or sum of money receivable at stated periods, and all money invested in property of any kind which is secured by deed mortgage or otherwise which the person holding such deed, or mortgage or evidence of claim is bound by any lease, Contract, or agreement to reconvey, release, or assign, upon the payment of any specific sum or sums" The assessment being made under and by virtue of the aforesaid act, I cannot approve the decision of the Board of Supervisors for it appears to me that there can be no doubt but that the notes or written obligations to pay are taxable property within the true meaning and intent of the act before referred to. I object to the decision of the Board for the following reasons

The property assessed was taxable property, and therefore the assessment should not have been abated or cancelled, the assessment was not a double assessment in my opinion, the purchasers of the property for which the notes or obligations were

given pay the taxes on that property and Mr Worthington should pay taxes on the property owned by him, if in order to secure the payment of the notes he stands security for the payment of the tax he does no more than the man who loans his money on real Estate security, for he too must see that the real estate is not sold for taxes otherwise he would lose his claim, yet in neither case does the holder of the mortgage owe the tax, if they pay, it is only to save a debt, not as the owners of the property, of them the property was subject to taxation, and was not double assessed as is alledged by the petitioner and approved by the Board the Board erred in abating or cancelling the assessment, and for the further reason that in the case of the People of the State of Illinois vs. Alden Rhodes, (15 Illinois Reports 304) which was identically the same as the case now at issue, the Supreme Court reversed the action of the Greene County Court and declared this description of Credits legally taxable I shall therefore apply to the Supreme Court at their session to be held in this City on the first Monday of January 1858. for an order to set aside the decision of the Board of Supervisors

Respectfully. Yours

Geo. W. Embree Auditor

State of Illinois
Auditors Office

I, Jesse K Dubois Auditor of Public Accounts of the State of Illinois do hereby certify that the foregoing is is a duplicate of the objections made by me, to the Board of Supervisors of Pike County Illinois, against the abatement of taxes assessed upon Thomas Worthington of said County for the year 1857.

Given under my hand and Official seal at Springfield this 5th day of January A D 1858

J. K. Dubois
Auditor

Filed Jan 7 1858

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The People vs
Thomas Worthington }

This is an assessment of $26,314 on certain promissory notes taken to secure the payments, at the times agreed — after deducting debts $5,000 from $31,314 16/100 being a bundle of notes in the bank safe — But said Worthington had notes at home that were forgotten being of long standing —

Constitution Ill. Art. 9 Sec 2

The defendant claims that he pays the taxes, by his agents — and that he cannot omit to do so without loosing his interest in both land and notes — and that it is a double tax — see Constitution Ill. Article 9 Sec 2

The notes are claims for property yet to be produced by the industry of the maker of the note, and is proof of its non existance with him — The corn is not planed 16 to exchange

"Property is the product of human labor." See Wayland Polit Econ Page 106 Sec 2 See also Ricardo Page 10 = Blackstone vol 1 P 100 also Bouvier's Law dictionary Vol 305 Property —

The nature of property being fixed, its value means the amount of another kind of labor it will exchange for in another kind of property

Statutes of Illinois 1853 & 1857

It assesses credits at full sum so payable

Same 1845 Sec 55 See Art 9 Sec 2 Con

It makes the Auditors instructions strictly binding on the Clerks and other officers — thus enslaving or depriving of office those that may differ — See Art 2 Sec 142 Constitution

Constitution & Bill of Rights Section 6

" U.S. It denies the right of trial by Jury —

Same Sec 7 Unreasonable searches

Same Sec 17. No law impairing the obligation of contracts shall ever be made = (I pay taxes by contract)

It allows debts to be taken from credits only, — and hence is not in proportion on those who are and those who are not indebted

15 Ill Reports Decision erroneous, as the land was Rhodes & only contingently Watkins

The President &c Jacksonville vs McConnell, being an agreed case — I think, very materially lessens its force as a precedent — And the money loaned being taxable. The decision is erroneous.

See Ricardo Page 89

"All taxes upon the transference of property of every kind" &c &c are held to be unwise — and is confirmed by M Say, same page & 90.

See Kents Commentaries

Page 447 Note 448 & 449

"The law must conform to the constitution &c &c

" " Page 476 Note 497

Stare decisis, not to be pressed too strongly. —

" Page 479 Note 480

Plawden reported only on debate — Year Books change

" " Page 489 Note 490

There is a natural tendency of equity to decay into law

" Page 496 & 497

Littleness of the competitions, factions, and debates of mankind

" P 496

"The unbending integrity and lofty morals with which the courts were inspired presented the image of the sanctity of a temple where truth and justice seem to be enthroned, and to be personified in their decrees."

See Wayland's E. P. Economy Page 112 & 113 on oppression by Society — or its agents

The parties to these land trades are selling me back farms and, then this property in the notes will all be Burned up — What a loss !!!

If you will show me the property, I will cheerfully pay the taxes — But it has yet to be created by human industry

The difference between notes and stocks, and bonds — it seems to me is that the delivery of the latter, completes the contract — whilst the giving of the former only begins the contract to be completed by the delivery of the thing or things called for in the notes. —

Benjamin Harrison

and that, like Bank notes, which are recognised as money — Bonds & Stocks are considered property —

Statement — The discrepancy in the Assessment — and amount for lands sold was by payments in cash & my notes — And the protest to the Board of Reviewers was written by my directions but did not accurately express my instructions

The petition to the Board of Supervisors is mine, without a wish to qualify it —

Constitution

Ohio Art 12 sec 2 Authorises a uniform rule taxing moneys & credits invested in Bonds Stocks &c &c hence their revenue laws —

Virginia

Constitution "Taxation & Finance" sec 25 — The General Assembly may tax incomes licenses & salaries, but no tax shall be levied on the capital invested — whence they are derived —

Constitution

of Indiana is very vague Art X Finance

Constitution

Michigan is very vague Art XIV Finance & taxation sec 11

Blackstone Vol 2 Page 116 Sec 145 .....
There is an end of Society
unless private possessions
are secured from unjust
invasions &c &c

Brief of
Plaintiff
Citizenship

Examine the statutes
& Constitution see 2 Page

SUPREME COURT.

SECOND DIVISION.

ABSTRACT.

THE PEOPLE,
vs.
THOMAS WORTHINGTON.

This is a case arising under the revenue laws of this state, and comes up from the county of Pike. It appears by the papers filed in this case that the defendant sold several tracts of land previous to April 1, 1857; that part of the purchase money was paid down and notes taken for the payment of the balance; that Worthington executed bonds for deeds in some cases, and in others, deeds, and took mortgages. [Page 1.]

That none of said lands were taxed in the name of said Worthington for 1857, but in the names of the purchasers. [Page 3.]

That Worthington refused to list said notes for taxation for 1857; that the assessors of the town of Pittsfield, thereupon assessed against said Worthington, for moneys and credits $60,000, and notified him thereof, and after time and place of meeting of the board of reviewers. [Pages 1 and 2.]

At the meeting of the board of reviewers said defendant appeared, refused to make affidavit as to the value of said note, but offered to exhibit said notes and the contract upon which they were made and filed with said board his protest. [Page 2.]

See protest. [Page 5.]

The board thereupon reduced the assessment to $26,314. [Page 2.]

That said Worthington took an appeal to the board of supervisors to their Sept. term, 1857. [Page 2.]

Which board at their Sept. term, 1857, made a total abatement of the above assessments. [Pages 2 and 3.]

The lands above referred to were sold for between 35 and $40,000. [Page 3.]

Page 4 give defendant reasons as stated before the county clerk for refusing to list said notes for taxation.

The action of the board of supervisors and the facts herein were then certified to the auditor of public accounts, by the county clerk of Pike county, October 16, 1857.

15 Ill 304

Maryland 16652 Property is the product of labor
Ricardo 10
Blackstone 100
Scots Stat 1033-50
Const §2 art 9

1 Kent 447-8-9 - The 15 Ill. showed not rule. It was an ex parte decision

12 Ill. 138

Sugar for people

Old const. 8 art § 20

New " 9 art § 2.

Page 6 is the petition of the defendant to the board of supervisors, and states that if defendant were compelled to pay tax on the notes he would be subject to double taxation, as he was bound to see that the taxes on said lands were paid or lose his lien thereon, retained to secure the payment of the notes, &c.

The auditor thereupon notified the county clerk of Pike county, of his objections to the decision of said board of supervisors, and of his intention to apply to this court to have their decision set aside. [Pages 7, 8, and 9.]

The notes are taxable property properly listed or assessed for taxation.

The board of supervisors erred in abating or cancelling said assessment, and for this reason is this application made.

J. B. WHITE, *State's Attorney.*

~~#9~~
156=74

People

vs

Worthington

aba

Statement of the assessment of the personal property of Thomas Worthington, of the County of Pike and State of Illinois, for taxation for 1857.

Said Worthington prior to the 1st of April 1857, sold several tracts of land in said County of Pike - for most of which said Worthington gave deeds and took mortgages upon the lands sold for the payment of the purchase money - & for some gave bonds for deeds upon the payment of the purchase money - said lands were sold upon a credit of 8 to 10 years, for the payment of which, notes were taken payable in annual instalments with interest at 10 per ct. payable annually, which notes said Worthington refused to list or assess for taxation - ~~but offered to exhibit the same to assessor~~ Whereupon R. C. Scanland assessor of the Town of Pittsfield upon the refusal of said Worthington to list said notes as "Moneys & Credits", in accordance with Section (37) of the Act for the assessment of property, and collection of taxes passed February 1857 - assessed said Worthington for "Moneys & Credits" Sixty thousand dollars, and gave said Worthington notice of the same, & also of the time & place that he said assessor would meet with the Supervisor & Town Clerk, to review the assessment roll; the time & place of said meeting was also published by said assessor by posting up notices as required by law - at which meeting said Worthington, refused to sign a schedule or to make

affidavit as to the value of his said Moneys & Credits but offered (in my presence) to exhibit said notes and the Contracts on which they were predicated; and filed with said Board of reviewers. ~~the~~ a Statement or protest. a copy of which is returned hereunto Marked "A" — in which Statement said Northington protests to the assessment of the said notes, therein set forth, for taxation, as said notes are not new property, but only evidence of contracts for money to be paid in future & (consequently not taxable) & that said Northington has virtually paid said taxes, as they were taken into consideration in said sale

Amt of Notes set forth in said Statement	$31.319 16
deduct indebtedness of said Northington Apl 1/57	5.000
Say —	$26.314

The board after hearing said Statement. refused to abate the assessment, but reduced the amount to $26.314 agreeable to Statement of Sd Northington (they being perfectly satisfied as to the amount of said notes. & the truth of said Statement)

from which decision said Northington appealed to the Board of Supervisors at their Annual Meeting in September 1857, in accordance with Section (33) of said act before named — And on the 16. day of said September said Northington presented to said board his petition for abatement of said assessment, a copy of which is returned hereunto Marked (B"

Which petition was referred to a committee for examination & report

Which committee after an examination of the case reported the same back & recommended the granting of the prayer of said petition.

A vote was then taken on the adoption of the report of the Committee & decided in the affirmative 12 voting in the affirmative &

7 " " " negative

The lands for which said Notes were given were not assessed for 1887 in the name of said Northington, but most of them in the names of the owners on the 1st day of April, 1887

Most ~~part~~ of said lands have been sold once & some of them three time, & some twice, since the sale by said Northington.

Said lands were valued by assessors at say 13,000 ff. and were sold by said Northington for between 35 & 40 thousand dollars, part of which purchase money having been paid to said Northington, reducing the Notes to amount stated in protest say ff 26,314 & filed by said Northington.

The sale of said lands by said Northington was a matter of public notoriety and no doubt well known to said assessors & to the Board of Revenues, both as to the amount, mode & time of payment and in my presence the said Northington stated

as his reason for a refusal to sign a Schedule including said notes as taxable as "Money & Credits" that it would be untrue in fact - and unconstitutional and unjust in principal and also refusal in my presence to sign a Schedule omitting said notes - as it would subject him to the suspicion of seeking to ~~avoid~~ conceal his property and avoid his "equal & just proportion of taxation" to "the value of his property". And said Worthington refused to make an affidavit (which he said he could in conscience do) excluding said notes as taxable under our Constitution, quoting Article (9) section (2) because it would subject him to like unjust suspicions

Said affiant ~~said~~ stated to Dr Worthington that he would return his books, as he said W. might sign the Schedule - either including or excluding said notes as taxable or not taxable as he did other persons & business houses, named around town.

State of Illinois }
County of Pike } I Austin Barber Clerk of the County Court within & for said County do certify that the forgoing is a full & true Statement of the facts in relation to the assessment of the "Money & Credits" of Thos. Worthington for Taxation for 1857 So far as I have knowledge.

Given under my hand & the Seal of said Court at Pittsfield this 16 day of October AD 1857

Austin Barber Clerk

State of Illinois
Auditors Office

I Jesse K Dubois Auditor of Public Accounts of the State of Illinois, under and by authority of the 33d Section of an act of the Legislature of the State of Illinois entitled "An act for the assessment of Property and Collection of Taxes in Counties adopting Township Organization Law", approved Feby 12th 1853, do hereby certify that the foregoing certificates of the County Clerk of Pike County and the exhibits marked "A" & "B" are the original papers received by me from said Clerk in the matter of the application of Thomas Worthington, for an abatement of Taxes, in the said County of Pike

Given under my hand and seal this 4th day of January AD 1858 Jesse K Dubois
Auditor

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People
v
Worthington

Filed Jan 7/58
Wm H Tenney
Cl

Statement of the Amount of Promissory Notes of Thomas Worthington, held by him in the year A.D. 1887 payable by divers persons to said Worthington at intervals; and the said notes were all taken by the said Worthington as security for the payment of the sale money of land sold by said Worthington — Said land was sold on a credit of ten years to the purchasers & the notes of the purchasers without any individual security of other persons, taken to evidence the amount to be paid in instalments, throughout the period of said ten years; And said Worthington states that he has made Deeds & has taken Mortgages, from the purchasers of part of said lands, whose notes he holds as aforesaid, and part of the notes rest on contracts only and that said lands are all in Pike County and that said Worthington's land is the basis of and represents the value of said notes — And said Worthington protests that said Notes are not the subject of taxation — not being new property or credits but only evidence of Contracts made in the sale of lands, and of money to be paid in future on said Contracts — And said Worthington states that in his Contracts of sale of all said lands for which said notes were taken he & the purchasers" provided, by written agreement in some instances & in others verbal only that said purchasers were liable for and to pay all taxes on said lands during said ten years, and therefore said Worthington insists that he has virtually paid said taxes as said taxes were taken into consideration in said sales and in setting the prices of said lands

Amount of said Notes for Real Estate aforesaid is $ 31,319.16

Deduct indebtedness of said Worthington on April 1st 1887 Say 5.000

$ 26.314

T. Worthington

Copy of Statement or protest

"A"

Pittsfield Pike County Illinois
Sept 16th 1857

To the Hon Supervisors Court of Pike County Illinois

Your Petitioner respectfully represents that the assessment of $26.314 of notes payable to your petitioner on contracts for lands sold is a double tax - as your petitioner must pay or cause to be paid the taxes on said lands until said notes are fully paid and the titles made & perfected to the parties purchasing - said contracts being from seven to ten years time to run for their fulfilment, for should your petitioner fail to pay or cause the taxes to be paid on said lands until the maturity of said contracts he would loose the title to said lands (& consequently the right to collect the notes) as they would be sold for taxes -

Your Petitioner has sought redress before the board of reviewers for this township without success and hereby appeal to your honorable body in conformity with the thirty third (33) section of the Revenue, assessment & Collection laws &c &c for Township Organization - Claiming that said double tax is unequal unjust & manifestly unconstitutional - as it is clearly impossible to shew any additional property or increase of value in consequence of said contracts & the giving of said notes -

Hence your petitioner respectfully asks an abatement of said tax - and as in duty bound he will ever pray &c

"Thos. Northington"

Copy of Petition
of
Thos. Worthington

"B"

To the Supreme Court I do
Lest a doubt should exist as
to the meaning of the term
"value of property" in the constitution — I conceive it to be the amount
of property of one kind that will
be given in exchange for another kind
of property — and as the amount produced by the same amount of labor
will vary with the thousand modifying circumstances, as skill, more or
less perfect, tools, or machinery and
the more or less happy combinations
of each, for the productions of the
various objects of human desire in the
arts — and as the more substantial
such as food and clothing, either
of the field or forest are greatly
affected not only by these arts; but by
the fluctuations of the seasons, as
too dry or too wet — too hot or
too cool — they would not well
serve the purposes of a measure
of value — or sovereign representative of labor — hence the
selection of the gold and silver*
which invariably represent (on the
average) a fixed amount of labor
when of a given fineness and weight.
Hence the terms "value of property"
always mean (in this country) the amount
of these metals in the coin of the
United States that will be given in exchange* — No other thing being
a legal tender for the payment of
debts — Hence the notes call for
this coin — And it is absurd to say
that these papers are gold & silver coin

* That is the amount of these coins in dollars it will see for

Mr Richardson Page

Again as most of these parties to these contracts wish to restore me the lands as they say burn papers — where will then be the property that is claimed to be in the notes, four thousand five hundred dollars of them was so taken up by lands conveyed to me and which will pay the same tax as before — and no one will ask about the $4500 bond — And I have agreed in the event of certain arrangements to take back ten or twelve thousand dollars worth of the lands contracted — and the taxes on which have been paid by contract with me to do so — unless I am denied the right to make such contracts — (by Constitution) —

I have also a suit pending in the circuit court by appeal from the board of Supervisors whose the same figures, dollars and cents is again to come to a hearing. &c. &c

Additional
Brief of
J. Worthington

See latter part Sec 2. p 36, act of 53.
as to meaning of moneys & credits.

Rhodes vs People 15 Ills. p 304

See Sec 37. assessment Law of 1857
as to authority of assessors &c

assessor may assess double duty
p 8. Sec 8. 53 L.

authority of auditor.
to appeal. Sec 83. p 17. 53 L

Northington
vs
People &c

The provision in the former Constitution of the State in regard to taxation was:
"That the mode of levying a tax shall be by valuation so that every person shall pay a tax in proportion to the value of the property he or she has in his or her possession" See 20th Art 8th of Old Constitution —

The New Constitution provides: "That the general Assembly shall provide for levying a tax by valuation, so that every person and Corporation shall pay a tax in proportion to the value of his or her property".

"Property is defined to be the right and interest which a man has in lands and Chattels" Bouvier's Law Dict. title Property. "It is divided into real property and personal property" — Same authority.

Personal property is further divided into property in possession, and property, or choses in action. — See same authority —

Choses in action are defined to be "when a man hath not the occupation but merely a bare right to occupy the thing in question. The possession whereof may be recovered by a suit at law. Thus money

due on a Bond is a chose in action - 2nd Blackstone 397) -

Chitty defines choses in action to be rights to receive or recover a debt, or money, or damages for breach of contract, or for a tort connected with contract, but which cannot be enforced without action, and therefore termed choses or things in action - Bouvier's Law Dict title "Chose" and authorities there cited.

It will thus be seen that the term property includes things personal as well as real, and things or choses in action as well as possession.

If it could with any propriety be insisted that the framers of the former Constitution intended by the peculiar phraseology used by them in the use of the words "in his or her possession" to confine, limit or restrict the Legislature in the objects or subjects of taxation, to property in possession as contradistinguished from mere rights or choses in action, the omission of this phraseology in the new Constitution in copying the former provision, word for word in almost every other respect, would surely furnish a sound argument for the position that the Legislature intended not only, not, to limit the objects of taxation, but to what

any such inference as might have been drawn from the wording of the former provision, by deliberately omitting it, or as it were striking it out of the former clause.

It cannot be supposed that this was done unintentionally, or without some object.

The clause of the old Constitution in question had been one to which for many years the attention of the Courts and the Legislature had been drawn, by all the disputed questions arising under it in our former Revenue system, and any change of its phraseology must be supposed to have been well studied, and for the accomplishment of some object.

The real object undoubtedly designed even under the old provision was to secure an ad valorem system of Taxation ~~[illegible]~~ that property should be taxed according to valuation, and not arbitrarily or specifically; as that Horses should be taxed at so much per head or land at so much per acre; and whilst the framers of the new Constitution were equally anxious to maintain the same principle, they at the same time discovered something in the phraseology of the former provision from which it might possibly be inferred that there was a further

intention to limit or restrict the objects of taxation to property in possession, and hence to rebut any such inference and to obviate all question as to its construction, they struck out the words referred to.

That the word property as used in our present Constitution covers and includes all the divisions and species, which have heretofore been defined in this brief - property in action, or choses in action as well as in possession, is not only shown by the well understood common law definition of the term, but is also strongly to be inferred from the universal definition so given to the term, and as to what was to be considered as included under it, in the Revenue laws of other states.

The Revenue laws of Massachusetts provide "That personal estate shall be construed to include all goods, Chattels, moneys and effects wherever they may be - all moneys at interest, more than they pay interest for, and other debts due to them, more than they are indebted for - Rev of 1838 p 75

In Indiana it is provided by their Revenue act - "That all property real and personal

shall be liable to taxation. The term personal estate shall be deemed to include all moneys at interest, and all other debts owing to the person to be taxed from solvent persons more than they are indebted for &c &c
Rev Stat of 1843 p 208 -

In Wisconsin is a similar provision ~~Then~~ It is believed that in most of the states of the union similar provisions will be found, and which were in force and had been enacted prior to the adoption of our new Constitution - thus showing that the contemporaneous understanding of the word "property" included choses in action as well as property in possession

The Legislature of this State are as unfettered as to the objects or subjects of taxation as the Legislatures of any of the States of the union. The only restriction is as to the mode of taxation, which the Constitution declares shall be by valuation. And our Constitution not having restricted or limited the definition of the term "property" the legal and legislative interpretation of the term, thus given in the law books and in the Revenue laws of other states, should control its meaning under our Constitution.

Unless it could be successfully shown that the taxation of debts or credits would controvene or interfere with the ad valorem principle established in the Constitution the Constitution has nothing to do with the question. But so far from controvening this principle, is this system of taxation, that it is believed to be the only mode of successfully carrying it out. It is insisted that a nearer approximation to the desired end - that every person should be taxed according to his ability of payment, or his worth, can be attained by this mode of taxation than any other.

But whatever question may arise as to the justice or injustice, equality or inequality of this mode of taxation, it is a question for the Legislature and not for the Courts. The Courts are not authorized to expand the prohibitions in the Constitution beyond their natural and original meaning in order to remedy the evil if any exists.

The power of taxation in the Government is every where defined to be absolute, acknowledging no other limits than those expressly prescribed in the Constitution. If the power is exercised within

constitutional limits, the courts cannot correct its abuse, or its errors.

Logan + Hay

People
vs
Worthington

Points & authorities
Logan + Hay