

No. 12139

Supreme Court of Illinois

Wight, et al

vs.

People

State of Illinois }
So Hancock County } Pleas in the Circuit Court
of said County in a proceeding
on an information in the nature of a Deo
Warranto, begun and held on the first Mon-
day in the month of October A.D. 1849 before the
Hon Benjamin R. Chilton Judge of the Circuit
Court for said County.

In the Record of the
proceedings of said Court of the first day
of October A.D. 1849 in said proceeding is
the following entry, to wit:

The People of the State of Illinois }
Upon the relation of the City of Galena }
By W. G. Johnson City Attorney }
vs } Information
Augustus G. Wright Henry C. Wright } in the nature of
Thomas Drummond Orrin Smith } a Deo Warranto
William Warburton Christian Cribbs }
Samuel Houghtlett & Co. & Damon } Now at this
day comes the State Attorney }

for the people and asks leave to file an
information in the nature of a Quo Warranto
to which is granted by the Court and on
his motion It is ordered by the Court
that a Writ of Quo Warranto issue against
the said defendants returnable & returner

The said Information is in the words
and figures following to wit

State of Illinois
In Danvers County, In the Circuit Court
of Danvers County
October Term A.D. 1849

The People of the State of Illinois
upon the relation of the City of Galena by
Wm. P. Johnson, her Attorney
vs "Information"
Augustus G. S. Wright et al.

Henry B. Stillman the
Prosecuting Attorney in and for the Sixth
Judicial Circuit of the State of Illinois, who
sues for the people in this behalf comes here
before the Circuit Court of the County of Dan-
vers, in the Sixth Judicial Circuit of said
State of Illinois on the first Monday of October
at the October term of said Court in the year
of Our Lord one thousand eight hundred and
Forty nine at the Court house in the City of
Galena in said County of Danvers, and for
the said people, gives the Court here to
understand and be informed on the relation
of the said City of Galena by her Attorney Wm
P. Johnson according to the forms of the
statute in such cases made and provided
That the said Augustus G. S. Wright for the

* over and across said river within the limits of the City of Galena for tolls or otherwise transacting and ferrying other business in carrying and receiving persons and property

space of more than one month last past has used and still claims to use without any sufficient Warrant, or Authority, Charter Grant, permit, license, or leave from any lawful Authority the following liberties privileges and franchises That is to say That of becoming the manager, proprietor or agent of a certain Ferry Boat running and plying between the streets known as South Alley and Berthillien Streets within the Corporate limits of the City of Galena and keeping running and maintaining and using a certain Ferry Boat over and across Grove River a navigable River at said place aforesaid, and on said Boat crossing and receiving persons and property as a lawful and proper Ferry might or could do, and which are usually done and performed by a lawful and proper Ferry, and which they alone have a right to do, all of which privileges liberties and franchises the said Augustus G. Wright during all the time aforesaid has usurped and still doth claim to usurp That is to say at the City of Galena in the County of Jo. Davis aforesaid upon the People aforesaid to their great damage and prejudice and against the peace and dignity of the people of the State of Illinois

And the said Prosecuting Attorney for and on behalf of the said People here gives the Court to understand, and be informed on the relation of the said City of Galena by her Attorney aforesaid. That Augustus G. Wright Henry Corwith, Thomas Drummond, Owen Smith, Wm. Warberton, Christain Cribb E. A. Damon Samuel Hughtlett, and others to your relator unknown for the space of more than three months last past built and constructed a ferry boat, and used the same without any sufficient warrant or authority charter grant permit or leave from any lawful authority the following liberties, privileges and franchise That is to say, That of becoming the owners or proprietors of a certain Ferry Boat and running over and across Peere River a navigable River and using the same as a ferry boat, and ferrying between the streets known as South Alley and Beethilliers Streets in the City of Galena County of Jo Davie and State of Illinois, and that they the said Augustus G. Wright, Henry Corwith, Thomas Drummond, Owen Smith, Wm. Warberton, Christain Cribb E. A. Damon and Saml Hughtlett and others to your relator unknown did keep run and maintain and use a certain Ferry Boat over and across Peere River

at said place aforesaid and on said
boat did cross and recross persons and
property over and across said River
within the limits of the City of Galena for
tolls or otherwise and in doing transacting
and performing other business in crossing
and recrossing persons and property over
said River aforesaid at the place afore-
said as a lawful and proper jury might
or could do, and which they alone would
have a right to do, and for the purpose of
aiding in crossing said Boat over and
across said River with persons and
property, they or some of the defendants
~~have~~^{hereby} have suspended across said River
and are now maintaining a certain Rope
or cord by means of which said Rope or
cord they cross and recross said Boat over
and across said River with persons and
property within the limits of the City of
Galena, all which privileges and franchise
and liberties the said parties during the
time aforesaid have usurped, that is to
say at the City of Galena County of St.
Davis and State of Illinois. In Contempt
of the people of the State of Illinois and to
their great damage and prejudice and ag-
ainst the peace and dignity of the people of the
State of Illinois.

And the said prosecuting Attorney, for and on behalf of the people aforesaid here gives the Court to understand and be informed That under and by virtue of an act of the Legislature of the State of Illinois entitled "An act to amend the several acts Incorporating the Town of Galena" passed and approved on the 15th day of February A.D. 1839, by the first section of said act aforesaid it is therein among other things declared that the Inhabitants and residents of the Town of Galena in the County of Jo Daviess shall be and continue a body politic and corporate in fact and in name under the style of the City of Galena and as such and by that name shall have perpetual succession in Law, may contract and be contracted with sue and be sued, complain and defend in any and all places and Courts whatever.

And by the second section of said act The corporate powers and duties of said City and the Government and Administration of all fiscal prudential or municipal affairs thereof shall be vested in a Mayor and a board of Aldermen who shall be chosen in manner thereafter provided who shall constitute the City Council and by the

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(233)

Section of said act among other things therein declared and provided for It is declared that the said City Council shall have full and exclusive power and Authority to license ~~use~~ tax and regulate all ferries within said City.

And by a subsequent act of the Legislature of the State of Illinois passed and approved on the 11th day of January A D 1847 and entitled "An act entitled an act to authorize the building of Two Bridges across Ferre River in the City of Galena And by the 6th Section of said Act aforesaid it is therein declared among other things That the City Council shall have power to contract for the building said Bridges and to pass all ordinances for their protection while building or in a state of erection as well as when completed and enforce fines &c and when said Bridges are in a condition to safely pass thereon no Ferry, Bridge, or other conveyance for the crossing of persons or property on said River within the Boundary of said City shall be granted or permitted either free or otherwise until said Bridges are paid for &c

And for and on behalf of said People
would give the Court to understand
and be informed, that under said
act last aforesaid the City Council did
contract and had two bridges built ac-
ross Terre River within the City of Galena
and that said Bridges are not paid for
and are now in a condition to safely
pass thereon and by the terms of said
act aforesaid no Ferry, Bridge or other
conveyance for the crossing of property
or persons on said River within the
Bounds of said City shall be granted or
permitted either free or otherwise &c
Neither has any grant or permission been
granted by the City Council to any per-
-son to lease and maintain or run any
Ferry Boat or other conveyance to cross
property or persons over Terre River
within the limits of the City of Galena
for Toll or otherwise

And on behalf of the
said People gives the Court further to
understand and be informed that
notwithstanding the act of Incorporation
Incorporating the City of Galena and conferring on
the City Council full and exclusive power and au-
-thority to license tax and regulate all Ferries
within said City and notwithstanding

the subsequent act of the Legislature of the State of Illinois passed and approved on the 16th day of January AD 1847; prohibiting the granting or permitting of any Ferry Bridge or other conveyance for the crossing of property or persons on said River within the Bounds of said City either free or otherwise yet the said Augustus L. Wright has usurped and still does usurp during all the time aforesaid upon the People aforesaid the privileges franchises and liberties as aforesaid to their great damage and prejudice, and against the Peace and dignity of the People of the State of Illinois.

Whereupon the said prosecuting Attorney aforesaid on the relation aforesaid gives the Court to understand and be informed that each and all of the following named persons to wit Henry Corwith Thomas Drummond Orrin Smith Wm. Warberton Christian Cribb Saml. Eughton & Elt Shimon severally appeared to the proceedings aforesaid on the part of said Augustus L. Wright to wit to the running of said Boat as aforesaid within the limits of the City aforesaid Whereupon the said prosecuting Attorney aforesaid prays leave of this Hon Court to exhibit to said Court the foregoing information

in the nature of a Quo Warranto on the
relation of the said City of Galena by
her Attorney M G Johnson and also
the advice of this hon. Court in the premises
and the due process of the Law against
the said Augustus P. Wright, Henry Smith
Thomas Drummond Arin Smith Wm. Wark-
ston Christian Critt Sand Hughtlett & Est
Damon in this behalf to make answer to
the said people by what warrant or auth-
ority they or either of them claim to have and
enjoy the liberties privileges and fran-
chises aforesaid.

Henry B. Sittman
Prosecuting Attorney
Sixth Judicial District

State of Illinois
De Davis County. M G Johnson the Attorney
of the City of Galena being duly sworn doth de-
pose and say that the facts stated in the for-
going information are true to the best of
his deponent's knowledge information and
belief and that this deponent on behalf
of the City of Galena as her Attorney and by
direction of the City Council is the relator
in said information.

Subscribed & sworn to }
before me this 13th Sept 1893 }
John Campbell J.P.

M G Johnson
City Atty &c

Endorsed

Filed 1st Oct 1849

Wm H Bradley Clerk

The writ issued upon the foregoing information by order of the Court as heretofore recited is in the words and figures following to-wit:

State of Illinois }
St Davieps County } For The People of the State of
County Directing. } Illinois, to the Sheriff of said
County Directing. We Command that you
summon Augustus S Wright to appear before
the Circuit Court of St Davieps County Instantly
and show by what right Warrant or Authority
he claims to exercise a franchise and maintain
a Ferry over and across Perre River within
the City of Galena. In a certain matter of contro-
versy now pending and undetermined in
said Court on an information in the Nature
of Quo Warranto wherein the people of the State
of Illinois on the relation of the City of
Galena by Mr Johnson City Atty Plaintiff
and you the said Aug. S Wright defendant
and this you ~~shall~~ ^{and having you there and there this writ} not court under
the penalty of what the law directs. Witness
William H Bradley Clerk of the Circuit Court of St Davieps
County Illinois at Galena this 5th day of Oct 1849
Wm H Bradley, Clerk

Endorsed ?

Executed the within writ by reading to
the within named Augustus G. Wright this 5th
day of October A.D. 1849

(By Robert Starr deputy sheriff)

M. B. Pierce Sheriff

And afterwards to wit on the 10th day of
October A.D. 1849 in the October term A.D. 1849
of said Court in the record of the proceedings
thereof in said cause is the following entry
to wit.

The People of the State of Illinois
upon the relation of the City of Galena
by M. Y. Johnson Esqr. City Attorney

vs.

Augustus G. Wright, Impleaded with
Henry Corwith, Thomas Drummond
Orrin Smith, Wm. Warburton, Christian
Cribb, Samuel Houghton & E. A. Damon

Information in
the nature of a

Quo Warranto

Now as this day came the
Plaintiff by her Attorney and moves the Court
to rule the Defendant to plead or show cause
to the contrary by tomorrow morning which
motion is sustained by the Court and the
defendant ruled to plead or show cause to the
contrary by tomorrow morning &

And afterwards to wit on the 16th day of
October in said October term A.D. 1849 of
said Court in the Record of the proceedings
thereof in said Cause is the following entry
to wit

The People of the State of Illinois
Upon the relation of the City of
Galena by M. G. Johnson Esq. City
Att. Geny

vs

Augustus G. Wright Implended } Information
with Henry Corwith. Thomas Dunn } in the nature of
Emond Corin Smith William Wart } a Quo Warranto
action. Christian Cribb Samuel
Houghlett & E. A. Damon }

Now came on to be
heard the rule heretofore entered against
the defendant to plead or show cause to
the contrary to the information filed in
this cause. And after argument by counsel
showing cause the Court takes the same
under advisement;

And afterwards to wit on the next day
to wit on the 17th day of October in said
October term A.D. 1849 of said Court in said
cause appears of Record the following en-
try to wit

The People of the State of Illinois
upon the relation of the City of Chicago
by M. G. Johnson City Attorney

vs

Augustus H. S. Wright Impleaded
with Henry Leornith Thomas
Edmond, Olin Smith, William
Warburton, Christian Cribb, Samuel
Hughlett & E. C. T. Larson

Information
in the nature
of a Quo
Warrant

The Court having fully
considered and being fully advised as to
the cause heretofore shown is of opinion that
the cause ^{shown} is sufficient and that the plaintiff
is not entitled in the present position of this
cause to call upon the Defendant Augustus
H. S. Wright to plead to the information, and
now comes the said Wright by his counsel and
enters his appearance herein and by agree-
ment of the parties by their Attorneys it is order-
ed by the Court that the said Defendant Wrig-
ht be ruled to plead to the said information
by the first day of December next.

And afterwards to wit on the 1st day of Decemb-
er A.D. 1845 The said Defendant Wright by
his Attorney filed in the Clerks office of said
Court his Demurrer which is in the words
and figures following to wit

The People } Information in the nature
 vs } of Quo Warranto
 A. G. S. Wright }

And the said Defendant having heard the said information read to him comes and defends &c and says that the said information and that the matters and things therein contained in the manner and form as therein set forth are not sufficient in law and that the defendant is not bound by law to answer thereto, wherefore he prays judgment &c
 Hoze & Drummond
 for deft-

Endorsed

Filed 1st Dec 1849

Wm. H. Bradley Clerk

And afterwards to wit on the 11th day of March in March term A.D. 1850 of said Court in in the record of the proceedings thereof in said Cause is the following entry to wit-

The People of the State of Illinois }
 upon the relation of the City of Galena }
 by Th. G. Johnson ^{City} Attorney } Information in
 vs } the nature of a
 Augustus G. Wright Impleaded with } Quo Warranto
 Henry Corwith Thomas Drummond }
 Arthur Smith William Warburton }
 Christian Enick }
 Samuel Houghton & Et Alamony }

Now come on to be heard the demurrer of the Defendant heretofore filed to the information of the plaintiff which after argument is taken under advisement by the Court

And afterwards to wit on the 22nd day to wit on the 12th day of March in said March term 1850 of said Court in the record of the proceedings thereof in said cause is the following entry to wit

The People of the State of Illinois	}	Information in
upon the relation of the City of Galena		
by M. J. Johnson City Attorney		
vs		
Augustus G. Wright Impleaded	}	the nature of a
with Henry Corwith, Thomas		
Drummond, Orin Smith		
William Harburton Christian City		
Samuel Hughlett & E. S. Damon	}	Two Warrants

The Court having fully considered & being fully advised upon the demurrer heretofore filed by the defendant by his Attorney to the information of the plaintiff overrules the same

And afterwards to wit on the same day to wit on the 12th day of March in said March term A.D. 1850 of said Court the said relators by their Counsel file in open Court the following Motion to Wit

People &c. on the
relation of the City
of Galena
vs
A. C. S. Wright
In the Circuit Court of
Jo Daviess County March
Term 1850, Dues Warranto
And now at this time
comes the said relators and
moves the Court for a default in the above cause
Mr. Johnson
Atty &c

Endorsed

Filed 12th March 1850

Wm H Bradley Clk

And after due to wit on the 19th day of
March A D 1850 in said March Term of said Court
in the record of the proceedings thereof in said
matter is the following entry to wit

The People of the State of Illinois
in the Relation of the City of Galena
by Mr Johnson City Attorney
vs
Augustus C S Wright Impleaded
with Henry Corwith Thomas
Dummond Arin Smith William
Warburton Christian Cribb
Samuel Coughlett & C. A. Damon
Information in the
nature of a
Dues Warranto

And now at this day comes
the prosecuting Attorney on behalf of the People

of the State of Illinois on the relation of the
city of Galena & moves the Court for a judg-
-ment in this cause against the Defendant
Augustus G. S. Wright upon the demurrer of said
defendant herein heretofore at this term over-
-ruled, and the Court having fully consid-
-ered and being fully advised in the pre-
-mises considers that the said informa-
-tion is sufficient in law and the Plam-
-tiffs ought not to be barred from having
and maintaining their said action
and the said defendant failing to mak-
-e any further answer herein It is ordered
and adjudged that the liberties privileges
and franchise heretofore used claimed
and exercised by the said Augustus G. S.
Wright, to wit that of running keeping and
maintaining a Ferry Boat running & plying over
and across levee River between Berthollier Station
and South Alley in the City of Galena Illi-
-nois is without any sufficient warrant or
authority, Charter Grant permit or leave from
any lawful authority, and that the liberties priv-
-ileges & franchises heretofore used and exercised
by him be and the same are hereby declared
forever forfeited to the the People of the State
of Illinois annulled and declared void
and of no effect. It is further ordered and
adjudged by the Court that the people of the

State of Illinois. on the relation of the City
of Galena aforesaid have and recover of the said
Defendant their costs by them in this behalf
expended and that execution issue there-
for And the Prosecuting Attorney says he
will no further prosecute the other said de-
fendants on this Information It is therefore
considered by the Court that the said Defendants
Henry Corwith, Thomas Drummond, Orrin Smith,
William Warburton, Christian Cribbe, Samuel
Hughlett, & Et Al be discharged from this
Information &

State of Illinois
Jo Daviess County &

I William A Bradley
Clerk of the Circuit Court in and for said
County do hereby certify the foregoing trans-
cript to be a true full and perfect copy
from the Record of all the Proceedings
which were had in said Circuit Court
in the Matter of The People of the State of Il-
linois on the relation of the City of Galena
by M S Johnson City Attorney against Aug-
ustus G S Wright, Henry Corwith, et al

In testimony whereof I have hereunto
set my hand and affixed the Seal
of said Court at my Office in Galena
in said County this 18th day of
April A D 1854
Attest William A Bradley Clerk

King's County, N.Y. 4, 1870

Lucy T. Wright widow of
Augustus T. Wright deceased
Ann Eliza Wright and children and heirs at law
Henrietta Wright and } of said Augustus
Calvin L. Wright and
Augustines of West Hill } infant children
and James Wright widow of Calvin L.
Wright and Eliza Wright son and heir at law
of Henrietta Augustus T. Wright deceased
Calvin L. Wright } Error to
Augustus T. Wright } Children of Calvin L. Wright
People of State of Illinois }

And the said Lucy T. Wright Ann Eliza
Wright and James Wright by Hyman & Shostkin
their Attys and the said Henrietta
Wright Calvin L. Wright and Augustus
T. Wright by Mr J. Johnson Esq
then next friend come and say
that in the record and proceedings
aforesaid there is error in the writ

1st The Court erred in overruling the
demurrer of said Augustus T. Wright
to said information

2^d The Court erred in rendering

judgment against said Augustus & I
 might when said Lucy A Wright
 Ann Eliza Wright James Wright Hewitt
 Wright Calmer L Wright and Augustus
 I might bear that relation being
 said and that the said
 judgment may be reversed and
 that the said destroyed ball
 things which they have lost by reason
 thereof.

Wright & Brother

Att for said Lucy
 A Wright James
 Wright and Ann
 Eliza Wright - and
 said infant - Hewitt
 Wright Calmer L Wright
 and Augustus I Wright
 by M J Johnson their

friend

5.
 Lucy A. Wright et al.
 vs.
 The People &c.
 Record & errors

Filed June 13th 1854,
 L. Deland Clerk
 By P. K. Deland Depy.

Prepared

State of Illinois - Supreme Court 3rd Grand Division
Term Term A.D. 1854.

Lucy N. Night widow of
Augustus G. S. Night deceased
Ann Eliza Night and } Children & heirs at law of said
Henrietta Night } Augustus
Calvin S. Night and } Infant Children -
Augustus S. Night }
and Jane Night widow of Calvin S. Night
deceased son & heir at law of said Augustus
G. S. Night - pleads in error -
vs.

The People of the State of Illinois - defts in error.

Error to Joe Daviss

And now come the said people
by Wallace their attorney and say
that there is no error in the record
of the proceedings in said cause and
thus they are ready to verify by the
record. Wherefore &c

W. P. K. Wallace
for the people.

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Lucy N. Nightingale

vs

The People &c

finder in error

Filed June 14. 1854
L. Nelson Clerk

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Lucy et. Wright et al.

^{vs}
The People &c.

J. P. D.

12139

1857

Pupard