

12741

No. _____

Supreme Court of Illinois

Dawley

vs.

Vancourt

71641  7

Cases before the Hon^{ble} M. E. Hollister Judge
of the Ninth Judicial Circuit of the State of Illinois
at the term of the Circuit Court begun and held at
the Court House in Peppercorn in the County of Bureau
and State of Illinois on the second Monday in the
month of January in the year of our Lord one thousand
and eight hundred and fifty seven

Present M. E. Hollister Judge
C. M. Fisher Clerk
J. K. Waldron Sheriff
W. Bushnell State Attorney

To wit on the 12th day of said term it being Jan'y
26th A.D. 1857

Benjamin P. Vanhook

vs

Ejectment

Dennis W. Dawley

Now comes the Plaintiff and files
his declaration and notice herein by Peters and Farrell
his Attorneys in the words and figures following to wit:

Declaration. State of Illinois } Circuit Court
Bureau County } January Term A.D. 1857

Benjamin P. Vanhook

vs

Ejectment

Dennis W. Dawley

Plaintiff in
this suit complains of Dennis W. Dawley, the defendant,
in a plea of Ejectment for the following reasons: Whereas on the 1st day
of January A.D. 1857 at the County aforesaid, he said plain-
tiff was possessed of the following described real Estate to wit:
South East quarter of Section Number one in Township Num

ber fifteen North of Range Number Seven East of the fourth
principal meridian in Bureau County State of Illinois the
title to which the said plaintiff claims in fee simple. And
the said plaintiff being so possessed thereof, the said de-
fendant on the 2^d day of January A.D. 1857, entered into
said premises and unlawfully withholds from the plain-
tiff the possession thereof, to the damage of the said plain-
tiff one hundred dollars, and therefore he brings his suit
Peters & Farwell, Pltffs Attys

Def. To Dennis W Dawley.

You are notified that that on the
first day of the next term of the Circuit Court of Bureau
County Illinois, to be held at Princeton in said County on
the 2^d Monday in the month of January instant or as soon
afterwards, as counsel can be heard, the foregoing declara-
tion will be filed in said Court, and thereupon, a rule
will be entered requiring you to appear and plead thereto
within twenty days after the entry of such rule, and that
if you neglect to so appear and plead, judgment by de-
fault will be entered against you, and the Plaintiff will
recover possession of the premises described in said declaration

Peters & Farwell Pltff Attys

- upon which notice there was endorsed the following affidavit
of service to wit;

Service

State of Illinois } ss

Bureau County } Samuel Mitchell deputy Sheriff of said
County & State being first duly sworn deposes and says he
served the within declaration & notice on the within named
Dennis W Dawley by delivering ^{to him} personally a true copy of the
same on the 9th day of January A.D. 1857

Subscribed and sworn to
before me this 13th day of
January A.D. 1857

J. R. Waldron Sheriff
by S. H. Mitchell Dep

E. M. Fisher Clerk

- and on motion of said attorney a rule is taken on said defendant to file his plea to said plaintiffs declaration herein within twenty days from this date or judgment will be entered against him by default and the plaintiff will recover possession of the said premises

And afterwards, to wit on the 3^d day of February A.D. 1857 came the said defendant by Taylor + Stepp his Attorneys and filed his plea to the said Plaintiffs declaration filed herein in the words and figures following, to wit;

15 Plea B. P. Vancourt

vs

D. W. Dawley

do

In the Circuit Court of Bureau County

vs

And the said defendant comes and defends the wrong force and injury when &c and says that he is not guilty of unlawfully withholding the premises in the declaration alleged in manner and form as therein complained of by the Plaintiff, and of this he puts himself upon the Country &c

Taylor + Stepp for the dft

157
Pleas before the Honorable Martin Ballou Judge of the twenty third Judicial Circuit of the State of Illinois at the term of the Circuit Court begun and held at the Court House in Princeton in and for the County of Bureau on the first Monday in April in the year of our Lord one thousand eight hundred and fifty seven

Present Hon^{ble} Martin Ballou Judge

Edward M. Fisher Clerk

J. H. Waldron Sheriff

Geo W Stepp State Attorney

To wit on the 6th day of said term it being Saturday
April 11th A.D. 1857

Benjamin P. Vance

vs

Exemption

Dennis W. Dawley

Now comes the Plaintiff by Peter &
Farwell his attorneys and the defendant by Taylor & Stipp
his attorneys and by agreement of said parties this cause
is set for trial on Wednesday of third week

1857

Pleas before the Honorable Martin Ballou Judge
of the twenty third Judicial Circuit of the State of Illinois
at a term of the said Circuit Court begun and held at
the Court House in Princeton in the County of Bureau
on the first Monday in September in the year of our
Lord one thousand eight hundred and fifty seven

Present Hon^{ble} Martin Ballou Judge

Edward M. Fisher Clerk

J. K. Waldron Sheriff

Geo. W. Stipp State Attorney

To wit on the 10th day of said term to wit on the 17th
day of September A.D. 1857

Benjamin P. Vance

vs

Exemption

Dennis W. Dawley

Now comes the Plaintiff by Peter
& Farwell his attorneys and the defendant comes by Stipp
his attorney and by agreement of said parties this
cause is set for trial on Friday morning of third week

To wit on the 20th day of said term to wit on the 29th
day of September A.D. 1857

Benjamin P. Vancourt

vs

Ejectment

Dennis W. Dawley

Now comes the Plaintiff by Peters &
Farwell his Attorneys and the defendant comes by Stepp
his Attorney and by agreement of ^{said} parties this cause is
submitted to the Court for trial, and a jury waived herein
and after hearing and the Court being fully advised in the
premises, doth find the issues herein in favor of the Plain-
tiff, and the said defendant guilty of unlawfully and wrong-
fully withholding possession of the said lands and tenements
from the said plaintiff to wit;

The South east quarter of Section Number one in township
fifteen north of range seven east of the fourth principal
meridian. -

It is therefore considered by the Court that said
plaintiff have possession of said lands and tenements
and that he also have and recover of the said defendant
all his costs and charges in and about his suit in this.
of behalf expended and that he have a writ of possession
herein directed to the Sheriff of Bureau County commanding
him to cause the said Sheriff Plaintiff to have possession of
the said lands and tenements and that he also have exe-
cution for his said costs and charges.

And the defendant comes by his said attorney and
having paid all the costs herein moves the Court for a new
trial herein which is allowed by the Court

Pleas before the Hon^{ble} Martin Ballou Judge
Term 1858 of the twenty third Judicial Circuit of the State of Illinois
at the January Term of the Circuit Court in and for
the County of Bureau begun and held at the Court House
in Princeton in said County on the first Monday in the
month of January in the year of our Lord one thousand
eight hundred and fifty eight

Present Hon^{ble} Martin Ballou Judge
Edward M Fisher Clerk
J. K. Waldron Sheriff
Geo W Steph States Attorney

To wit on the 8th day of said Term to wit Jan'y 12th AD 1859

Benjamin P Vancourt

vs

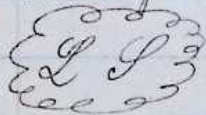
Ejectment

Dennis W Dawley

Now comes the Plaintiff by Peter and
Furness his Attorneys and the defendant comes by Tay-
lor & Steph his Attorneys and by agreement of said
parties a jury is waived and this cause is submitted to
the Court for trial. And after hearing and being fully
advised in the premises the Court doth find the issue
herein in favor of the plaintiff and that he has a fee
simple title to the land set out in said Plaintiffs decla-
ration to wit; the South East quarter of Section one in
Township number fifteen north of Range Seven east of the
fourth principal Meridian and that the defendant is
guilty of unlawfully and wrongfully withholding possession
of the said premises from the said Plaintiff and the
defendant by his said Attorneys enters his motion for
a new trial herein which said motion is overruled by
the Court. It is therefore considered by the Court that
the said Plaintiff have possession of the said lands

To all to whom these presents shall come greeting, Know ye that in pursuance of the acts of Congress appropriating and granting land to the late army of the United States passed on and since the sixth day of May 1812 James Patrick having deputed in the general land office a warrant in his favor numbered 1420 there is granted unto the said James Patrick late a private in Ross Comp of the 40th Reg't of Infantry a certain tract of land containing one hundred and sixty acres being the South East qr of Section one, of Township fifteen North in Range Seven East in the tract appropriated (by the acts aforesaid) for Military Bounties, in the Territory of Illinois, To have and to hold the said quarter section of land, with the appurtenances thereof unto the said James Patrick and to his heirs and assigns forever

In testimony whereof I have caused these letters to be made patent and the seal of the general Land Office to be hereunto affixed. Given under my hand at the City of Washington this Eleventh day of May in the year of our Lord one thousand eight hundred and eighteen and of the Independence of the United States of America the forty second



By the President J. M.

J. M., Commissioner of the General Land Office

General Land Office August 26, 1853

In accordance with the seventh section of the Act of Congress, approved the 4th of July, 1836, entitled "An Act to re-organize the General Land Office" and with the Act of Congress approved the 3^d of March, 1843, entitled "An Act in relation to the exemplification of the records of Land Patents and other evidences of title and amendment of the act entitled 'An act to re-organize the General Land Office'" I John Wilson Commissioner of

the General Land Office, do hereby certify, that the annexed is a true and literal exemplification from page 359, Vol 20, Illinois Bounty-land records, (Mar of 1812) on file in this office. The record of the Patent in this case, of which the annexed is a literal exemplification as aforesaid, was omitted to be signed as required by law, as appears from the record of the same in this office: but the first section of the act of March 3^d, 1843, above referred to, provides, that "where such exemplifications are adduced in evidence, they shall be deemed and held to be of the same validity in all proceedings, whether in law or in equity, as if the names of the officers signing and countersigning the same, had been fully inserted in such record."

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the City of Washington, on the day and year first above written



John Wilson
Commissioner of the General Land Office.

- and then the Plaintiff introduced in evidence a regular chain of ~~title~~ deeds from the patentee conveying the said premises to the plaintiff in fee simple before the commencement of this suit and rested his cause. The defendant then introduced in evidence a deed of the Auditor of public accounts of the State of Illinois to Aaron E May for the premises described in the declaration which deed is as follows:-

No 2285

Deed

The Auditor of Public Accounts of the State of Illinois, To all to whom these presents shall come greeting
Know ye, that whereas it appears from the Certificate of

the Clerk of the County Commissioners Court of Bureau County that he did, on the first day of September Eighteen hundred and forty five at the town of Princeton in conformity with the requirements of an act of the general assembly entitled "an act regulating the assessment and Collection of the public revenue" Approved March 3. 1845 expose to sale the same having been forfeited to the State for the non payment of the tax, interest and cost due thereon for the year 1839 the following described tract of land to wit; the South east quarter of Section one (1) in Township fifteen (15) North Range seven (7) East of the fourth principal Meridian and whereas at the time and place aforesaid, Aaron E May became the purchaser of the tract of land aforesaid, and has paid to the said Clerk the sum of seven dollars and eighty one cents, the price at which the same was sold, I have granted, bargained and sold and by these presents, as Auditor of the aforesaid State, do grant bargain and sell all the right title interest and Claims of the State of Illinois to the real property above described to the said Aaron E May his heirs and assigns. To have and to hold said tract lot or parcel of land to the said Aaron E May and his heirs and assigns forever subject however to all the rights of redemption provided for by the laws in testimony whereof I have hereunto subscribed my name and affixed the seal of my said Office this Eighteenth day of March A.D. 1846



W. L. D. Ewing Auditor of Public Accounts

I hereby certify that the foregoing is a correct copy of a Deed filed for record August 20th 1846 at 1³/₄ O'Clock P.M. and recorded August 20th 1846

Oliver Boyle Recorder,

16
The defendant then introduced in evidence a deed of warranty of the said Aaron & May conveying the said premises to James & May in fee simple before the commencement of this suit the defendant then proved that he was the tenant of the said James & May and held possession of said premises under him, the defendant then proved that the said James & May and Aaron & May had paid all taxes assessed upon the said premises every year from the year 1845 to the year 1855 inclusive of both those years and then rested his cause. The Plaintiff introduced the following records of the Circuit Court of Bureau County Ills to wit;

Judgment State of Illinois } Collectors Office March 17, 1840
County of Bureau }

I Cyrus Langworthy collector of the County of Bureau aforesaid agreeable to the requirements of an act entitled "An act concerning the public revenue" approved Feb 26th 1839 respectfully submit the following report.

List of lands and other real estate situated in the County of Bureau and State of Illinois on which taxes remain due and unpaid for the year herein set forth

Cause of action	Town Lots No. &c	In whose name patented	Acres	Amount of Taxes	Year for which taxes are due	Valuation	Description	County	Memoranda
Suit for Taxes					1839		Acres	Bureau	
"			6 2 40	"	"	480	160 S E 1-15 N 7 E	"	

Attest Cyrus Langworthy } Collector Bureau
County Illinois

12
 State of Illinois
 Bureau County

I certify that the foregoing advertisement for the sale of lots and lands in Bureau County was duly published on the 12th day of February 1840. in the Lacon Herald published in Marshall County Illinois and that the number of the foregoing transcript and notice so published corresponds with the number of Newspapers printed for that week and that the same was published and distributed in single numbers in each newspaper respectively
 Allen K Ford Publisher

Warrant for
 Sale of

State of Illinois } ss In the Circuit Court Bureau County
 Bureau County } March Term AD 1840.

Whereas Cyrus Langworthy Collector of said County returned to the Circuit Court of said County on the Seventeenth day of March 1840 the following tracts and parts of tracts of land as having been assessed for taxes by the assessor of said County of Bureau for the year 1839 and that that the taxes thereon remained due and unpaid on the day of the date of the said Collector's return and that the respective owner or owners have no goods and chattels within his county on which the said Collector can levy for the taxes interests and costs due & unpaid on the following described lands to wit;

Warrant for	Case of	From	In whose	Costs	Amount of	Years for	Value	Description	County	Memoranda
	Action	lot or pc	name patented	\$ ct	\$ & cts	which taxes are due A.D. 1839	\$...	acres Description	Bureau	paid
Warrant for				.06	2 40	"	4 80	160-SE 1. 15 1/4. 7 E	"	291)

And whereas due notice has been given of the intended application for a judgment against said lands and no owner hath appeared to make defence or show cause why judgment should not be

entered against said lands for taxes interest & costs due & unpaid thereon for the year or years herein set forth Therefore it is considered by the Court that judgment be and is hereby entered against the aforesaid tract or tracts of land or parts of tracts in the name of the State of Illinois for the sum annexed to each tract or parcel of land being the amount of taxes interest & costs due thereon. And it is ordered by the Court that the said several tracts of land or so much thereof as shall be sufficient of each of them to satisfy the amount of Taxes interest & costs annexed to them severally be sold as the law directs.

A true Copy of the record as certified by me this fourth day of April A.D. 1840 and the seal of said Court affixed

Attest Cyrus Bryant Clerk

To return
State of Illinois } ss
Bureau County }

By virtue of the within precept to me directed I did on the thirteenth day of May in the year A.D. 1840 attend at the Court House in the Town of Princeton in said County and assisted by the Clerk of the County Commissioners Court of said County between the hours of Ten O'Clock A.M. & three O'Clock P.M. of each day proceed to sell each lot or parcel of land named in the within list at Public Auction commencing with the first lot or parcel of land named in said list and proceeded until the whole were sold the whole tracts or lots was offered for sale for the amount of taxes interest & costs due thereon including the fees and struck off to the person who offered to pay the amount due as aforesaid for the least number of acres or the least portions of any town lot and where no offer to pay the said amount the whole or any portion of any tracts or lots the same

was struck off to the State the said Clerk attended at the said sale and kept a register thereof in which he entered each lot or parcel of land exposed to sale by me with the description thereof and therein entered the name of purchaser his place of residence and the quantity of land sold with the amount due thereon. Dated at Princeton this 15 day of May in the year of our Lord 1840
Cyrus Langworthy Sheriff
B. Co Ills "

- and it was then admitted by the parties that the defendant was in the possession of said premises at and before the commencement of this suit & had been before that time some three years only which was all the evidence in this cause and the agreement filed in this Cause is also made part of this Bill and is as follows

Benjamin P Vancourt } Circuit Court of Bureau Co
vs } Ills. Term A 31858
Dennis W Sawley } In Execution

It is agreed by the parties to this suit that in case the judgment in this cause is reversed in the Supreme Court that said Cause shall be sent back for a new trial and that the same shall be tried anew and that neither party shall be concluded or prejudiced upon such new trial by any thing stated or admitted in the bill of Exceptions in this Cause

Geo W Stepp Atty for the
defendant

- and thereupon the Court found the issue for the Plaintiff and rendered judgment for the Plaintiff against the defendant to which finding & rendering judgment of the said Court the said defendant then and there excepted and prayed the said Court to

sign and seal this his bill of exceptions which is done
accordingly

Mc. Ballou (Seal)
Judge of 23^d Judicial Circuit Ills

And afterwards to wit on the 15th day of February A D
1858 came the said defendant and filed his ~~appeal~~ bond
herein for appeal to the Supreme Court of the State of
Illinois, in the words and figures following to wit;

Bond Know all men by these presents that we Dennis W
Dawley and James L May are held and firmly bound
unto Benjamin P Vancourt in the penal sum of one
hundred dollars for the payment of which well and
truly to be made we bind ourselves our heirs executors
and administrators jointly severally and firmly by these
presents. Witness our hands and seals this first day
of February A D 1858

The Condition of this obligation is
such that whereas the said Benjamin P Vancourt did at
the January Term A D 1858 of the Circuit Court of the
County of Bureau in the State of Illinois, in a certain
Suit in Ejectment then in said Court pending wherein
the said Benjamin P Vancourt is plaintiff and the
said Dennis W Dawley is defendant, recover a Judgment
against the said Dennis W Dawley for the land de-
scribed in the Plaintiffs declaration, to wit the South
East quarter of Section No one in Township fifteen
North 7 East in said County, and his costs in that
behalf expended from which Judgment the said Dennis
W Dawley has taken an appeal to the Supreme Court of
the State of Illinois. Now if the said Dennis W Dawley
shall duly prosecute his said appeal, and shall
pay whatever Judgment shall be rendered in said
cause by the said Supreme Court together with all

costs interest and damages which the said Benjamin P
Vancourt shall sustain in case the said judgment of the
said Circuit Court shall be affirmed by the said
Supreme Court, then this bond shall be void, otherwise
in force

J. M. Dawley

(LS)

James C May

(LS)

State of Illinois }
Bureau County }

I, Edward M. Fisher Clerk of
the Circuit Court within and for said County in the
State aforesaid do hereby certify the above and foregoing
to be a true and correct transcript of the proceedings
in the above entitled cause as the same appear on
the files and of record in my office



In testimony whereof I hereunto set my
hand and affix the seal of said Court
at my office in Princeton in said County
this 20th day of April A.D. 1859

Edward M. Fisher
Clerk

per Wm H. Jenkins Sec. CLK

Fees \$6.75 paid by Stip. Atty }
for Ex. Dawley }

State of Illinois - Supreme Court
3rd Grand Division
April term 1859.

~~William M. Hall~~

vs

~~Ernest to Lathall~~

~~and E. Primmer~~

~~And now comes the~~

James W. Hawley, appellant

vs

Benjamin P. Vancouver, appellee

Appeal from
Bureau.

And now comes the said

appellant by Stupp & Wallace, his
counsel and state and shows to the
court here that in the record of the
proceedings and judgment aforesaid
there is manifest error, in this
to wit

First - The court below erred in finding
the issues for the plaintiff below.

Second - The court below erred in rendering
judgment for the plaintiff below.

Third - The court below erred in reversing
appellants motion for a new trial.

Fourth - The court below erred in rendering
the judgment aforesaid in manner
and form aforesaid.

Wherefore for these errors and others
apparent on the face of said record
appellant prays that said judgment
may be reversed, set aside and
wholly for nothing, esteemed &c

Wm. H. Stupp and
W. H. Wallace
counsel for appellant.

Supreme Court State of Illinois
To the April T. 1859.

Dennis, W. Dawley
vs appeal from Bureau County.
Benjamin, P. Vancont Circuit Court

Now comes the said appellee
and says, that there is no error
in the records proceedings or
Judgment of the Court below,
wherefore the said appellee prays
that the said Judgment may be
in all things affirmed

Peters & Hamell
attys for appellee

25.1
Sen. no. W. L. Leland
Efficient

Certified transcript of
Records and
Assy. of Enos

Filed April 25. 1839
L. Leland
Clerk

Missus W Hawley
vs Appeal from Bureau
Benjamin J Vanceant
Brief for Appellee

The Appellee who was the plaintiff below, deduced a perfect title to himself before the commencement of the suit from the United States.

The Appellant the defendant below claimed, that he was entitled to the benefit of the 9th Section of the Chapter on conveyances. He showed that he occupied the premises in controversy as the tenant of one James C. May, that the Auditor of the State in 1846 executed to C. C. May, a deed of the interest of the State to the premises in controversy, the deed stating that the premises, had been forfeited to the State for the nonpayment of the taxes of 1839. And Appellant proved that C. C. May, before the commencement of this suit, had executed to his landlord James C. May, a deed for said premises and that they (that is C. C. May & Jas C. May) had paid all the taxes assessed on said premises, from 1845 to 1855, inclusive, But ~~that~~ Appellant did not attempt to prove, that the State had title to said premises, at the time the deed was executed to C. C. May. The plaintiff to rebut any presumption that the said Mays had paid such taxes under color of title in

good faith, introduced the records
appertaining to the Judgment and Sale for
the taxes of 1879. and it appeared therefrom
that no valid Judgment had been rendered,
that the records of such Judgment failed
to show when or where it was rendered,
and was therefore void. 14 Vets 380 Revised
Statutes page 450. that no proper notice
had been given of the application for such
Judgment, or of the time, when said land
would be sold thereon, that the precept
under which the pretended sale was made
to the State, or rather by which the premises
were forfeited or knocked off to the State,
showed upon its face in pencil mark, that
\$2.91 ~~of the~~ taxes had been paid, and that
there was no taxes due, and that the
Auditors deed, did not profess to convey
the premises, but only the interest of the
State in the premises, and that as such
defects aforesaid appeared upon the
necessary title papers of the Mays, and
the Auditors deed, directed their
attention to the foundation of the
States title thereto, that they must have
known, that they had no title to said
premises, when they paid such taxes, and
that the same were not paid in good
faith by them, and that they had not
color of title to the same under which
to pay such taxes.

But even if the Mays had color of title,
and had paid the taxes from 1845 to 1855

in good faith, yet that they failed to show that such taxes were paid by the persons then holding such color of title, they proved the payment of taxes for ten years in succession by the Mayos, but it did not appear, when A. & May decided to Jas. C. May, ^{or for which year each paid the taxes} It did not therefore appear, that A. & May paid the taxes, while he held the color of title and that James C. May paid the taxes during the time he held the color of title, but only that the two united, paid the taxes for ten years in succession, but if it had expressly appeared that A. & May had paid the taxes for all the time, that Jas. C. May held the color of title, and that Jas. C. May had paid the taxes while A. & May had such color, it would have made out what the bill of exceptions shows, that was established, to wit - that the two had together, paid the taxes for ten years in succession, which is not sufficient, that Court has decided in 19 Ills 185 and 20 Ills 403 & 404 - that the party claiming the benefit of such 9th section, must prove that the taxes, for seven years in succession, were paid by the person at the time holding the color of title;

But the Appellee totally failed to show the condition of those premises during the period of those ten years payment of taxes, except that the defendant had

occupied said premises, for three years only, before the commencement of this suit, which was January 1st 1857. But for the remainder of those ten years, it did not appear whether those premises were vacant and unoccupied or not, for all that is shown, those premises during all said time, were in the adverse possession of others, there is no proof upon that point.

The defendant can not claim under the 8th section of the Chapter on Conveyances, because he only proved possession for three years. and he can not claim under the 9th section of the Chapter on Conveyances because he did not prove the payment of taxes for seven years in succession by the parties under whom he claimed. while said premises were vacant and unoccupied, and therefore he has utterly failed under both sections. 6 McLean's Rep 577, 19 Ills 385. 20 Ills 402-4

Wm. T. Hurwell
Att'y for Appellee

There is an amended transcript of record filed in this case, stating that the Clerk by mistake inserted copy of Collector's Report instead of the Judgment & he with the amended transcript sets out a copy of the Judgment. Pg 44,

Supreme Court State of Illinois
To the April T. 1859

DENNIS W. DAWLEY
vs.
BENJAMIN P. VANCOURT.

for Appellee

Defendant must have proved that the taxes were paid while the premises were vacant and unoccupied, and that the person holding the color of the title paid such taxes to sustain his defence under the 9th Section of the act on conveyances, which he failed to do.—20 Ill., 403, 404. 19 Ill., 385. 6 McLean, 577.

The Judgment of 1840 was void.—14 Ill., 380. Rev. Stat., page 450.

Peters & Samuel
attys for Appellee

Dawley

Rancourt

Helles Antiques

Dennis H. Dawley
2

B. P. Bancroft

Printed forms &
authorities & written
Brief for appeal

Supreme Court State of Illinois
To the April T. 1857

DENNIS W. DAWLEY
vs.
BENJAMIN P. VANCOURT.

for Appellee

Defendant must have proved that the taxes were paid while the premises were vacant and unoccupied, and that the person holding the color of the title paid such taxes to sustain his defence under the 9th Section of the act on conveyances, which he failed to do.—20 Ill., 403, 404. 19 Ill., 385. 6 McLean, 577.

The Judgment of 1840 was void.—14 Ill., 380. Rev. Stat., page 450.

Peters & Hamell
attys for Appellee

Draw
of
Uncount
Appelles Authorities

257
Benjamin J. Vancouver

vs
Dennis W Dawley

Certified Copy of Record of Judgment
for Taxes for the year 1839

Benjamin P. Vancourt

Ejectment

Dennis W. Dawley

Copy of judgment
of Circuit Court
against lands for
taxes for year 1839

" State of Illinois }
" County of Bureau }

" Whereas Cyrus Langworthy Collector of said
" County returned to the Circuit Court of said County on the 17th day
" of March 1840 the following tracts and parts of tracts of Land, as
" having been assessed for taxes by the Assessor of said County of Bu-
" reau for the year 1839 and that the taxes thereon remained due and
" unpaid on the day of the date of the said Collectors return and that
" the respective owner or owners have no goods and chattels within his
" County on which the said Collector can levy for the taxes, interest and
" Costs due & unpaid on the following described lands to wit;

Owner of present Owners	Town Lots numbers &c	In whose name patented	Costs	Amount of Taxes	Years for which taxes paid	Valuation	Description	County
"				\$ cts	1839	\$	Acres ----- 4 th Pl Mer	Bureau
" Patrick James			.06	2 40	"	480	160 88.1 15 N. 7 E " "	"

" - And whereas due notice has been given of the intended application for a
" judgment against said lands, and no owner hath appeared to make
" defence or show cause why judgment should not be entered against the
" said lands for the taxes interests and cost due and unpaid thereon
" for ~~the~~ year or years herein set forth: therefore it is Considered by
" the Court that judgment be, and is hereby entered against the
" aforesaid tract or tracts of land or parts of tracts in the name of the State
" of Illinois for the sum annexed to each tract or parcel of ~~tract~~ land being
" the amount of taxes interest and Costs due severally thereon and it
" is ordered by the Court that the said several tracts of land or so much
" thereof as shall be sufficient of each of them to satisfy the amount of
" taxes interest and Costs annexed to them severally, be sold as the
" law directs."

[Decorative flourish]

State of Illinois } ss
Bureau County } I Edward M Fisher Clerk of the
Circuit Court within and for said County in the State aforesaid do hereby certify
that the above and foregoing is a true and perfect Copy of the record of the judg-
-ment of the Circuit Court of said County against the land therein described and
which is called for in the Bill of exceptions in the above entitled Cause as
having been introduced in evidence by the Plaintiff, and which should
have been inserted in said bill of exceptions immediately after the fol-
lowing words, to wit; "The Plaintiff introduced the following records of the
Circuit Court of Bureau County Ills. to wit;" but was inadvertently left
out in said Bill of Exceptions, and for which the Collectors Return
and certificate of Publication was erroneously inserted



In testimony whereof I have hereunto set my
hand and affixed my official Seal at my Office
in Princeton in said County this 30th day of
April A.D. 1859

Edward M Fisher Clerk
per Jmth Hall Jenkins Dep^y Clk