

No. 14521

Supreme Court of Illinois

Moore

vs.

Hoisington et al

STATE OF ILLINOIS,
SUPREME COURT.

} ss. The People of the State of Illinois,

To the Sheriff of Stephenson County, GREETING:

BECAUSE, In the record and proceedings, and also in the rendition of the judgments of a plea which was in the Circuit Court of Stephenson County, before the Judge thereof, between Lutzen Lutzens

plaintiff..., and Berenty Ohling, Heike Ohling, Paul J. Ohling & Adde Berchers

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

as we are informed by their complainants... the record and proceedings of which said judgments we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law: Therefore, We Command You, That by good and lawful men of your County, you give notice to the said Lutzen Lutzens

that he be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April 1883 next, to hear the record and proceedings aforesaid, and the errors assigned, if he shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said Lutzen Lutzens

notice, together with this writ.

Witness, The Hon. John T. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 2 day of April in the year of our Lord One Thousand Eight Hundred and Sixty-three.

L. Seland

Clerk of the Supreme Court.

J. M. B. B. B. B.



State of Illinois
Stephen Borenbyff served the within ^{reading} by the same
to the within named Lutzen Lutzen this 11th
day of April A.D. 1863.
April 11th 1863

W. W. Robery Sheriff Steh Co
By W. Woods Graham Deputy

61 148

Deputy Ohling Aug

No. 1 vs. Lutzen Lutzen

SOIRE FACIAS.

FILED... CH. H. C. 28... A. D. 1863
L. Ireland Clerk.

Sheriff's fees \$3.00
Paid by Ad. W. W. W.
atty for Bly in even

State of Illinois, Third Grand Division.

SUPREME COURT,

APRIL TERM, 1863.

JOHN M. MOORE,
vs.
JASPER A. HOISINGTON, ET AL. } *Error to Cook.*

ABSTRACT.

The plaintiff in error filed his bill in Chancery, in the Cook County Circuit Court, and set forth therein that an election was held on the 4th day of November, 1862, under and in pursuance of the laws of this State, for town officers for the town of South Chicago, Cook County; that said town is divided into nine election precincts, in each of which the polls were opened, boards of election qualified, and votes received for the different town officers; that said election was conducted according to the usual custom in said county, under the supervision of three judges or inspectors of election, and two clerks, at each poll, and each of said boards kept two ballot boxes, in one of which it was designed to put the ballots for State and county officers, and members of Congress and the Legislature, and in the other ballots for town officers: that the two clerks kept two poll lists which were duplicates of each other, on which was entered the name of each voter, without discrimination as to whether he voted one or both ballots, each voter having the right to cast both if he chose, and after the polls were closed the ballots were counted separately, and town ballots placed in a paper bag, sealed up, and delivered to the town or county clerk, and the general ballots in another paper bag, likewise sealed, and delivered to the county clerk.

3 The bill shows that votes were cast at said election for supervisors, assessor, collector, clerk, five justices of the peace, five constables, &c., and

attaches a tabular statement showing the result as exhibited by the returns for justices, except as hereafter stated, which is marked Exhibit A, whereby it appears, and the fact is, that Aaron Haven, Calvin De Wolf, Nicholas Berdell and the plaintiff in error were elected justices, and it further appears therefrom that Charles McDonell was also elected, but whether such is the fact or not he does not state, but he had been informed and believed that Charles McDonell was elected instead of Jasper Hoisington, who claims to be elected.

11 The tabular statement shows that Haven received 2,927 votes, De Wolf, 2,910; Milliken, 2,907; Moore, 2,896; Burdell, 2,887; McDonell, 2,873; Hoisington, 2,869; Caldwell, 2,851; Summerfield, 2,850; and Diehl, 2,837.

4 The bill shows that returns were delivered to Leonard Lamperts, who was then town clerk, on or before the 10th Nov., 1862, from all the precincts in said town.

5 The bill avers that it so happened, by design or mistake of the judges, that ballots were interchanged and put in the wrong box, and when the polls were closed, ballots of both kinds were found in the wrong box, and at some of the polls such ballots were counted and returned, and at others they were rejected, and of the latter class, at the poll for the 2d Precinct of the 2d Ward the judges found 32 ballots for town officers in the box intended for the ballots for general officers, which they did not count or include in their usual certificate and return (and at the same time found 35 ballots for general officers in the box intended for town ballots,) but counted the same, sealed them up in an envelope, deposited them in the county clerk's office, and made a special return, stating the facts, to the town clerk, and of these 32 ballots the plaintiff in error received 25, Hoisington 10, Haven, McDonell, Burdell, and Caldwell each 25; De Wolf, Milliken, Summerfield, and Diehl each seven votes, for justice of the peace; and at the poll for the 1st Precinct of the 4th Ward, 25 ballots were cast for Haven, Burdell, Caldwell, McDonell and the plaintiff in error, and seven for their competitors, which were rejected, not counted or returned: and counting these votes in addition to those shown by the tabular statement, the majorities of Haven, Burdell and the plaintiff in error will be increased, and the said McDonell will be entitled to the office of justice instead of Milliken, who now claims to be elected from the declared result.

6 The Bill shows that the town Clerk refused, for insufficient reasons, to call two justices and canvass the returns, until he was compelled by a writ of mandamus given by the Cook Circuit Court, and after said writ was ordered, on the 2d day of December, 1862, he called to his assistance

7 two justices and canvassed the returns and declared the result, and in so doing they held that the certificate of returns from the 1st precinct of the 2d Ward showed that 369 votes were cast for A. M. Moore, for the office of Justice, and none for the plaintiff in error, John M. Moore, and rejected said votes from the count for the plaintiff in error; they declared that Haven received 2927 votes, Berdell 2887, McDonnell 2873, each and were elected, and further that the plaintiff in error received 2527 votes, Caldwell 2851, Summerfield 2850, Hoisington 2869, Diehl 2837, and A. M. Moore 369 votes for the same office.

8 The Bill shows that the plaintiff in error had no notice of the canvass or knowledge thereof until Dec. 4th, 1862, and had no information that any error existed in the return from the 1st precinct of the 2d Ward until Dec. 5th, 1862.

The Bill avers that the 369 votes were in fact cast for the plaintiff in error, that the ballots were counted for him, that the tally sheet and poll books, with the certificates thereto attached, show that said votes were cast and counted for the plaintiff in error, and that no ballots were cast for A. M. Moore, and avers that the name A. M. Moore was written by one of the Clerks of election at said poll for the name of the plaintiff in error in preparing a certificate of the result to be sent to the town Clerk, by mistake, and that said mistake was not discovered until the canvass aforesaid.

9 The Bill avers that except for said mistake the plaintiff in error would have been declared elected instead of Charles McDonell, and if the said ballots, rejected because in the wrong box, had been counted, the said Charles McDonell would have been declared elected instead of Isaac L. Milliken, but by reason of said mistakes certificates of election have been given said McDonell and Milliken, and they, with the said Jasper A. Hoisington are now claiming the right to exercise the powers and perform the duties of said offices.

10 The Bill prays that the returns of the votes cast at said election may be produced and canvassed, the ballots cast properly counted, and the result declared, and order and decree made as equity shall require, and that said defendants who may be ascertained to be exercising the duties of the office of Justice of the Peace illegally may be enjoined from performing said duties.

13 Summons was served on all the defendants 26th Feb., 1863, returnable to 3d Monday March.

15 Milliken and Hoisington appeared and filed a general demurrer.

17 The Circuit Court sustained the demurrer *pro forma*, and dismissed the Bill at the costs of the plaintiff in error, who brings the case to this Court and assigns the following errors, to-wit :

1. The Circuit Court erred in sustaining the demurrer to the Bill.

2. The Circuit Court erred in dismissing the Bill and rendering judgment against the plaintiff in error.

W. C. GOUDY,
Atty. for Plaintiff in Error.

149

John M. Moore

by

Garner A. Hoisington

Leol

Abstract

Filed April 27th 1883

L. Delaney
Clerk

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~~opinion of the Court by~~
Mr. Justice Breese, delivered the opinion of the Court.

~~Prima facie~~. The bill in this case, as appears by the record, was filed to correct an alleged mistake in the canvass of certain vote given for town officers at an election held on the fourth day of November 1862, for the town of North Chicago in the County of Cook. A general demurrer was filed to the bill which was sustained, ^{and the bill dismissed.} and the case brought here by writ of error and ^{the} ~~alleging~~ ^{alleging} ~~as~~ ^{is in} error, sustaining the demurrer to the bill and dismissing the bill.

As the facts stated in the bill are admitted by the demurrer to be true, and the questions arising, being a Court of Chancery, on those facts, any jurisdiction to try the cause and afford the relief sought.

The cause has been favored with no authorities on the point by either party, save a reference to ^{the} ~~a~~ Case decided by this Court, of The people ex rel. Mitchell vs. Haugland 20 Ill. 159. That case was an application for a mandamus to compel the respondent, who was the Clerk of Saline County, to issue a warrant because, application having been made to him at Hannsburgh, ^{then} claimed to be the County Seat. There was a controversy which was the County Seat, Raleigh or

Harrisburgh, and an injunction had been granted restraining the County officers from transacting official business at Harrisburgh but requiring them to hold their offices at Raleigh. Harrisburgh claimed to have received a majority of the votes for the County Seat at an election held under the act of Feb. 7 1857 entitled, "an act to relocate the County Seat of ~~York~~ Saline County". The case made by this title for an injunction, was pending ~~and~~ undetermined, when the application for the mandamus was made, and this Court said, we would not undertake under such circumstances, to say that the County Clerk was subject to a mandamus, but would leave the rights of the contending towns to be determined in the Chancery suit, the bill therein, being so framed, & to reach the merits of the controversy.

We find in some States, by express enactment Courts of Chancery can ^{enquire} ~~ascertain~~ into the validity of elections by bill, but we have found no case, in which it has taken jurisdiction of such a case under its general powers. Nor do we perceive a remedy for it, the general election law of the State, being sufficient to meet

most cases, if not this very case. Section
from 42 inclusive to section 50 inclu-
sive, of the general election law
would seem to provide for all cases
of contested election, which would seem,
by the literal application, of sufficient
importance to be provided for. (Stats. Corp.
472.

If this case is not exactly met by
that law, we are disposed, rather than
to exercise a doubtful power, to consider
this particular case ^{as} ~~an~~ ^{one} ~~of~~ ^{of} the
operation of the general law,
but not on that account, conferring
jurisdiction upon this Court.

Finding no case in which a court
of chancery has exercised jurisdiction on
the facts stated, ~~and holding that election~~
~~law does not apply to the~~
~~case and the rights of the plaintiff~~
~~are not at stake and said law~~
we must affirm the ~~proper~~ decree.

Decree affirmed.

Mr. Chief-Justice Cator, and Mr. Justice
Walker concurring.

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John Moore
vs

Lepa & Houghton
et al.

Opinion by
Morse Jr.

C. 15.

Recorded Book 13
pp 52, - 53,

Comp?

SUPREME COURT.

JASPER A. HOISINGTON,

ads.

et al.

Points of Def'ts in Error

JOHN M. MOORE.

1st.

The defendants in error assume as an undisputed rule of equity—that if parties have an adequate remedy at law, they cannot en-
voke the aid of a court of equity.

If either of the defendants are improperly discharging the duties
of, or have usurped the office of Justice of the peace, the law gives
as remedy to try such questions the writ of QUO WARRANTO.

2 Purple's statutes 849.

2 Scam 79.

2d.

The statutes have provided, the way by which to try who was
lawfully elected to said office.

Scates statute 472, sec. 42.

says; "when any candidate shall desire to contest the validity of
any election", shall &c.

This language is broad and covers the office in question.

The complainant should have proceeded as required by this
act.

The equity rule being

"A party cannot come in a court of equity and ask the aid
thereof, when no special fraud is shown, and which by the exercise
of diligence on his part, he could have protected himself against in
the proper place."

5 Paige 249.

1 J. C. R. 466, 49, 320.

1 J. Cases 436.

6 J. C. R. 479.

3 Comstock 446.

3 Vol. Graham & Waterman on N. T. 1487, 1488, 1493, 1469,

1489, 1498.

7 Cranch 510.

2 P. Wms. 424.

8 Gill & John 170.

1 Breese 147.

4 Geo. R. 175.

7 Paige 157.

It must be fraud or accident beyond his control that prevents him from having his trial, and great diligence is required on his part.

The defendants were elected as justices of the peace by virtue of the following provision in the constitution of this state.

Art. 5, Section 27.

1 Purple S. 59.

"There shall be elected in each county in this state, in such districts as the general assembly may direct, by the qualified electors thereof a competent number of justices of the peace, who shall hold their offices for the term of four years, and until" &c.

Now if the above statute is not broad enough to cover contests of election in regard to justices of the peace, we then hold as law, so far as the question of such contests of election is concerned, that justices of the peace are elected as county officers by virtue of the above Section 27.

3d.

A court of chancery cannot give the relief asked, in fact cannot give any relief in the premises.

To oust defendants quo warranto is the remedy.

To count the votes the statutes says who must do such canvassing—a court of chancery cannot.

The complainant cannot act as justice of the peace nor have right to fees, until he has received a commission from the Governor, and a court of law or chancery has no power to compel him to issue such commission.

People vs. Bissell 19 Ill. 229.

4th.

The case cited by plaintiff in error, People vs. Warfield 20 Ill. 159, has no application to this case—that was a contest for locating a county seat. And as the court say in the case, the act provided no mode for determination of the question if a contest arose—and the aid of the court was invoked to determine a fact how a majority voted.

A. GARRISON,

For Defendants in Error.

149
Supreme Court
Jaspar A Hoisington
advs et al
John M Moore

Part of Dept in Error

Filed June 9, 1863
L Leland
clerk

A. Garrison

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION,

APRIL TERM THEREOF, A. D. 1868.

JOHN M. MOORE

vs.

JASPER A. HOISINGTON *et al.*

} *Error to Cook.*

POINTS AND BRIEF FOR PLAINTIFF'S.

I.

The office of Justice of the Peace for the town of South Chicago is a town office, created by the township organization law. The justices are chosen by the voters of the town and perform their duties within the town limits, and have no power beyond, except to send process to other parts of the country.

Scates Statutes, 326, § 2.

No method is prescribed by statute for contesting the right to hold a town office.

The general election law of 1845, passed before the existence of the township organization, provides: "When any candidate shall desire to contest the validity of any election, or the right of any person declared duly elected, to hold the office to which such candidate claims the right, such candidate shall give notice," &c.

Scates Statutes, 472, § 42.

The Act then provides for the selection of three justices of the peace, and prescribes their duties in regard to such contest. If the contest relates to a *county* office, they hear, decide and enter judgment; if to a seat in the Legislature, they certify the testimony to the speaker of the proper house.

It is clear that the general language of the 42d section is not to be taken in the broad sense which its words import, because the same act prescribes the mode of electing the State officers, members of Congress, presidential electors, as well as county officers and members of the General Assembly, while the justices are limited in their proceedings to *county* officers and members of the Legislature.

If it did not include all the officers then known to the law, *a fortiori*, it does not include those authorized by laws passed thereafter.

The office of justice is a *town office*, not a *county* office, and therefore there is no provision of the statute by which the plaintiff in error could contest the right to hold the office.

But even if the statute does authorize a contest for the office of justice elected in a town, the plaintiff could not avail himself of it in this case, because the thirty days allowed to give notice expired before the plaintiff had any knowledge of the result, and without any fault or neglect on his part.

II.

In proceedings by *quo-warranto*, the only issue is as to the right of the defendant to the office, and the only judgment that can be rendered in favor of The People is one of *ouster* and for costs. The relator cannot be admitted to the office by the Court, unless authorized by statute.

III.

The application for a *mandamus* will not avail the plaintiff in error. The board of election performed their duties and adjourned; the board of canvassers, consisting of the town clerk and two justices, met, performed their duties, and adjourned; and the clerk issued certificates of election, before the mistake was discovered by the plaintiff. It was then too late to resort to a *mandamus* against the inspectors. The board of canvassers was guilty of no wrong; they decided correctly on the returns as made to the town clerk; therefore *mandamus* would not lie against them. The town clerk issued his certificates of election properly on the declared result; therefore *mandamus* would not lie against him. The County Clerk certified to the Secretary of State the persons elected, who were certified to him as such by the town clerk; therefore *mandamus* would not lie against him. The Governor issued his commission according to the certified result in the Secretary's office; therefore *mandamus* would not lie against him.

The plaintiff in error is without certificate or commission, and cannot get them by any proceeding at law.

IV.

One of the grounds of chancery jurisdiction, even where there may be remedy at law, is to prevent a multiplicity of actions.

In this case *five* justices were to be elected and *ten* persons were candidates; every man was the competitor of five other men. Only two of the successful candidates hold without question. It is doubtful which three men are to hold the other three places. If the plaintiff should *oust* McDonnell by *quo warranto*, it does not follow that he is to be admitted; *non constat* that consistent decisions would be made in the different cases. The plaintiff cannot tell who is occupying the place he is entitled to; he therefore files his bill, bringing all these parties before the Court to determine the rights of all in one proceeding.

V.

The difficulty under which the plaintiff labors originated entirely in the *mistake* of the clerk of the election, in writing the name of the plaintiff *A. M. Moore* instead of *John M. Moore* or *J. M. Moore*. Mistake is always a ground of chancery jurisdiction.

VI.

A Court of Chancery has jurisdiction of the bill upon the facts set out; because the plaintiff has no effectual remedy afforded by statutory provisions or common law to avoid a multiplicity of actions, to correct a mistake and to determine the rights of all the parties interested, and protect the plaintiff from the effects of a legal if not an actual fraud.

That a Court of Chancery has jurisdiction to determine the result of an election, has been decided by this Court.

People ex rel. Mitchell vs. Warfield, 20 Ill. 159.

W. C. GOUDY,
Attorney for Plaintiff in Error.

149.

John M. Moore

vs

Gasper A. Howington

200

Plaintiffs Points

Filed April 29, 1863
S. Leland ckr

State of Illinois, Third Grand Division.

SUPREME COURT,

APRIL TERM, 1863.

JOHN M. MOORE,
vs.
JASPER A. HOISINGTON, ET AL. } *Error to Cook.*

ABSTRACT.

The plaintiff in error filed his bill in Chancery, in the Cook County Circuit Court, and set forth therein that an election was held on the 4th day of November, 1862, under and in pursuance of the laws of this State, for town officers for the town of South Chicago, Cook County; that said town is divided into nine election precincts, in each of which the polls were opened, boards of election qualified, and votes received for the different town officers; that said election was conducted according to the usual custom in said county, under the supervision of three judges or inspectors of election, and two clerks, at each poll, and each of said boards kept two ballot boxes, in one of which it was designed to put the ballots for State and county officers, and members of Congress and the Legislature, and in the other ballots for town officers: that the two clerks kept two poll lists which were duplicates of each other, on which was entered the name of each voter, without discrimination as to whether he voted one or both ballots, each voter having the right to cast both if he chose, and after the polls were closed the ballots were counted separately, and town ballots placed in a paper bag, sealed up, and delivered to the town or county clerk, and the general ballots in another paper bag, likewise sealed, and delivered to the county clerk.

attaches a tabular statement showing the result as exhibited by the returns for justices, except as hereafter stated, which is marked Exhibit A, whereby it appears, and the fact is, that Aaron Haven, Calvin De Wolf, Nicholas Berdell and the plaintiff in error were elected justices, and it further appears therefrom that Charles McDonell was also elected, but whether such is the fact or not he does not state, but he had been informed and believed that Charles McDonell was elected instead of Jasper Hoisington, who claims to be elected.

11 The tabular statement shows that Haven received 2,927 votes, De Wolf, 2,910; Milliken, 2,907; Moore, 2,896; Burdell, 2,887; McDonell, 2,873; Hoisington, 2,869; Caldwell, 2,851; Summerfield, 2,850; and Diehl, 2,837.

4 The bill shows that returns were delivered to Leonard Lamperts, who was then town clerk, on or before the 10th Nov., 1862, from all the precincts in said town.

5 The bill avers that it so happened, by design or mistake of the judges, that ballots were interchanged and put in the wrong box, and when the polls were closed, ballots of both kinds were found in the wrong box, and at some of the polls such ballots were counted and returned, and at others they were rejected, and of the latter class, at the poll for the 2d Precinct of the 2d Ward the judges found 32 ballots for town officers in the box intended for the ballots for general officers, which they did not count or include in their usual certificate and return (and at the same time found 35 ballots for general officers in the box intended for town ballots,) but counted the same, sealed them up in an envelope, deposited them in the county clerk's office, and made a special return, stating the facts, to the town clerk, and of these 32 ballots the plaintiff in error received 25, Hoisington 10, Haven, McDonell, Burdell, and Caldwell each 25; De Wolf, Milliken, Summerfield, and Diehl each seven votes, for justice of the peace; and at the poll for the 1st Precinct of the 4th Ward, 25 ballots were cast for Haven, Burdell, Caldwell, McDonell and the plaintiff in error, and seven for their competitors, which were rejected, not counted or returned: and counting these votes in addition to those shown by the tabular statement, the majorities of Haven, Burdell and the plaintiff in error will be increased, and the said McDonell will be entitled to the office of justice instead of Milliken, who now claims to be elected from the declared result.

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The Bill shows that the town Clerk refused, for insufficient reasons, to call two justices and canvass the returns, until he was compelled by a writ of mandamus given by the Cook Circuit Court, and after said writ was ordered, on the 2d day of December, 1862, he called to his assistance

7 two justices and canvassed the returns and declared the result, and in so doing they held that the certificate of returns from the 1st precinct of the 2d Ward showed that 369 votes were cast for A. M. Moore, for the office of Justice, and none for the plaintiff in error, John M. Moore, and rejected said votes from the count for the plaintiff in error; they declared that Haven received 2927 votes, Berdell 2887, McDonnell 2873, each and were elected, and further that the plaintiff in error received 2527 votes, Caldwell 2851, Summerfield 2850, Hoisington 2869, Diehl 2837, and A. M. Moore 369 votes for the same office.

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The Bill avers that the 369 votes were in fact cast for the plaintiff in error, that the ballots were counted for him, that the tally sheet and poll books, with the certificates thereto attached, show that said votes were cast and counted for the plaintiff in error, and that no ballots were cast for A. M. Moore, and avers that the name A. M. Moore was written by one of the Clerks of election at said poll for the name of the plaintiff in error in preparing a certificate of the result to be sent to the town Clerk, by mistake, and that said mistake was not discovered until the canvass aforesaid.

9 The Bill avers that except for said mistake the plaintiff in error would have been declared elected instead of Charles McDonell, and if the said ballots, rejected because in the wrong box, had been counted, the said Charles McDonell would have been declared elected instead of Isaac L. Milliken, but by reason of said mistakes certificates of election have been given said McDonell and Milliken, and they, with the said Jasper A. Hoisington are now claiming the right to exercise the powers and perform the duties of said offices.

10 The Bill prays that the returns of the votes cast at said election may be produced and canvassed, the ballots cast properly counted, and the result declared, and order and decree made as equity shall require, and that said defendants who may be ascertained to be exercising the duties of the office of Justice of the Peace illegally may be enjoined from performing said duties.

13 Summons was served on all the defendants 26th Feb., 1863, returnable to 3d Monday March.

15 Milliken and Hoisington appeared and filed a general demurrer.

17 The Circuit Court sustained the demurrer *pro forma*, and dismissed the Bill at the costs of the plaintiff in error, who brings the case to this Court and assigns the following errors, to-wit :

1. The Circuit Court erred in sustaining the demurrer to the Bill.
2. The Circuit Court erred in dismissing the Bill and rendering judgment against the plaintiff in error.

W. C. GOUDY,
Atty. for Plaintiff in Error.

149-67
John M. Moore
vs
Jasper A. Hoisington
2d
Abstract.

Filed Apr 27 1863
J. L. Linn
Clerk

State of Illinois 3^d Grand Division
Supreme Court April Term 1863.

John N. Moore
vs

Jasper A. Hoisington

vs
Isaac L. Milliken

Charles M. Donald

} Error to Cook
} Circuit Court.
}
}

The Clerk will give Sci.
fa. to Cook.

April 9. 1863

M. C. Condy
cty for H. in Error.

149
John Ch. Moore
J. A. Harrington sat.
Prince

Filed April 9, 1863.
L. Island
Ch.

STATE OF ILLINOIS,
SUPREME COURT. } ss. The People of the State of Illinois,

To the Sheriff of Cook County, GREETING:

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of Cook County, before the Judge thereof, between

John M. Moore, complainant

~~plaintiff~~, and Charles Mc. Donnell, Jasper A. Hoisington, and Isaac G. Milliken

defendants, it is said that manifest error hath intervened, to the injury of the said John M. Moore

as we are informed by his complaint ~~by writ of error~~ the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law: Therefore, We command You, That by good and lawful men of your County, you give notice to the said Charles Mc. Donnell, Jasper A. Hoisington, and Isaac G. Milliken

that They be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April ~~instant~~ ~~next~~, to hear the record and proceedings aforesaid, and the errors assigned, if They shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said Charles Mc. Donnell, Jasper A. Hoisington, and Isaac G. Milliken

notice, together with this writ.

Witness, The Hon. John W. Eaton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 10th day of April in the year of our Lord One Thousand Eight Hundred and Sixty-Three

L. Leland

Clerk of the Supreme Court.
J. M. Rice Deputy

149

John W. McCre

No. vs.

Charles Mc Donald

SCIRE FACIAS.

FILED April 21st A. D. 1863

J. Stanley Clerk.

Served this writ on the within named Jasper A. Hoisington and Isaac S. Milliken by reading the same to them this Eleventh day of April A.D. 1863. Charles McDonald not served by order of Plaintiffs Attorney.

David S. Hammond Sheriff Cook Co
By A. Nelson deputy

Fees 1.00
Pd by Pliffs Atty

J. E. Gough
Atty for Pl

STATE OF ILLINOIS,
SUPREME COURT.

} ss. The People of the State of Illinois,

To the Sheriff of

Cook County, GREETING:

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of *Cook* County, before the Judge thereof, between *John M. Moore* Complainant

plaintiff, and *Jasper A. Hoisington, Charles McDonald and Isaac L. Milliken*

defendant.s., it is said that manifest error hath intervened, to the injury of the said *John M. Moore*

as we are informed by *his* complaintant by writ of error the record and proceedings of which said judgments we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law: Therefore, We Command You, That by good and lawful men of your County, you give notice to the said *Jasper A. Hoisington, Charles McDonald and Isaac L. Milliken*

that *they* be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April next, to hear the record and proceedings aforesaid, and the errors assigned, if *they* shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *Jasper A. Hoisington, Charles McDonald & Isaac L. Milliken*

notice, together with this writ.

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this *9th* day of *April* in the year of our Lord One Thousand Eight Hundred and Sixty-*Three*

L. Leland

Clerk of the Supreme Court.
J. D. Rice

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John M. Moore

No. vs.

Jasper A. Moisington

SCIRE FACIAS.

FILED... April 21... A. D. 1863

Edmund Clerk.

M. E. Condy
attorney at law.

Served this writ by reading to the within Jasper A. Moisington this 10th day of April A.D. 1863.

D. S. Hammond Sheriff Cook Co

By A. Nelson Deputy

Fees 70

Per by Plaintiff's Atty.

Isaac L. Milliken and Charles McDonald not served by order of Plaintiffs Attorney