

8768

No. _____

Supreme Court of Illinois

Nicholas Hunsaker

vs.

Alexander County

71641  7

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State of Illinois
Alexander County 3 P.

Case before the Honorable Circuit Court
of the County of Alexander and State of
Illinois, held at the Court House in
the City of Cairo in said County and
State on Wednesday the 6th day of June
A.D. 1866, of the June Term of said
Court, A.D. 1866,

Present the Honorable William H. Green
Judge of the third Judicial Circuit of
the State of Illinois and presiding
Judge of the Alexander County Circuit
Court, holding said Court,

John S. Harmon Clerk
Charles P. Arter Sheriff
and George H. Hall State Atty.

It is Remembered that hereof first
int. on the 22nd day of January
A.D. 1866, there was filed in the clerk's
office of said Court the certain agree-
ment or statement of facts, in the
following styled cause, which is and
reads in the words and figures as
follows to wit:

2

Nicholas Hunsaker

vs

Alexander County

In the circuit ^{court} of said county
to the January special term 1966

Agreed case

It is hereby agreed to submit the case above
entitled to the circuit court of said county
for decision upon the following agreed state
of facts with the privilege to either party
to take the case to the Supreme court on
the same facts. It is admitted that the plain-
tiff is Treasurer of said Alexander County,
that the county court of said county on the
7th day of September 1965 levied a tax of
4/10 per cent upon all property in said
county, real and personal to defray the
current expenses of said county, also 7/10 of one
per cent to redeem outstanding orders, also 2/10
the support of paupers. Also 4/10 of one percent for
if one per cent for the payment of interest upon
certain bonds issued by said county by
virtue of an act to enable the county
of Alexander to build a court House and
jail approved February 12th 1963.

It is also admitted and agreed that all
moneys county orders & jury certificates
collected by virtue of any and all of the

levies aforesaid are received and disbursed by the plaintiff as county Treasurer of said county. It is therefore submitted whether or not the provisions of section 4 of an act in relation to the fees of certain officers in certain counties therein named approved February 16th 1865 are applicable to this case, and whether the said plaintiff is entitled to the benefit of its provisions and to receive the additional compensation therein provided for, for receiving and disbursing the money so collected by virtue of the levies aforesaid, and if not to all of said levies, to which of them."

"Mulkey Hall Wheeler attys
for Plaintiff"

"John Olney Attorney
for Defendant"

And afterwards to wit: on the 13th day of February, 1866
~~January~~ of the January Special Term of said Court A.D. 1866 the following order was made by said Court in this cause and Entered of Record to wit:

"Nicholas Hausaker" }
"Alexander County" } } "Agreed Case"

"Cause Continued"

And now to wit: at the time and place first herein aforesaid the following

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the following further findings were had
and order made by said Court and entered
of Record in this Cause to wit:

Nicholas Hunsaker

vs

Alexander County

} "Agreed Case"
} "from County Court"

"It is this day held by the Court that
the Plaintiff herein as Treasurer of
Alexander County is only entitled to
receive compensation under the act of
the Legislature of February 16th 1865
for the four mill tax levied for County
purposes.

"It is therefore considered by the Court
that the Plaintiff be and he is only
entitled to compensation under the
provisions of said act of February
16th 1865 for the said four mill tax
levied for County purposes, and that
the Defendant pay the Costs herein taxed
at \$-

State of Illinois

Alexander County 3rd Sch

I John J Harman Clerk of the
Circuit Court in and for said
County and State do hereby certify
that the above and foregoing is a true
and perfect copy of the Record of
the proceedings had and order and
Judgment rendered by said Court
in the aforementioned cause, as
truly taken and copied by me from
all the original papers filed in said
Cause, and from the Records of said
Court, all now remaining in my
office. In Testimony whereof
I have hereunto set my hand
and affixed my official seal
at office in the City of Cairo
this 22nd day of August
A.D. 1866.

John J Harman
Clerk

And now comes the said def
and for error on the foregoing record
says that the Court erred in
not deciding that the Decree
was null and void inasmuch
as the amount collected for
the purposes named in the
agreed case, wherefore &c
Wheeler & W & O Kelley,
Wall, Kelley & Hawks

Grinder in Error

Morgan & Olney, Attys for def.
in Error.

Nicholas Auswater
Jury in Error
B

Alexander County
Jury in Error.
Error to Alexander Co
Kent.

Ernest Alexander

July 11 Nov 7 - 1866
N. Joluntin cly
Paid by Judge O. \$5.00

Supreme Court of the State of Illinois.

FIRST GRAND DIVISION.

November Term, 1866.

NICHOLAS HUNSAKER, *Plaintiff in Error*,
vs.
ALEXANDER COUNTY, *Defendant in Error*. } ERROR TO ALEXANDER.

ABSTRACT.

2 This case was submitted to the Court below on an agreed statement of facts, in the following words and figures, either party having the right to remove the same to Supreme Court, &c.. That is to say, "it is hereby agreed to submit the case above entitled, to the Circuit Court of said County for decision upon the following agreed state of facts with the privilege to either party to take the case to the Supreme Court on the same facts. It is admitted that the plaintiff is Treasurer of said Alexander County. That the County Court of said County on the 9th day of September, 1865, levied a tax of four-tenths per cent. upon all property in said County, real and personal to defray the current expenses of said County. Also five-tenths of one per cent to redeem outstanding orders. Also two-tenths of one per cent. for the support of Paupers. Also four-tenths of one per cent. for the payment of interest upon certain bonds issued by said County by virtue of an act to enable the County of Alexander to build a Court House and Jail, approved February 12th, 1866.

It is also admitted and agreed, that all money's, county orders and jury certificates, collected by virtue of any, and all of the levies aforesaid, are received and disbursed by the plaintiff, as County Treasurer of said County.

It is therefore submitted whether, or not, the provisions of section 4, of an act in relation to the fees of certain officers in certain counties therein named, approved February 16th, 1865, are applicable to this case, and whether the said plaintiff is entitled to the benefit of its provisions, and to receive the additional compensation therein provided for, for receiving and disbursing the money's etc., collected by virtue of the levies aforesaid, and if not to all of said levies, to which of them.

MULKEY, WALL & WHEELER, Attorney's for Plaintiff.
JOHN OLNEY, Attorney for Defendant.

4 Judgment of the Circuit Court against the plaintiff.

It is admitted by the counsel on each side that if the court should be of opinion that the Treasurer is entitled to one per cent. on the above, that Judgment is to be rendered that the county pay to him \$480—but if not then that said Treasurer pay the costs, &c.

ERRORS.

- 1st. The Court erred in rendering judgment against the plaintiff.
- 2d. The Court erred in not finding and rendering judgment for plaintiff

MULKEY, WALL & WHEELER,
O'MELVENY & HOUCK,
Attorneys' for Plaintiff in Error.

BRIEF FOR PLAINTIFF IN ERROR.

See Laws 1865, page 68, et seq. Sections 4, 5, and 7

MULKEY, WALL & WHEELER,
O'MELVENY & HOUCK,
Attorneys' for Plaintiff in Error.

State of Illinois Supreme Court
January Term 1867.

Hunsacker

vs.

Alexander County

The County Treasurer of Alexander County, claims that he is entitled to add together all amounts assessed for taxes whether general or special and add for first \$5000. of total sum to retain three per cent., and of the residue of that total sum to retain one per cent as commissions, by virtue of Act of 1865 page 68 sec. 4.

The Court refused to allow his claim to the extent demanded. And claimed that the Act of 1865 only applied to "revenue assessed for county purposes" and not to any special tax. There had been levied
A tax of $\frac{4}{10}$ of one per cent for current expenses.

$\frac{5}{10}$ of one per cent to pay outstanding orders.

$\frac{2}{10}$ of one per cent. pauper tax

$\frac{4}{10}$ of one per cent to pay interest on Court House bonds.

The Court refused to apply the Act of 1865 to the three last mentioned taxes.

The question is as to meaning of the words
"revenue for County purposes"
in Act of 1865 sec. 4 page 68.

Sec 8 page 989 authorizes tax to be levied, of
not exceeding $\frac{1}{4}$ of one per cent "for County
purposes" Act of 1865 clearly extends to
this.

County revenue collectable in Co. Orders,
jury Certificates &c. Sec 9 page 989.

County may assess to pay for poor house, tax
of not exceeding $\frac{1}{4}$ of one per cent. Sec. 19
page 188.

Act of 1863 page 41 County authorized to levy
tax to pay outstanding indebtedness

Act 1863 page 24 sec. 4 Alexander County
authorized to levy special tax of to pay
interest on Court house tax

Now are all these taxes "revenue
assessed for County purposes. The
first is expressed to be "for County
purposes" We hold that this includes
only that which goes into the general
fund and for which the County can
only levy tax of $\frac{1}{4}$ of one per cent an -

ually.

The Circuit Court held that the law of 1865 only referred to the revenue for County purposes, and not to the special assessments for Paupers, paying outstanding indebtedness and interest on bonds.

Was the holding of the Circuit Court correct.

Olney & Lunsden
for Dept in Error.

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Hunsacker.

vs.

Alexander County.

Supreme Court of the State of Illinois.

FIRST GRAND DIVISION.

November Term, 1866.

NICHOLAS HUNSAKER, *Plaintiff in Error*,
vs.
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JOHN OLNEY, Attorney for Defendant.

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MULKEY, WALL & WHEELER,
O'MELVENY & HOUCK,
Attorneys' for Plaintiff in Error.

⁵⁹
Hunsaker

vs.

Alexander County.

Error to Alexander

8768

Filed Nov 7, 1866
Noah Johnston Clk

November Term 1866

FIRST GRAND DIVISION.

Supreme Court of the State of Illinois

See Jones 1865 page 42 of vol. 2 sections 1, 2 and 3

BRIEF FOR PLAINTIFF IN ERROR

O'REILLY & ROCK
MURKEL, ATTL & WHEATLEY

O'REILLY & ROCK
MURKEL, ATTL & WHEATLEY

21. The Court overruled the motion for a new trial and judgment of the Court.

ERRORS

1. That the County Judge in this case—
It is admitted by the counsel on each side that if the Court should be of opinion that the Plaintiff is entitled to one lot—
Judgment of the Circuit Court in this case.

2. That the County Judge in this case—

and if not guilty of this crime to suffer the penalty of death—
It is admitted by the counsel on each side that if the Court should be of opinion that the Plaintiff is entitled to one lot—
Judgment of the Circuit Court in this case.

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Hirasaka

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Alexander Co

Opium, Receipt

Sent to Reporter

June 1867

1867

8768