

8454

No. \_\_\_\_\_

# Supreme Court of Illinois

Gabriel Jones

---

vs.

People

---

71641  7

Randolph Circuit Court of the April term thereof AD 1862

The People Ex Rel Joseph Williamson }  
vs } Duo Warranto  
Gabriel Jones

Amos Watts attorney for the People filed the following  
motion for leave &c

The People Ex Rel Joseph Williamson } Information  
vs } for Duo Warranto  
Gabriel Jones }

And now on this day comes the People  
by Amos Watts States attorney and moves the Court for  
leave to file an information herein a writ in the nature  
of a writ of Duo Warranto issue therein Returnable  
Prostantur in this Cause A. Watts States Atty

Filed April 25<sup>th</sup> 1862

S. F. Vrain Clerk

And leave being granted to the Information filed in words  
& figures as follows

State of Illinois } In the Circuit Court of Randolph  
Randolph County } ss County at the April term AD 1862  
Amos Watts States attorney of the second Judicial  
Circuit of the State of Illinois who prosecutes in the name  
and by the Authority of the People of the State of Illinois  
in the relation of Joseph Williamson of the City of Chester  
County of Randolph aforesaid comes here into Court and  
gives the Court to understand and be informed that  
on the fifth day of April AD 1862 the said Joseph  
Williamson related as aforesaid was duly and legally

electd Mayor of the said City of Chester by a majority  
of all the votes cast for said office of Mayor of said  
City of Chester at an election held in said City on the  
fifth day of April AD 1862 in said City for one  
Mayor (among other officers) And that at said election  
held at the sd City of Chester aforesaid, on the day and year  
aforesaid the said Joseph Williamson relater as aforesaid  
was duly and legally elected Mayor of said City of Chester  
as aforesaid. And that as such he is now and always  
has been since the said election aforesaid ready and  
willing to qualify and enter upon the duties of said office  
as such Mayor of said City of Chester aforesaid. That at  
said election the relater to wit Joseph Williamson receiv-  
ed for the office of Mayor of said City Eighty Two votes  
and that One Gabriel Jones received Sixty nine votes and  
no more. And on the ninth day of April AD 1862 at the  
City and County aforesaid well knowing the premises aforesaid  
and all the foregoing facts he the said Gabriel Jones  
did unlawfully usurp the said office of Mayor of the  
City of Chester aforesaid and wilfully presented himself to  
the City Council of the City of Chester aforesaid and procured  
himself corruptly and fraudulently to be sworn into said office  
of said City of Chester aforesaid and did enter into and upon  
the exercise of all the powers and duties of the office of such  
Mayor of the City of Chester and by said unlawful usurpation  
did then and there become possessed of the said office and of  
the emoluments, immunities and privileges appertaining to  
the said office Contrary to the forms of the Statute in such

case made and provided and against the power and  
dignity of the People of the State of Illinois  
Amos Watts States attorney

State of Illinois Randolph County

Joseph Williamson the relator in the  
foregoing information deposes and says that the alle-  
gations and facts stated and alledged in the foregoing  
information in manner and form are true to the best  
of his knowledge information and belief in substance  
and in fact Joseph Williamson

Subscribed & sworn to this

25<sup>th</sup> day of April 1862

S. F. Vrain Clerk

Filed April 25<sup>th</sup> 1862

S. F. Vrain Clerk

Whereupon the Court ordered writ to issue which  
writ is in words & figures as follows

State of Illinois }  
Randolph County }<sup>ss</sup> The people of the State of Illinois

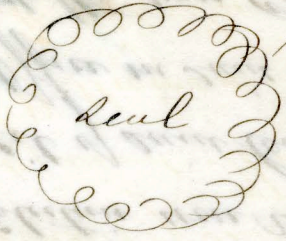
To the Sheriff of Randolph County Greeting:

Whereas an Information has been filed in this Court  
in words and figures as follows to wit "Amos Watts  
States attorney of the second Judicial Circuit Court of the  
State of Illinois in the relation of Joseph Williamson  
of the City of Chester County of Randolph aforesaid comes  
here into Court and gives the Court to understand and  
be informed that on the fifth day of April A.D. 1862  
the said Joseph Williamson relator as aforesaid was  
duly and legally elected Mayor of the said City of Chester

by a majority of all the votes cast for said office of  
Mayor of said City of Chester at an election held in said  
City on the fifth day of April A.D. 1862 in said City  
for one Mayor (among other officers) And that at said  
election held at the said City of Chester aforesaid on the  
day and year aforesaid the said Joseph Williamson  
relator as aforesaid was duly and legally elected Mayor  
of said City of Chester as aforesaid And that as such  
he is now and always has been since the said election  
aforesaid ready and willing to qualify and enter upon the  
duties of said office as such Mayor of said City of Chester  
aforesaid That at said election the relator to wit Joseph  
Williamson received for the office of Mayor of said City  
Eighty Two votes and that one Gabriel Jones received  
Sixty nine (69) votes and no more, And on the Ninth  
day of April A.D. 1862 at the City and County aforesaid  
Well knowing the premises aforesaid and all the foregoing  
facts he the said Gabriel Jones did unlawfully usurp  
the said office of Mayor of the City of Chester aforesaid  
and willfully presented himself to the City Council  
of the City of Chester aforesaid and procured himself  
corruptly and fraudulently to be sworn into the  
said office of Mayor and to be qualified as said  
Mayor of said City of Chester aforesaid and did enter  
into and upon the exercise of all the powers and  
duties of the office of such Mayor of the City of Chester  
and by said unlawful usurpation did then and  
there become possessed of the said office and the

emoluments immunities and privileges appertaining  
to the said office contrary to the form of the Statutes  
in such case made and provided and against  
the peace and dignity of the People of the State of Illinois

"Amos Walth States Attorney" We  
Command you that you summon Gabriel Jones so  
that he be and appear before our Circuit Court of  
said County now being holden at Chester in and  
for the County of Randolph on this the 5<sup>th</sup> day of the  
present term at the Court House in said City of Chester  
and then and there show by what authority he the  
said Gabriel Jones claims to exercise the office of  
Mayor of the City of Chester in the County of Randolph  
and State of Illinois and have you then and there  
this writ.

 Witness Savinin Strain Clerk of our  
said Court and the Judicial Seal thereof  
at his office in Chester this Twenty fifth  
day of April A D 1862

Savinin Strain

Clerk of the Circuit Court

upon which writ is the following return

"I have this day served the within writ by reading  
to the within named Gabriel Jones

April 25<sup>th</sup> 1862

M. S. McCormack

Shuff of R. C. Ills

Whereupon said defendant files his answer in  
Words and figures as follows

The People &c vs rel Jasph Williamson

vs

Gabriel Jones

Information in the nature  
of Quo Warranto

And the said defendant comes & defends the wrong & injury when & where &c and says, the People their informa-  
-tion aforesaid to have & maintain ought not; because he says that  
under the provisions of the Charter of the said City of Chester  
& the Laws of the State of Illinois, an Election was held  
in due form of law on the 5<sup>th</sup> day of April A.D. 1862  
for Mayor & for said City, & the Poll Books & ballots of said  
Election were returned to & laid before the Common Coun-  
cil of said City on the 9<sup>th</sup> day of April A.D. 1862 at their  
Office in said City at which said election said relator & this  
defen were Candidates for Mayor & thereupon such  
proceedings were had by said Council then & there having  
jurisdiction in the premises, that the Poll Book of the 3<sup>d</sup>  
Ward of said City was by said City Council rejected for  
informality & illegality, and this defendant was then  
& there declared by said City Council Elected Mayor in  
& for said City; and after a recess of fifteen Minutes  
said City Council then & there again assembled at  
their said office when this defendant appeared & was then  
& there sworn into office by Richard B. Servant Esqr a  
Justice of the Peace in and for said County as more fully  
& at large appears by the proceedings of Records of said  
City Council of that date

And the said defendant avers  
that by the Charter of said City, the City Council Consists

of the Mayor and Board of Aldermen and it is provided  
in said Charter that "the City Council shall judge of the  
qualifications, Elections & returns of their own Members,  
and shall determine all Contested Elections and" Whenever  
an election for Mayor shall be Contested, the City Council  
shall determine the same, as prescribed by ordinance"

And this defendant further avers, that the said City Coun-  
cil honestly, and in good faith on inspection of the said poll  
books & ballots as aforesaid judged, determined, and declared  
that this defendant was duly Elected Mayor of said City  
as aforesaid; and by order of said City Council, this defen-  
-dant was then & there Commissioned under the seal of  
said City in words & figures following "to wit" State of  
Illinois City of Chester ss I the undersigned Mayor of the  
City of Chester do hereby Certify that at a meeting of the  
City Council of said City, held on the 9<sup>th</sup> day of April 1862  
Gabriel Jones was declared to be Elected to the office of  
Mayor, and he is hereby Authorized to discharge the  
duties of said Office for One year and until his suc-  
cessor is duly Elected and qualified



Given under my hand and the seal of said  
City this 9<sup>th</sup> day of April 1862

Alfred Whitaker Mayor

Attest R B Servant Clerk

By virtue of which said Election, qualification & Commission  
this defendant Entered into the office aforesaid, as he lawfully  
might do, that he hath & doth hold the said Office, Exercised  
the powers performed the duties, received the Emoluments &  
immunities of the Office aforesaid as by the Laws of the land



he has a right to do, all of which he is ready to verify  
Whereupon he prays judgment &c

Gabriel Jones

By Underwood & Holbrook

his atty's

Filed April 26<sup>th</sup> 1862

S. F. Train Clerk

And said People file their replications &c in  
words & figures as follows

The People Ex Rel Joseph Williamson } In the Hands of  
vs } Co Circuit Court  
Gabriel Jones

And comes the sa<sup>d</sup> People Ex Relation Joseph  
Williamson & for Replication to the 1<sup>st</sup> plea of the 1<sup>st</sup> Dept  
says preclude non. because they say that the Poll book of  
the 3<sup>rd</sup> Ward of the City of Chester in sa<sup>d</sup> plea mentioned  
was wrongfully unjustly and unlawfully rejected by the  
sa<sup>d</sup> City Council at &c &c

And further because they says the 1<sup>st</sup> Corporation of the City  
of Chester in sa<sup>d</sup> plea mentioned never prescribed by  
ordinance any mode whereby an election for Mayor  
for said City could be determined as in & by the 1<sup>st</sup>  
Charter of said City the 1<sup>st</sup> Corporation had the power  
and authority to do. And further because they say  
that the said Common Council of the 1<sup>st</sup> City of Chester  
then and there to wit at &c on &c had no jurisdiction to  
hear and termine the infirmity and illegality of the  
said poll book of the 1<sup>st</sup> third Ward of said City by

and under any ordinance of said City and of this they  
put themselves upon the Country

The People &c

Amos Watts

States atty

Filed April 26<sup>th</sup> 1862

S. F. Vrain Att

And said defendant files his Demurrer &c which  
is as follows

People ex rel

vs

Gabriel Jones

Quo Warranto

And the said Deft as to the  
replication of said people says the same is not  
sufficient in law & this Deft is ready to verify  
wherefore he prays judgment &c

Underwood & Kellbrook

Attys for Deft

Causes of demurrer said pleas are bad in substance  
said replications take issue on several distinct  
points Said replications conclude to the Country  
whereas they should conclude with a verification

Filed April 26<sup>th</sup> 1862

S. F. Vrain Att

People ex rel Joseph Williamson }  
vs }  
Gabriel Jones }  
} Leo Warrants  
}

Be it remembered that in this case that on Saturday the 6<sup>th</sup> day of the term the People by their City moved for a rule on or left to plead or answer by 1 O'clock P.M. to which rule left objected & asked for further time when said motion was allowed and said rule entered accordingly to which decision of the Court left at the time excepted. Left thereupon filed his plea to which the People filed three replications. Left then moved that the People be required to elect on which replication they will proceed and to strike out the other replications which motion was sustained by the Court & the People allowed to amend said replications by incorporating them all in one to which decision of the Court the left at the time excepted and prays this his bill of exceptions may be signed, Sealed & made a part of this record which is done

Silas L Bryan Clerk  
Judge D<sup>d</sup> Jud  
Circuit &

Filed April 26<sup>th</sup> 1862 }  
S. F. Vrain Clerk }

Randolph County Circuit Court April Term AD 1862

April 25<sup>th</sup> A D 1862

The People Ex Relation of Joseph Williamson  
vs  
Gabriel Jones

Information for  
Duo Warrants &c

And now on this day comes the People by Watts  
Prosecuting atty & Omelony, Johnson & Balls and moves  
the Court for a writ of Duo Warrants returnable instan-  
ter Whereupon after due Consideration by the Court said  
writ is ordered, Whereupon on the 26<sup>th</sup> instant said  
writ having been issued & returned a rule is entered  
against said Gabriel Jones to answer by One O'clock  
of this day, Whereupon the defendant by W. H. Underwood  
his atty files the answer of defendant & enters his  
motion for Plaintiff to elect one replication & strike  
two from the files, motion allowed to strike replica-  
tion from the files &c and leave is hereby given to amend  
replication Whereupon the Defendant files his demurrer  
to the replication herein which is by the Court overruled  
and defendant stands by his Demurrer & refuses to join issue  
on the replication The Court being fully advised of  
& Concerning said matters &c doth enter Judgment for  
the Plaintiff & doth order that the defendant be ousted  
from the office of Mayor of the City of Chester Illinois  
Whereupon the defendant prayed an appeal to the supreme  
Court of the State of Illinois which is granted upon filing  
& executing bond in the sum of Five hundred dollars within  
thirty days from this date & the Clerk of this Court is hereby  
ordered to approve said Bond &c

Know all men by these presents That we Gabriel Jones and  
are held and firmly bound to the People of the State of Illinois  
for the use of the parties interested in the penal sum of five  
hundred dollars for the payment of which well and truly to be  
made we bind ourselves our heirs executors and administra-  
tors, Witness our hands and seals this 28<sup>th</sup> day of April  
A.D. 1862

The condition of the above obligation is such  
that whereas on the 26<sup>th</sup> day of April A.D. 1862 in a  
certain proceeding by Law Warrant to in the name of  
the people of the State of Illinois ex rel. Joseph Williamson  
on against the said Gabriel Jones a judgment of Ouster  
from the office of Mayor of the City of Chester was rendered in  
the Circuit Court of Randolph County from which  
judgment the said Gabriel Jones has prayed for and  
obtained an appeal to the Supreme Court of this State

Now if the said Gabriel Jones shall prosecute  
his suit with effect and pay the judgment, costs  
interest and Damages in case the said judgment shall  
be affirmed in the said Supreme Court then this  
obligation shall be void otherwise remain in full  
force and virtue

Gabriel Jones	Seal
R B Servant	Seal
J C Kelbrooks	Seal
Aug Philipp	Seal
E Walker	Seal
Adolph Block	Seal

Isaac H Nelson

Deut

G S Jones

Deut

John Pauls

Deut

V Ketter

Deut

H C Cole

Deut

Davis Smith

Deut

Jos B Holmes

Deut

Approved by me this  
21<sup>st</sup> day of May A D 1862

S. F. Vrain

Clerk of Circuit Court

Filed May 21<sup>st</sup> 1862

S. F. Vrain

Clk

State of Illinois  
Randolph County 3 S.S.

I Savinius F. Vrain Clerk of the Circuit Court for said County of Randolph hereby Certify that the foregoing pages are a true and correct Copy of the whole and Complete record in the Cause wherein The People Ex Rel Joseph Williamson was Plaintiff and Gabriel Jones was Defendant - Containing copy of Motion, Writ, & return on same, Answer, Applications Demurrer, Judgment & appeal bond &c.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said Court at my office in Chester this 30<sup>th</sup> day of October A.D. 1862  
Savinus F. Vrain Clerk  
of the Circuit Court

Gabriel Jones.  
Appellant.

vs

People - Ex. Rel.  
Joseph Williams  
Appellee.

Filed Nov. 3 - 1862

N. Johnston Clerk

Paid \$5.00



Gabriel Jones appt

vs  
The People & on Complaint & apper

} Appeal from  
Randolph.

And now comes the s<sup>d</sup> People & so by O'Blaw  
their atty, & moves the Court to dismiss the  
above appeal, from the docket, because  
of the informality and inefficiency of  
the appeal bond filed hereon, in this docket,  
1 that the securities, are not named in the  
body of said bond,  
2, because, the condition of said bond  
does not provide that s<sup>d</sup> appt, abide  
by the judgment of this Court in the premises,  
& because the said bond is otherwise irregular  
&c.

Wm S O'Blaw  
Atty for apper.

Received of the  
Trustees of the  
City of New York  
the sum of \$1000  
for the purchase of  
land in the City of  
New York

Witness my hand  
this 11th day of  
November 1862

John A. Dix  
Mayor of the City of New York

Filed Nov. 11-1862.  
N. J. S. Secretary City

Received of the  
Trustees of the  
City of New York  
the sum of \$1000  
for the purchase of  
land in the City of  
New York

IN THE SUPREME COURT OF ILLINOIS,

FIRST GRAND DIVISION-----NOVEMBER TERM, 1862.

ABSTRACT.

Gabriel Jones Appellant, } Brief of Defendant in Error.  
VS. } Error to Randolph County.  
The People Appellee. }

1. The practice in these proceedings of quo warranto is in every respect nearly similar to that upon criminal information. Law Library. 4 Series, 31, Marg. P. 113, Book 2.

2] If Defendant plead but one plea and it is insufficient, it amounts to the usurpation charged. Ibid 31. P. 209, and Rex vs. Phelps, 1 Stra. 394.

If the 1st Replication is defective, the demurrer should be carried back to the plea, which it is insisted is defective and insufficient.

1st, Because it fails to conclude with an "abesque hoc," &c. See form of conclusion of plea, Appendix 31, Law Library, page 262, and same page 210.

2nd, The plea is defective in substance for that, 1st, it does not aver that by virtue of any ordinance the City Council passed upon the legality of the election of said Jones, although the charter by such ordinance only warranted them in assuming that power. 2nd. Because said plea does not pretend to describe in what respect the informality, or illegality, of the polls consisted, but simply states the conclusions of law of the pleader.

3d. The plea must show on its face a valid authority to hold the office,—31st Law Library, 210. This plea fails to do so, but on the contrary, evades the disclosure of the irregularity, and fails to aver any ordinance by which under the charter they were authorized to decide the contest, or by which in fact Williamson could contest the election.

It is denied that the charter, without an ordinance to carry out its powers, is in any case sufficient authority—but in this case there was no ordinance ever passed.

The Record shows that two of the applications were stricken out, this it is supposed left the first, and it is insisted that it took issue upon a material fact in the plea and concluded property to the country. See Appendix, form of Replication, No. 35, B. P: 265, 31st Law Library.

H. K. S. O'MELVENY,



Chester Md Oct 31 1862

Clerk Supreme Court

Dear Sir

This day I mail to you the papers in  
an appeal case the people Ed & Ed  
Joseph William vs Gabriel Jones  
Please find \$5 enclosed & direct  
the case that it may stand for hearing  
at the first term  
Yours &c J. H. Watt

Nov. 3<sup>d</sup>

Gabriel Jones

by

Profr - En. Rec.  
Joseph Williams

Receipts

Filed Nov. 3. 1862.  
N. Johnston City

IN THE SUPREME COURT OF ILLINOIS,

FIRST GRAND DIVISION-----NOVEMBER TERM, 1862.

ABSTRACT.

Gabriel Jones Appellant, } Brief of Defendant in Error.  
VS. } Error to Randolph County.  
The People Appellee.

1. The practice in these proceedings of quo warranto is in every respect nearly similar to that upon criminal information. Law Library. 4 Series, 31, Marg. P. 113, Book 2.

2] If Defendant plead but one plea and it is insufficient, it amounts to the usurpation charged. Ibid 31. P. 209, and Rex vs. Phelps, 1 Stra. 394.

If the 1st Replication is defective, the demurrer should be carried back to the plea, which it is insisted is defective and insufficient.

1st, Because it fails to conclude with an "abesque hoc," &c. See form of conclusion of plea, Appendix 31, Law Library, page 262, and same page 210.

2nd, The plea is defective in substance for that. 1st, it does not aver that by virtue of any ordinance the City Council passed upon the legality of the election of said Jones, although the charter by such ordinance only warranted them in assuming that power. 2nd. Because said plea does not pretend to describe in what respect the informality, or illegality, of the polls consisted, but simply states the conclusions of law of the pleader.

3d. The plea must show on its face a valid authority to hold the office,—31st Law Library, 210. This plea fails to do so, but on the contrary, evades the disclosure of the irregularity, and fails to aver any ordinance by which under the charter they were authorized to decide the contest, or by which in fact Williamson could contest the election.

It is denied that the charter, without an ordinance to carry out its powers, is in any case sufficient authority—but in this case there was no ordinance ever passed.

The Record shows that two of the Replications were stricken out, this it is supposed left the first, and it is insisted that it took issue upon a material fact in the plea and concluded property to the country. See Appendix, form of Replication, No. 35, B. P. 265, 31st Law Library.

H. K. S. O'MELVENY,

Jones to The People

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It is not intended to describe in what respects the infidelity, or illegality, of the writ concerned, but  
it is by such ordinances only warranted them in regard of that power. 2d. Dooms and the  
quintessence the City Council passed upon the petition of the election of said Jones, of which the  
2d. The plea is defective in substance for that it does not aver that by virtue of any or  
other law of the State, the said Jones is entitled to the office of Mayor of the City of  
Chicago. It fails to contain with an absolute plea, see Sec. 100 of our Constitution of this  
State. The plea is defective in substance for that it does not aver that by virtue of any or  
other law of the State, the said Jones is entitled to the office of Mayor of the City of  
Chicago. It fails to contain with an absolute plea, see Sec. 100 of our Constitution of this  
State.

The People Appellees.

Capital Jones Appellant. }  
vs. }  
Bribe of Randolph County. }  
Error to Randolph County.

FIRST GRAND DIVISION

IN THE SUPREME COURT OF ILLINOIS.

NOVEMBER TERM, 1868.

H. K. R. O'NEIL, C.

to the contrary. See Appendix, form of Exhibitions, No. 63, D. P. 267, 31st Law Library.

It is further to be noted that it took issue upon a material fact in the plea and concerned property  
The Record shows that two of the 68 questions were struck out, this it is supposed left the  
case unimpaired—but in this case there was no objection ever taken.

It is deemed that the charter, without an ordinance to carry out its power is in this case and  
by which in fact the ordinance could confer the election  
to have any ordinance by which under the charter that was authorized to create the election, or

210. This plea fails to do so, but on the contrary, it avers the violation of the provisions, and fails  
to do so. The plea must show on its face a valid and proper plea to nullify the effect of the  
provisions of the Constitution of this State.

It is not intended to describe in what respects the infidelity, or illegality, of the writ concerned, but  
it is by such ordinances only warranted them in regard of that power. 2d. Dooms and the  
quintessence the City Council passed upon the petition of the election of said Jones, of which the