

1897-012 Chancery Causes, James T. Hines, J. F. Joyner & J. B. Wilson vs

State of Wight County

N. F. Young, Clerk & al

Petition of James T. Hines, J. F. Joyner & J. B. Wilson other surnames: Chapman,
Edwards, Vellines, White,
King, Eley, Parker, Holland,
Johnson

James J. Oliver et al

vs.

N. F. Young et al et al

Bill

June 1st 1894 Bill
& injunction order filed. Bond
executed & summons with restraining
order issued

First June rules 1894
Bill filed, sum. with injunction
order return executed & decree nisi

Second June rules 1894
Bill taken for confessed &
course set for hearing

June 24 1894
In vacation. Final

the complainants in the foregoing bill in equity came before me in my said county and made oath in due form of law that the ^{to} statements contained in the said bill in equity above written are true to the best of his knowledge, information and belief.

Given under my hand this 1st day of June 1897.

James T. Hobbs N.P.

This day came the plaintiffs in the foregoing bill in equity by their attorney and moved the court in vacation to grant them an injunction in accordance with the prayer of the said bill, whereupon it is ordered, that an injunction be awarded restraining the defendants, their agents, and attorneys from delivering, receiving or in any way further making use of any certificate of election issued by the clerk of the County Court of Isle of Wight county and ex-officio clerk of the board of commissioners of election of Isle of Wight county on the 29th day of May or since that day declaring or reciting that C. T. King has been elected Supervisor for Windsor Magisterial District of the county of Isle of Wight, that W. A. Johnson has been elected Constable for the said District or that John H. Holland has been elected a justice of the peace for the said District till the ^{25th day of June 1897, unless sooner dissolved,} ~~further order of this court~~, but this injunction shall not take effect till the said plaintiffs or one of them or some one for them or him shall enter into a bond before the clerk of this court in the penalty of \$150, payable and conditioned according to law.

Robert R. Smith
June 1, 1897

To the Clerk of the Circuit Court of Isle of Wight county:

tors do not wish in the slightest to reflect on the said N.F.Young clerk but they say that unless he is restrained by the order of this court he will feel called upon to deliver the said certificates of election to the parties thus wrongfully declared elected by the said commissioner of election.

Your orators are advised that that there is no way way to prevent the delivery and wrongful use of the said certificates except by the restraining order of this court.

Your orators believe and here charge that if the said certificates are delivered to the said parties they will attempt to make use of the same and will attempt to qualify ~~XXXXXXXXXXXX~~ as officers to the offices to which they have been illegally and wrongfully declared elected.

For as much as your orators are remediless save in this court where matters of this sort are alone and properly cognizable they pray that N.F.Young clerk of the County Court of Isle of Wight County and as such ex-officio clerk of the Board of Election Commissioners, C.T.King, Jas. A. Johnson and John H.Holland be made parties defendants to this suit and required to answer this bill of complaint, but an answer on oath is hereby expressly waived, that an injunction be awarded your complainants restraining the said N.F.Young clerk, and the other defendants, ~~and~~ their agents and attorneys from delivering or receiving or further making use of the said certificates of election till the said commissioners of election can be compelled to count and canvass the returns from the said Mt. Carmel Precinct or untill it can be determined in the proper proceeding that the same should not be considered in determining who is elected or entitled to the said certificate or untill the further order of this court. They pray for all such other and further relief as to equity and good conscience may seem meet. And they will ever pray.

James T. Holmes

Virginia:-

County of Isle of Wight, to wit:

I, James T.Holmes, a Notary Public in and for the county of Isle of Wight in the state of Virginia do certify that James T.Hines, one of

2

three votes and said John Holland received only one hundred and forty-four votes in all. Notwithstanding these facts the said commissioners of election by refusing to take into consideration the vote at said Mt. Carmel precinct declared that the said C.T. King was elected Supervisor for the said magisterial district, that James A. Johnson was elected Constable for the same, and that J.F. Eley, Jno. J. Parker and John H. Holland were elected justices of the peace in and for the same, and that said commissioners thus wrongfully making out an abstract of the votes required N.F. Young clerk of the County Court of the said county and ex-officio clerk of the Board of Election Commissioners aforesaid to issue to the parties aforesaid a certificate of election to the several offices above named, and that in obedience to the said request of the Commissioners has issued to C.T. King a certificate of election as Supervisor for the said district, James A. Johnson a certificate of election for the office of Constable for the said district, and to J.F. Eley, Jno. J. Parker ^{and John H. Holland} a certificate of election as the three justices of the peace for the said district, but your orators are informed that not one of the said certificates of election has been delivered to the said parties but are still in the ^{custody} possession of the said clerk.

Your orators say that they have engaged counsel and shall as soon as they can do so present to the judge of this court in a vacation a petition in due form of law and duly sworn to asking that the said Commissioners be compelled to canvass the returns from the said several precincts including as well Mt. Carmel precinct and shall pray that said clerk may be compelled to cancel said certificates of election and ^{each of} required to issue one to your orators for the offices to which they have been elected as hereinbefore stated, or to issue certificates of election to your orators in lieu of those already issued, but they are afraid that the said clerk will deliver the said certificates and that said parties who are not elected and who did not receive the highest number of votes ^{will receive said certificates of election} and that they will present the same to the county court of the said county or to the judge thereof in vacation and in that way will be allowed to qualify as officers to offices to which they have not been elected, but merely counted in by the arbitrary act of the said commissioners. Your ora-

In the Circuit Court of Isle of Wight County, Virginia:-

To the Honorable Robert R. Prentiss, Judge of the Circuit Court of the county of Isle Wight:-

Your orators James T. Hines, J. F. Joyner and J. B. Wilson respectfully represent:

That on Thursday May 27th 1897 an election was held in the magisterial district of Windsor in the county of Isle of Wight in the state of Virginia for District Officers according to law. In said district there are three voting precincts as follows:- Windsor, Carrsville and Mt. Carmel at all of which voting precincts an election was held, returns made by the officers conducting the said election at each of said precincts, which said returns were carried to the clerk's office of the county court of the said county according to law on the day next following the said election. On Saturday May 29th 1897 T. J. Chapman, E. E. Edwards, L. L. Vel- lines and J. E. White Commissioners of Election appointed and designated by the Electoral Board of the said county of Isle Wight as commissioners of election assembled and undertook to canvass the returns from the various precincts in the county, but without authority of law and in violation of their duty failed and refused to count or consider the returns from said Mt. Carmel precinct where all your orators had large majorities and by thus unlawfully and arbitrarily refusing to do their duty in not counting the returns from the said precinct in making up an abstract of the votes cast in said magisterial district at the said election declared that one C. T. King had received a majority of the votes in that district for Supervisor instead of your orator James T. Hines who was in truth and in fact duly and legally elected; that one James A. Johnson had received a majority of the votes cast at said election in the said district for Constable instead of your orator J. F. Joyner who was in fact duly and fairly elected to that office in said district at said election; That J. F. Eley, Jno. J. Parker and John H. Holland received the greatest number of votes for the office of justice of the peace when in truth J. B. Wilson received in all one hundred and sixty seven votes, J. F. Eley one hundred and seventy-seven votes, Jno. Parker one hundred and sixty-

Henry Thoreau
as 7th Partisan
and
3rd Notice
Kingman

To 24th
from
97

Executed by measuring to
each of the within named
S. J. Chapman E. E. Edwards L. L.
William & J. A. White, and W. F.
Young, Clerk of Co. Ch. a true
copy of the above partition
and notice
June 9th 1897,

R. A. Edwards

Shpf. of.
J. A. Wright & Co.

in the room and stead of the fraudulent and void ones heretofore issued as aforesaid to each of your said petitioners, certifying their election to the several offices for which they were candidates and were elected as by the face of the returns it was shown as aforesaid, and otherwise to faithfully discharge the several duties as the board, and clerk to the board of election commissioners for the election aforesaid according to law.

James T. Hines
J. F. Joyner
J. B. Wilson

State of Virginia:

County of Isle of Wight, to wit:

I, James T. Holmes, a Notary Public in and for the county of Isle of Wight in the state of Virginia, hereby certify that James T. Hines, J. F. Joyner and J. B. Wilson whose names are signed to the foregoing annexed paper, personally appeared before me in my county and state aforesaid this 5th day of June 1897 and made, each, oath that the statements therein contained are true to the best of their knowledge and belief.

Given under my hand this 5th day of June 1897.

James T. Holmes N.P.

To T. J. Chapman, E. E. Edwards, L. L. Vellines, J. E. White commissioners of election, and N. F. Young clerk of the County Court of Isle of Wight county in the state of Virginia and as such ex-officio clerk of the board of election commissioners of the said county for the election held May 27th 1897.

You are hereby notified that on the 24th day of June 1897 at 9 O, O'clock A.M. of that day in the town of Suffolk, Virginia, at the office of the Hon. Robert R. Prentiss Judge of the Circuit Court of the county of Isle of Wight we will apply to said judge in vacation, to grant a mandamus to compel you to meet and canvass the returns of election from Windsor, Carrsville and Mt. Carmel precincts in said Windsor magisterial district Isle of Wight county, Virginia to discharge your duties as commissioners of election and as clerk to the said commissioners according to law in accordance with the prayer of the petition hereto annexed, a copy of which will be served on you along with this notice.

James T. Hines, J. F. Joyner and J. B. Wilson by

Wm. S. Hallaw, Their atty.

visor, Constable and Justices as aforesaid, whereby it was twice falsely made to appear that said O.T.King had the greatest number of votes for Supervisor, said Jas. A. Johnson ^{for} Const., said J.F.Eley, Jno. J.Parker and Jno.H.Holland for justices as aforesaid when in truth and in fact it duly appeared from the returns from the said three precincts that your petitioners had respectively the greatest number of votes for the offices aforesaid; and your petitioners say that the said clerk failed and refused to issue to them certificates of election respectively to the offices to which they had been elected as appeared from said returns ^{as} aforesaid.

Your petitioners say that on their motion in another proceeding in the Circuit Court of the said Isle of Wight county the Judge of the said Court in vacation has issued a restraining order, restraining the said clerk, said O.T.King, Jas. A. Johnson and John H. Holland, their agents and attorneys from delivering or receiving or further making use of the said certificates of election improperly issued as aforesaid, and they are informed, believe and here allege that the said certificates of election are still in the possession ^{of said clerk} and have not been used.

And petitioners being without any other remedy whatsoever, and being plainly entitled to have said returns duly and properly canvassed, the result ascertained and signed by the said commissioners or a majority of them, ^{to} have the said clerk attest the same, and certificates of election issued and delivered to them at once, certifying their election to the several offices aforesaid all in accordance with the law in such cases made and provided, pray the said Circuit Court, or the Judge thereof in vacation as the case may be, for its writ of mandamus to compel the said T.J.Chapman, E.E.Edwards, L.L.Vellines and J.E.White election commissioners aforesaid who were designated and appointed as such by the Electoral Board of the said Isle of Wight county to immediately meet and ascertain from the said returns from each of the said precincts who received the greatest number of votes for the said office of Supervisor, Constable and Justices of the peace of the Magisterial district in the county and state aforesaid at the said election held on the 27th day of May 1897, and to compel the said clerk to issue at once certificates of election

2

the greatest number of votes for Constable for the said magisterial district, and in like manner to ascertain the three persons who had received the greatest number of votes for the office of justice of the peace for the said magisterial district, and to reduce the said result so ascertained to writing and to have the same signed by a majority (at least) of the said commissioners present and constituting the said board of election commissioners and to have the same attested by the said clerk and annexed to the abstract of votes cast at said election, but your petitioners aver that said election commissioners, and each of them, then and there in plain violation of law and in utter disregard of their duty wholly failed and refused to discharge their duties aforesaid and then and there by "usurpation of authority" and for the purpose of depriving your petitioners of the offices to which they had been elected, proceeded to fraudulently ascertain from the returns from the said Carrsville and Windsor precincts, ignoring and utterly rejecting the said returns from said Mt. Carmel precinct where your petitioners had large majorities, who had received the greatest number of votes for the offices aforesaid, whereby it was falsely and fraudulently made to appear that one O. T. King had received the greatest number of votes for the office of Supervisor of the said district instead of your petitioner James T. Hines, that one James A. Johnson had received the greatest number of votes for Constable for said district instead of your petitioner J. F. Joyner, that J. F. Eley, Jno. J. Parker and Jno. H. Holland had received the greatest number of votes for justices of the peace of the said magisterial district instead of J. F. Eley, J. B. Wilson (one of your petitioners) and Jno. J. Parker. Whereupon afterwards, to wit: on the said 29th day of May 1897 the said clerk of said court and ex-officio clerk of the said board of election commissioners pursuant to said false determination of the said commissioners made an abstract of the votes cast at said Carrsville and Windsor precincts, utterly ignoring and disregarding the said returns from the said Mt. Carmel precinct and issued certificates of election to O. T. King, James A. Johnson, J. F. Eley, Jno. J. Parker and Jno. H. Holland instead of to your petitioners for the offices respectively of Super

Hon. Robert R. Prentiss,

Judge of the Circuit Court of Isle of Wight county, Virginia:-

Your petitioners James T. Hines, J. F. Joyner and J. B. Wilson respectfully represent:-

That there was an election according to law in Windsor Magisterial District in the county of Isle of Wight in the state of Virginia on Thursday, May 27th 1897, at which election your petitioner James T. Hines was a candidate for the office of Supervisor for the said district; your petitioner J. F. Joyner a candidate for Constable for said district; your petitioner J. B. Wilson was a candidate for Justice of the peace of the said district, that said candidates were elected to said several offices respectively as shown by the returns of the said election from the three voting precincts in the said district, to wit: Windsor Carrsville and Mt. Carmel precincts.

Your petitioners aver that said returns from the said three precincts in the said district ^{were} ~~would~~ duly delivered to the clerk of the County Court of the said Isle of Wight county according to law at his office at the Courthouse of the said county. That on Saturday May 29th 1897 T. J. Chapman, E. E. Edwards, L. L. Vellines and J. E. White " Commissioners of election appointed and designated by the Electoral Board of the county of Isle of Wight aforesaid, as commissioners of election", met at the said clerk's office of said county, and with N. F. Young clerk of said County Court as ex-officio clerk to said board of election commissioners proceeded to open, and did then and there open the said returns from the three precincts in the said magisterial district. Your petitioners aver that no informalities or irregularities were discovered or pointed out on said returns, and that no action was taken to have any informality or irregularity corrected by having said returns amended or cured as provided by law. Whereupon it became the duty of the said commissioners to ascertain from the said returns from the said three precincts in the said magisterial district the person who had received the greatest number of votes for the office of Supervisor of said magisterial district, and in like manner to ascertain the person who had received

The Bond required by the order of the Judge of the Circuit Court of Isle of Wight County having been executed, by order of the said Court the defendants, their agents, attorneys and all other persons are enjoined and restrained from delivering, reciting or in any way further making use of any certificate of election issued by the clerk of the County Court of Isle of Wight & ex officio clerk of the Board of Commissioners of Election of Isle of Wight County on the 29th day of May or since that day claiming or reciting that C. F. King has been elected Supervisor for Windham Magisterial District of the County of Isle of Wight that Jas. A. Johnson, has been elected Constable for the said District or that John S. Holland, has been elected a Justice of the peace for said District, till the 25th day of June 1897. unless sooner dissolved.

Teste N. F. Young clk

Form No. 300.

James J. Jones et al.

SUBPOENA
IN
CHANCERY.

U.S.

N. F. Young clk et al.

W. S. Holland

p. q.

To First June

Rules

Circuit

Court.

1897

Exhibited by returning to the clerk
N. F. Young & Son, of Winchester
J. A. Johnson & Son, of Winchester
a true copy of the within document
Do, A. B. Lewis
June 17th 1897

The Commonwealth of Virginia,

To the *Sheriff* of the County of *Isl of Wigle*, Greeting:

WE COMMAND YOU, That you summon *N. F. Young, Clerk County Court of Isl of Wigle County, and ex officio clerk of the Election Commissioners, L. T. King, James A. Johnson and John K. Scotland*

to appear at the Clerk's Office of the *Circuit* Court of the County of *Isl of Wigle* at the rules to be held for the said Court on the *first* Monday in *June*, 1897, to answer a bill in Chancery, exhibited against *them* in our said Court by *James I. Vines, J. F. Joyner, and J. B. Wilson*

And have then there this writ. Witness, *N. F. Young* Clerk of our said Court, at the court-house, the *first* day of *June* 1897, and in the *121* year of the Commonwealth.

N. F. Young clk.

as made on knowledge or information
derived from others he believes to be
true -

Given under my hand this 23^d day
of June 1897,

R E Boykin
Commissioner

of the opinion that a great wrong had been perpetrated by the failure to open the said polls at Mount Carmel Precinct at the time required by law, that the result was thereby changed, and in the belief that it was their duty so to do.

Your respondents are informed and so charge that the said Board of Election Commissioners having acted and finally adjourned, ^{and said certificates of election having been awarded} they can not be required to reconvene and recavass the said returns.

And having answered your respondents pray hence to be dismissed with their costs in this behalf most unreasonably expended.

J. D. Chapman. E. E. Edwards
L. L. Vulliamy and D. E. White. Commis-
sioners of Election of the County of
Deer of Mich. and N. F. Young
Clerk of the County Court of the
County of Deer of Mich. and ex-
officio Clerk of the said Board
Ray Boykin Lit. atty.

Deer of Mich County to wit:
J. R. E. Boykin a
Commissioner in chancery for the Circuit
Court of the County of Deer of Mich. do
Certify that J. D. Chapman, E. E. Edwards
L. L. Vulliamy and D. E. White, and N. F. Young
whose names are signed to the foregoing
answer personally appeared before
me in my said County and made oath
that the statements contained in the
said answer so far as made of their
own knowledge are true and so for

ascertain from the returns from the other precincts ^{in said District} who had received the greatest number of votes in the said district for the several offices to be filled at the said election; and having ascertained that C.T.King had received the greatest number of votes for the office of Supervisor of the said District, and having ascertained that Jas.A.Johnson had received the greatest number of votes for Constable for said District, and having ascertained that J.F.Eley, John J.Parker and John H. Holland had received the greatest number of votes for Justices of the Peace for said District reduced to writing the result so ascertained, and your respondents, Commissioners of Election as aforesaid, being a majority of the Commissioners present, signed the same, which was then and there attested by the said clerk of the said Board, and was then and there annexed to the abstract of votes, as and in the manner required by sections 133 and 136 of the Code of Virginia, which abstracts being thus certified and signed by said commissioners, and attested by the said clerk were deposited in his office.

constituting the Board of
That thereupon your respondents, commissioners of election as aforesaid, adjourned, having completed their duties.

That immediately upon the adjournment of the said Board, the said clerk of the said board, ~~immediately~~ made out, in pursuance of the determination of the said commissioners, a certificate of election to C.T.King as Supervisor for the said District, to Jas T.Johnson as a constable of said District, and to John H. Holland as a Justice of the Peace for the said District, but as application was not made therefor, the same were not delivered before the service of the injunction order in the petition mentioned. That your respondents rejected the returns from Mount Carmel precinct in the utmost good faith, being clearly

James T.Hines,J.F.Joyner and J.E.Wilson.

Versus. In the Circuit Court of the County of Isle of Wight.

T.J.Chapman,E.E.Edwards,L.L.Vellines and J.E.White,Commission-
ers of Election for the County of Isle of Wight,and N.P.Young
ex-officio clerk of said Board

The said T.J.Chapman,E.E.Edwards,L.L.Vellines and J.E.
White,Commissioners of Election of the County of Isle of
Wight,and N.P.Young,Clerk of the County Court of the County
of Isle of Wight,and as such ex officio Clerk of said Board
doth demur to the petition presented by the said James T.Hines
J.F.Joyner and J.E.Wilson for a writ of mandamus,as in said
petition prayed,and do say that the said petition is not suffi-
-cient in law.

And without waiving the said demurrer,but expressly rely-
ing and insisting thereon,for answer to the said petition says,
That your respondents,Commissioners of Election of the County
of Isle of Wight,and the said N.P.Young,their Clerk as afore-
said,on May the 29th 1897,being the second day after the elec-
tion in said petition mentioⁿed,and the day appointed by law
therefor,met at the clerks office of the county of Isle of
Wight,and proceeded to open the several returns made to the
said office,in the election in the said petition mentioned,
and proceeded to ascertain from the said returns the persons
who had received the greatest number of votes in Windsor Mag-
isterial District in the said County,for the several offices
to be filled at the said election.

That it appearing in evidence before the said Board that
the polls were not open at Mount Carmel Voting Precinct ^{in Windsor Magisterial District} until
after Twelve O'Clock,and that great wrong and injury had been
done thereby,your respondents,deeming it their duty so to do,
rejected the returns from said precinct,and proceeded to ~~count~~

124

J. J. Adams Fals
 do. }
 W. F. Young alk Fals

Enter June 24, 1897
 Robert R. Hunt
 Entered

The first of the above named persons
 was a resident of the County of
 the State of New York at the time
 of the execution of the above
 and was at that time a resident
 of the County of the State of
 New York.

to award the said writ of mandamus as prayed. And the court doth order
that the petitioners pay the costs of these proceedings.

June 24th 1897.

Robert R. Huntis...

To the Clerk of the Circuit Court of the County of Isle of Wight.

In the Clerk's office of the Circuit Court
of the County of Isle of Wight the 25th day
of June 1897. The foregoing decree was received
and entered of record.

Test: H. F. Young clk

By Saml H Edmunds
Spect.

~~In Vacation.~~

~~Circuit Court of Isle of Wight~~

James T.Hines, J.T.Joyner and J.B.Wilson.

Versus. In the Circuit Court of Isle of Wight County. In Vacation.

T.J.Chapman, E.E.Edwards, L.L.Vellines and J.E.White, Commissioners of Election for the County of Isle of Wight, and N.F.Young, Clerk of the County Court of the County of Isle of Wight, and ex-officio Clerk of the said Board.

On the petition of the said James T.Hines, J.T.Joyner and J.B.

Wilson for a peremptory writ of mandamus to compel the said Commissioners of Election to reconvene and ~~re~~ canvass the returns for the election held in Windsor Magisterial District, in the County of Isle of Wight, on the 27th day of May 1897, and to ascertain from the said returns from the said District who received the highest number of votes in said District for the offices of Supervisor for said District, for the office of Constable of the said District and for the office of Justice of the Peace for said District; and to compel the Clerk of the said Board to issue a certificate of election to J.T.Hines, as Supervisor of the said District, to J.F.Joyner as Constable for said District, and to J.B.Wilson as a Justice of the Peace for the said District.

This day came as well the petitioners by their attorney, who filed their said petition for a peremptory writ of mandamus, as the respondents, who, by their attorney demurred to the said petition, and filed their answer to the said petition, in which demurrer the said petitioners

joined, and moved to reject the said answer. And it appearing to the court that the said petitioners of election having once convened and declared the result of the election their powers have ceased, and that the petitioners have another adequate remedy, and that therefore the said petition does not present a proper case for a peremp-

tory writ of mandamus, the court doth sustain said demurrer, and refuses

Copy of [unclear] at [unclear]
 to be kept as [unclear]
 [unclear]

In the Clerk's office of the Circuit
 Court of Dist. of Wight County June
 25th 1897. The foregoing decree was
 Received and entered of record.

Jst. N. F. Young cl.
 By Paul H. Edwards
 Deputy

Enter June 24/97
 Robert J. Rents

June 25th Received
 & Entered of record.

J. J. Ames & Co.
 20

N. F. Young & Co.
 15

In the Circuit Court of
Isle of Wight County in
vacation This 24th day of
June 1897.

James T. Hines et. als.

vs

L. L. Vellines et. als.

This cause came on
this day to be heard
on a motion to dismiss
the information herein
and hereto fore awarded
on native warranty com-
plaints and supported
by their affidavits.

On motion of the
complainants it is ordered
that this cause be
stricken from the
docket without costs.

Wm. R. Hestis.

To the Clerk of the
Circuit Court of
Isle of Wight County.