

North Carolina & In the Superior Court
Gaston County & Gaston County -

James J. Mum.
William F. Jenkins
Washington Briggs
Nard Spencer

against

Richard L. Jones.
Charles B. Cole
Andrew Williams
Bosston Hunt
Albert Wlyshe
James B. Crews.
James B. Hobgood
John S. Morgan
Elysh C. Montague

On reading the complaint of the
Plaintiffs and on application of
counsel.

It is ordered by the court,

17

That the defendants Richard
L. Jones, Charles B. Cole, Andrew
Williams, Bosston Hunt
Albert Wlyshe, James B. Crews,
James B. Hobgood, John S. Morgan
and Elysh C. Montague, appear
before the Hon. Samuel W. Watts,
Judge of the Sixth Judicial Dist

of North Carolina at Chambers
at Franklin in the County
of Franklin on Thursday the 14th
day of May of December 1896
and show cause why they
shall not be enjoined according
to the prayer of the said complaint
It is further ordered that in the
interim and until the further
Order of the Court, the said defend
ants and each of them be restrai
ned and enjoined. That is to say
the defendant James B. Lewis
from proceeding to qualify as
Sheriff of Granville County upon
said, or taking upon himself
the duties of the said office or
attempting to obtain possession of
the said office, and the defend
ants James B. Nobles, John G.
Morgan, and Elijah C. Montague
from qualifying as commissioners
of Granville County aforesaid
and from doing or performing
any act towards taking posses
ion of or assuming the duties of
said office.

It is further ordered that the Clerk

of the Superior Court of Granville
County aforesaid forthwith issue
copies of this order together with
the Summons & complaint to each
of the said defendants;

Witness Honorable James
M Watts - Judge of the 6th Judi-
cial Seat of North Carolina
at Chambers, this 29 day of
Nov 1876.

North Carolina }
Granville County } J M Watts, J of the
Superior Court of the County and State
aforesaid do hereby certify that
the foregoing is a full copy of
a summons, complaint & order
of Hon J. M. Watts, on the Suit.
Wherein James O Moore, Wm R
Jenkins & others are Plaintiffs
and Richard S Jones, Charles
B Cole & others Defendants
Given under my hand and
Seal of the said Court
December 1, 1876

B H Cogent, Clk

Granville 1876

1876

CHAUTAUGUA COUNTY NY HISTORICAL SOCIETY 2013

North Carolina
Wauville County) Superior Court

James S. Moon
William K Jenkins
Washington Bridges
David Spencer
Against

Richard D Jones
Charles Cole
Andrew Williams
Braxton Hunt
Albert Wyche
James B Crews
John G Morgan
Elijah C Montague
James B Hobgood
Defendants

The State of North Carolina
To the Sheriff of Wauville County
Greeting - You are hereby commanded
to summons Richard D. Jones, Charles
B. Cole, Andrew Williams, Braxton
Hunt, Albert Wyche, James B Crews,
James B Hobgood, John G Morgan,
and Elijah C Montague, the Defend-
ants above named to be, and appear
before Hon Samuel N. Watts Judge
of Our Superior Court, at Chambers
at the Court House ^{Franklin} ~~Franklin~~ on

Thursday the 14th day of December
AD 1876 - and answer the Complaint
a copy of which will be served
with this summons, and let the
Defendants take notice, that if they
fail to answer the Complaint
within that time the Plaintiff will
apply to the Court for the relief dem-
anded in the Complaint.

And in fail not and of this
summons make due return

Given under my hand and
Seal of said Court this 27 day of
November AD 1876

J. H. Hazard,
Clerk of Superior Court
for Franklin County

NORTH CAROLINA, } In the Superior Court.
GRANVILLE COUNTY, }

James I. Moore, William K. Jenkins, Washington Bridges, David Spencer—Plaintiffs.

AGAINST.

Richard D. Jones, Charles B. Cole, Andrew Williams, Braxton Hunt, Albert Wyche, James B. Crews, James B. Hobgood, John G. Morgan, Elijah C. Montague—Defendants.

The Plaintiffs Complaining of the Defendants above named allege:

1. That on the 7th day of November A. D. 1876, in accordance with an act of the General Assembly of the State of North Carolina, ratified the 22d day of March A. D. 1875, and an ordinance of the Convention of the people of North Carolina, there was an election held in the County of Granville for the purpose of electing, members of the General Assembly, a county Treasurer, Register of Deeds, County Surveyor, five County Commissioners, a Coroner, Sheriff, Member for the House of Representative of the United States Congress; a so for Governor Lieutenant-Governor, Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Attorney-General, and also for electors for President and Vice-President of the United States, and for Ratification or Rejection of the Amendments to the Constitution of North Carolina, and that the returns of the votes cast at the several precincts in said County on that day, were made out by the Judges of election, and forwarded to the County Commissioners of the County of Granville.

2. That the Defendants, Richard D. Jones, Charles B. Cole, Andrew Williams, Braxton Hunt and Albert Wyche are now and were at that time members of and constituted the Board of Commissioners of Granville County and acting as such. That on the Thursday succeeding the election, the said Commissioners met at the Court House in Oxford, where a protest from certain citizens of Henderson, not sworn to was presented to the said Board against receiving and counting the vote of the precinct of Henderson, on the alleged ground of certain alleged irregularities in the Registration of votes in said Township prior to the day of election, and the said commissioners, the said protest not being sworn to or verified in any way, had divers witnesses summoned to appear on Saturday at the Court House in Oxford, and postponed the counting the vote of the said election in said County until Saturday. That on Saturday next ensuing the said day of election the said Board of Commissioners met all the returns having been sent in, and without hearing any evidence resolved, that they the said Board would not receive and count the votes as shown by the returns from the election precincts of Henderson in the said County of Granville, and without proceeding further adjourned to meet again on the following Tuesday the 14th day of November, 1876. That on the said Tuesday the 14th day of November the said Board of Commissioners met at the Court House in Oxford and proceeded to count the votes as shown by the returns aforesaid except the returns from Henderson. That they did pretend to count the returns from every voting precinct in said county and pretended to add up the votes as shown by said returns as being cast for each candidate voted for, for the respective offices; except from the voting precinct of Henderson, in the County of Granville, which they refused to count and add up although the said returns were properly made out and regularly certified according to law. That the votes thus counted out, *excluding* the returns of votes from the polling precinct of Henderson, the majority of said Board to wit: Richard D. Jones, Charles B. Cole and Andrew Williams, certified to the Sheriff as being the true count of the votes received by each candidate voted for at the said election, at all the polling places in said County of Granville, although there had been no action of the Board to that effect, and the same was done after the Board adjourned. A copy of the proceedings of said Board, as well as returns of votes, also a copy of the vote from Henderson precinct are hereby tendered to be produced when required by the Court.

3. That the said election so held there were voted for amongst other officers: a Sheriff for the County of Granville and five Commissioners for said County, and that the Plaintiff James I. Moore and the Defendant James B. Crews were each candidates for said office of Sheriff and voted for by the people. And that the Plaintiffs Washington Bridges, David Spencer and William K. Jenkins, and the Defendants James B. Hobgood, John G. Morgan and Elijah C. Montague were each Candidates and voted for by the people for the office of County Commissioner of said County.

X 4. That the vote from the precinct of Henderson in said county as above mentioned was returned by the Judges of election duly and regularly according to law, and that the said return was before the said Board, and was thrown out by them and refused to be counted without any evidence, and for the purpose of defeating these Plaintiffs.

5. The Plaintiffs further allege and claim that by a proper addition and counting of the votes cast at said election, at all the precincts in said county, the Plaintiff James I. Moore, received a majority of the votes so cast for Sheriff of the county of Granville, and was duly elected to the said office, and that the Plaintiffs, Washington Bridges, William K. Jenkins and David Spencer, received each a majority of the votes so cast for County Commissioners of said county of Granville, and were duly elected to the said offices, and that they are in law entitled to qualify and hold the

said offices. They further show that the Sheriff of Granville county, acting under the pretended certificate of the Board of Commissioners of the pretended and fraudulent and incomplete count as above set forth, has notified the defendant, James B. Crews, that he has been elected to the said office of Sheriff of Granville county, and that the said James B. Crews has declared his intention to qualify as such, and assume the duties of said office.

6. They also show that the sheriff of Granville county has notified the Defendants, James B. Hobgood, John G. Morgan and Elijah C. Montague, that they have been elected Commissioners of Granville county, and that the said parties intend to qualify and claim the said offices.

7. The Plaintiffs further allege that the action of said Board, in not adding and counting the votes returned from Henderson Township was illegal, and in divers other ways the pretended addition and counting of said votes was contrary to law. That their legal duty was not completed, that their duties were only ministerial, and that they had no power to throw out and refuse to count the whole returns of county, or any part thereof, and that the action they took in this matter was illegal and void.

8. They are also advised and so aver, that the said Board of Commissioners not having added and counted the whole vote of the said county of Granville, they have not completed the duty required of them by law, and should now be required by the court to meet and perform the same properly and according to law.

9. The Plaintiffs aver that by the illegal acts and doings of the defendants they are deprived of these offices as guaranteed to them by the Constitution and laws of North Carolina, and that these matters should be enquired into by the court, and their rights in this matter adjudicated and decided.

The Plaintiffs therefore demand judgment against the Defendants.

1st. That your honor issue your writ of mandamus, directed to Richard D. Jones, Charles B. Cole, Andrew Williams, Braxton Hunt and Albert Wyche, the Board of Commissioners of Granville county, commanding them to assemble and compare the polls from the various precincts in the county of Granville, including the precinct of Henderson in said county and proceed to add the number of the votes returned from all the precincts in said county of Granville as aforesaid, including the votes from the said precinct of Henderson, and upon comparison of all the said polls and adding the number of all the said votes so cast in said election, according to said returns, including said returns from said precinct of Henderson, shall proclaim the result at the court-house door of the voting in said county for all the persons voted for and the number of votes cast for each in said election, and to file with the Register of Deeds and Sheriff of said county, a certificate statement of the same, and in the mean time that your Honor shall issue your restraining order directed to the Defendants, James B. Crews, James B. Hobgood, John G. Morgan and Elijah C. Montague, commanding and restraining the said James B. Crews from proceeding to qualify as Sheriff of Granville county, or from taking upon himself the duties of said office, or from proceeding further in attempting to obtain possession of said office, and also commanding and restraining the said defendants, James B. Hobgood, John G. Morgan and Elijah C. Montague, and each of them, from qualifying as Commissioners of Granville county, or from doing or performing any acts tending to taking possession of or executing the duties of said officers. And that the Plaintiffs may have such other and further relief, as the nature of the case may require, or the court may seem meet.

Merriman Fuller Ashby
Bullock & Mitchell
Wm H. Jones
Wm B. Veinable
Attorney at Law

2001

North Carolina

James I Moore one of the
Plaintiffs in the above entitled cause being
duly sworn says that the foregoing
complaint is true to his own knowledge
except the matters therein stated on inform-
ation and belief and as to those matters he
believes the same to be true

James I Moore

Sworn to and subscribed before me this
29 day of November 1876

J. M. Bunting Clerk
Superior Court Wake County