THE STATE OF MISSOURI UPON THE INFORMATION OF WINGATE, ROBERT F. - ATTORNEY GENERAL V CHANDLER, JEFFERSON MARCH 1867 BUCHANAN COUNTY 581/1

OLD 66014 ?

INVOLVED:

The State of Missouri Plaintiff

upon the information ~~and relation~~ of

Robert F. Wingate, Attorney General

of said State

against

Jeff. Chandler Defendant.

In the Supreme Court of Missouri held at St. Louis Mo.

~~Plaintiff, upon the information and relation of~~ Robert F. Wingate, Attorney General of the State of Missouri ~~and~~ comes now here ~~into court and~~ ~~this Supreme Court on the State of Missouri~~ respectfully states to the ~~Honorable Court~~, that by an act of the General Assembly of the State of Missouri, entitled "An act to amend the Charter of the City of Saint Joseph", approved March 3d 1855, it was provided amongst other things as follows "At the next and each succeeding annual election for the Officers of the City of Saint Joseph, there shall be elected by the qualified voters for the other offices, a City-Attorney, who shall hold his office for one year from the date of his election and until his successor is elected and qualified". That afterwards to wit on the 5th day of February AD 1864, an act of the General Assembly of the State of Missouri, entitled "An act to amend the Charter of the City of Saint Joseph" was passed, and was approved February 5th 1864, in which

said act among other things it was declared by the first section as follows:
"At the election of City Officers to be held in the City of Saint Joseph on the first Monday of April AD 1864 and at an election to be held in said City every two years thereafter, the Mayor, Recorder, Marshal, and Attorney for said City shall be elected for the term of two years, and shall hold their offices during said term, and until their successors are elected and qualified, unless sooner removed". That afterwards, to wit on the first Monday in April AD 1864 at the annual election for city officers held in said City, James Hunter was duly elected City Attorney of the City of St Joseph and was duly and properly qualified and commissioned as such officer, and entered upon, and did discharge the duties of said office till the said defendant in this suit usurped and intruded himself into said office as City Attorney, as is hereinafter more particularly stated. That defendant has never been elected as successor to said James Hunter in said office of City Attorney

That on the first Tuesday in April AD 1866, an annual election was held in the City of Saint Joseph for certain City Officers, under and by virtue and authority of "An act of the General Assembly of the State of Missouri entitled "An act amending the Charter of the City of Saint Joseph and supplementary to "An act entitled" an act to amend the City Charter of the City of Saint Joseph" approved December 19th 1865": which said act amending the said Charter, and supplementary as aforesaid was approved March 20th 1866. That at said election on the first Tuesday in April AD 1866, said James Hunter and said Jeff. Chandler were candidates for the office of City Attorney for said City of Saint Joseph. That said James Hunter at said election received in the aggregate six hundred and ninety five votes as will appear by the certificate of the Register herewith filed marked "Exhibit A", and which, it is prayed, may be taken and made a part of this petition.

That within fifteen days next preceding said election to wit on the 22d of March A.D. 1866 said James Hunter did take subscribe

and file in the office of the City Register of Saint Joseph (that being the office where the archives of said City are and always have been kept since the first organization of said City under its Charter) his oath under the Constitution of the State of Missouri and known and named in the Sixth section of the second article of said Constitution, as the "oath of loyalty". That a certified copy of said oath is herewith filed, marked "Exhibit B" and which, it is prayed, may be taken and made a part of this petition; That one Jeff. Chandler did not file said oath under said Constitution, known as the "oath of loyalty" in the office where the archives of said City were kept, to wit, in the Office of the City Register of said City within fifteen days next preceding the first Tuesday in April AD 1866. That on the 17th day of March AD 1866 said Jeff. Chandler did file in the office of said City Register the said oath known and under the Constitution of the State of Mis-
a copy of which is herewith filed marked Exhibit D & made a part of this petition
Missouri, as the "oath of loyalty", but that said oath was not filed within the time prescribed in the Constitution, that is to say, within fifteen days next

preceding said election.

That by an Ordinance of the City of Saint Joseph, entitled "An Ordinance concerning Officers, Elections, Appointments etc," approved January 7th 1858, it is provided in the third section of said ordinance as follows:

"Sec. 3. Every person so ~~appointed~~ elected or ~~elected~~ appointed, shall, before being commissioned make and subscribe an oath before a proper officer that he will support the Constitution of the United States, and that of this State, and faithfully demean himself in office, and where bond is required shall give the same: which oath and bond shall be filed with the City Register"

That after said last mentioned election, the said defendant took the oath required by said ordinance and filed the same with the City Register and made a part of this petition a copy of which oath is herewith filed marked Exhibit C,

That the sixth section of said last mentioned ordinance provides as follows:

"Sec 6. Upon said oath and bond being filed with the Register he shall deliver to the person elected or appointed except officers, and members of the City Council, a commission in the name of

and signed by the Mayor, under the seal of the City, authorizing and empowering such person to discharge the duties of the office for the term for which he has been elected or appointed and commissioned."

That said Jeff Chandler shortly after said election, and shortly after taking said oath under said ordinance received a Commission as City Attorney of the City of Saint Joseph signed William R. Penick then Mayor of said City; he the said William R. Penick at the time well knowing that said oath of loyalty of defendant under the Constitution, had been filed with the City Register on the 17th of March AD 1864, which said election was held on the first Tuesday in April AD 1864 and that no oath of loyalty had been filed by defendant in the proper office within fifteen days next preceding said election. That said commission was issued without authority of law and was void. That said defendant upon obtaining said commission proceeded to usurp and intrude himself into said office of City Attorney of the City of St Joseph

and did and still does unlawfully hold and exercise the duties of said office in contempt of and against the peace of the State of Nebraska: Wherefore it is prayed that defendant may be required to show by what authority he exercises the functions and duties of the office of City Attorney of the City of St Joseph, and that upon final hearing that defendant may be ousted from said office of City Attorney of the City of St Joseph & for such other order and judgment of the Court as to it may seem fit & proper.

R. F. Wingate
Atty Genl of Mo

Supreme Court at
St Louis - March
term 1867

State
vs
Jefferson Chandler

Petition & information
for Quo-warranto

Filed March 18, 1867
O. F. Fishbackelk
per E. W. Carty - Dep

State of Missouri To

Jeff Chandler

You are hereby commanded to be and appear before the Supreme Court of the State of Missouri now in session at the Court House in the City of St Louis County of St Louis, State of Missouri on the Twenty Seventh day of March A D 1867 and then and there to show (if you can) by what authority you exercise the functions and duties of the office of City Attorney of the City of St Joseph, County of Buchanan and State of Missouri, and to show cause why you should not be ousted from the said office of City Attorney of the City of St Joseph, County and State aforesaid, And hereof fail not at your peril,

In testimony whereof the undersigned Clerk of the Supreme Court of the State of Missouri at the City of Saint Louis has signed his name and affixed the seal of said Court at Office this 18th day of March A D 1867

O F Fishback Clk

per E M Carly Dep

SEAL OF THE SUPREME COURT OF MISSOURI

State of Missouri
County of Buchanan } ss

I, Irvin Fish, Sheriff Buchanan County do hereby certify that I served the within writ and a copy of the Petition on the within named Jeff Chandler "Deft" herein at the City of Saint Joseph County and State aforesaid, by delivering to him personally a copy of said writ (and petition) and informing him of the contents thereof, on this 20th day of March AD 1867

Witness my hand and seal, this 20th day of March AD 1867

Irvin Fish Sheriff
By O. D. Phelps
Deputy

(A)
March Term 1867
State of Mo Ex
Rel Atty Genl
vs
Jeff Chandler Deft
Sheriff Fish fees $1,00

Reliable Atch 27, 1867