New Jersey Court of Errors and Appeals.

Richard Snowden, Collector of Newton Township, Camden County, *vs.* The State, (Marmaduke C. Cope, Stephen P. Morris, William M. Collins, and Joseph M. Kaighn, Prosecutors.)	*In Error to Supreme Court.*

WRIT OF CERTIORARI, &c.

New Jersey, ss.

[L. s.] The State of New Jersey to Richard Snowden, Collector of Taxes for the Township of Newton, in the County of Camden and State of New Jersey, Greeting: We being willing, for certain reasons, to be certified of the assessments made in the said township, upon the property of Joseph M. Kaighn, and upon the property belonging to the estate of Isaac Cooper, deceased, in assessing the taxes for the year of our Lord one thousand eight hundred and fifty-eight, and of the duplicate thereof in your hands, and also of the proceedings thereon: do command you that the said assessments and duplicate thereof, with all things touching and concerning the same, you certify, and send to our Justices of our Supreme Court of Judicature at Trenton, distinctly and plainly, under your hand and seal, on the fourth Tuesday of February next, together with this our writ, that therein may be done what of right, and according to the laws and Constitution of this State ought to be done.

Witness Henry W. Green, Esquire, Chief Justice of our said Supreme Court of Judicature at Trenton, aforesaid, this sixteenth day of November, in the year of our Lord one thousand eight hundred and fifty-eight.

CHARLES P. SMITH.

THOMAS H. DUDLEY, *Attorney.*

ALLOCATUR

Allowed in open court.

L. Q. C. ELMER, *Jus. Sup. Ct.*

RETURN TO ABOVE WRIT.

I do herewith send to the Justices of the Supreme Court of the State of New Jersey the assessment in the Township of Newton, in the County of Camden, upon the property of Joseph M. Kaighn, and upon the property belonging to the estate of Isaac Cooper, deceased, in assessing the taxes for the year of our Lord one thousand eight hundred and fifty-eight, and of the duplicate thereof in my hands, and also the proceedings thereon, as within I am commanded, as by the same certified under my hand and seal annexed hereto more fully appears.

RICHARD SNOWDEN, *Collector.* [L. S.]

SCHEDULE ANNEXED TO ABOVE WRIT.

	Acres of Land.	Real Estate.	Personal Estate.	Total.	Poll Tax.	Dog Tax.	School Tax.	District.	Township & County Tax.
Cooper Isaac Est., (Starns,)	86½	34,600		34,600			159 16	5th	124 56
Do. (Meadow,)	20	2,000		2,000			9 20	5th	7 20
Do. Lots West R. R.	30	30,000		30,000			138 00	5th	108 00
Do. " East "		3,000		3,000			13 80	5th	10 80
(R.) Do. (Evans,)	57	11,400		11,400			52 44	5th	41 04
(R.) Do. (Hatch,)	186	45,500		45,500			209 30	5th	163 80
(R.) Do. (Meadow,)	66	6,600					30 36	5th	23 76
Do. house & lot on pike		1,500		1,500					5 40
Do. (Stones,)	89½	8,950		8,950					23 22
Kaighn Joseph M.,	75	15,000	1000	16,000	50	3	73 60	5th	60 60

I, Richard Snowden, Collector, &c., do hereby certify the above to be a true copy of the assessment of the taxes of Joseph M. Kaighn, and upon the property belonging to the estate of Isaac Cooper, deceased, for the Township of Newton, in the County of Camden, and of the duplicate of said township for the year eighteen hundred and fifty-eight, so far as the taxes of said Joseph M. Kaighn and the estate of Isaac Cooper, deceased, are concerned. In testimony whereof, I have hereunto set my hand and seal this eleventh day of February, Anno Domini eighteen hundred and fifty-nine.

RICHARD SNOWDEN, *Collector.* [L. S.]

REASONS FOR REVERSAL, &c.

SUPREME COURT OF NEW JERSEY.

The STATE, (MARMADUKE C. COPE, STEPHEN P. MORRIS, WM. M. COLLINS and JOSEPH M. KAIGHN and others, Prosecutors,)
vs.
RICHARD SNOWDEN, Collector of Newton Township, Camden County.

On Certiorari.

Reasons, &c.

The Plaintiffs come, and by Thomas H. Dudley, their attorney, show the following reasons why the assessment and tax for school purposes in said district, against the said Joseph M. Kaighn and the estate of Isaac Cooper, ordered to be raised by a meeting held April 5th, 1858, in Liberty School District, No. 5, should not be set aside and for nothing holden:—

1st. Because there was not ten days notice given to the inhabitants of the district of the meeting which decided that the tax of two thousand dollars for school should be raised.

2d. Because the Seventh or Rural District of Newton Township was annexed, or pretended to be annexed, to the Fifth or Liberty District, on the 5th day of April, 1858, and at same meeting it was determined to raise the two thousand dollars school tax, and the certificate of the Trustees, &c., based upon the proceedings of said meeting, directs the Assessor to assess the people of said Seventh District for the school tax of two thousand dollars, as well as the people of the Fifth District.

3d. Because the school tax, or a portion thereof, was ordered to be assessed and raised on the property of the people of the Seventh District before the Seventh District was annexed to the Fifth District.

4th. Because the Trustees directed the Assessor to assess the tax of two thousand dollars for school on the property outside of the Liberty School District, No. 5.

5th. Because the Trustees ordered the property in Seventh District to be assessed for the two thousand dollars school tax without the consent of the taxable inhabitants residing in said district and against their wishes.

6th. Because the lands of the said Joseph M. Kaighn and those belonging to the estate of Isaac Cooper were not within the Fifth District at the time the meeting was held, and the school tax ordered to be raised, and are therefore not liable for said school tax or any part thereof.

7th. Because the lands of said Joseph M. Kaighn, and those belonging to the estate of Isaac Cooper, are not now, and were not, at the time of said assessment, liable for said school tax, or any part thereof.

8th. Because there was no notice given by said Trustees of the meeting which ordered the school tax to be raised.

9th. Because there was no meeting of the taxable inhabitants of said district held to determine the school tax to be raised.

10th. Because the meeting held on the 5th of April, which determined the tax to be raised, was composed of the people of the Fifth District alone, and the people of the Seventh District were not there, were not consulted, were not notified, did not participate in the meeting, and had no right to participate in its proceedings.

11th. Because the people and property of the Seventh District were taxed with two thousand dollars school tax before they were annexed to Fifth District.

12th. Because the certificate to Assessor to raise said tax does not show on its face that ten days notice was given, and how same was given, when notices put up, or that the statute was complied with by said Trustees.

13th. Because the meeting held on 5th of April was not properly called and was illegal, and all its proceedings and the proceedings of the Trustees relative to said tax under said meeting, and the Assessor in assessing said tax, are illegal and void.

14th. Because the said Assessor has levied said school tax on the property in the Seventh or Rural School District of said township.

15th. Because the Rural or Seventh School District has never been annexed to the Fifth or Liberty School District, and consequently no tax for school purposes could be assessed against the said property in the Seventh District.

16th. Because the proceedings of said Trustees and of said Assessor, and in divers other particulars were irregular and illegal.

DEPOSITIONS, &c.

New Jersey Supreme Court.

The State, (Marmaduke C. Cope, Stephen P. Morris, William M. Collins, and Joseph M. Kaighn, and others, Prosecutors,)

vs.

Richard Snowden, Collector of Newton Township, Camden County.

Affidavits to be used in the argument of the above stated certiorari, taken before me, pursuant to notice, Charles P. Stratton, Commissioner, &c., at my office, in the City of Camden, on the 19th day of February, A. D. 1859, in the presence of Thomas H. Dudley, Esquire, and Peter L. Voorhees, Esquire, attorneys of prosecutors and defendants:—

Charles Lippincott, a witness produced on the part of the prosecutor, being duly affirmed, alleging himself to be conscientiously scrupulous of taking an oath, saith:—

I am the Assessor for Newton Township, and have been for the last three years; I made the assessment for taxes against the estate of Isaac Cooper, deceased, and against Joseph M. Kaighn, in Newton Township, Camden County, for the year 1858. This is the duplicate of the assessment I made for that year. (Marked Exhibit A, on the part of prosecutor.) I have compared the certificate annexed to the certiorari of Mr. Snowden, collector, with the duplicate, and I find it to correspond with the duplicate. I am acquainted with the boundaries of the old Rural District, or Seventh, and with the Fifth, or Liberty District, before the attempt to alter it was made. The first four items in the duplicate, and on the certificate, are within the boundaries of the old Fifth District before it was attempted to be altered. The next three items, that is the land taxed as those items, and denominated as Evans, Hatch, and the Meadow, (and to which I have added in lead pencil the letter R,) are within the boundaries of what was the Rural, or Seventh District, before it was attempted to be altered. The whole of Joseph M. Kaighn's property that is assessed is within the bounds of the Rural, or Seventh District. I knew that Marmaduke Cope and others represented the estate of Isaac Cooper.

CHARLES LIPPINCOTT.

Affirmed and subscribed before me, this nineteenth day of February, A. D. 1859.

CHARLES P. STRATTON, *Commissioner.*

Edward H. Saunders, a witness produced on the part of the prosecutor, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, saith:—

I know the estate of Isaac Cooper, deceased, in Newton Township, Camden County. I know all the tracts of land mentioned in the duplicate, (Exhibit A,) as assessed against the estate of Isaac Cooper, deceased. There are nine of them in the duplicate that belong to the estate of the said Isaac Cooper, deceased. The owners of those tracts now are the heirs of the said Isaac Cooper, viz: Mary Ann Cope Morris, wife of Stephen P. Morris, one of the prosecutors; Marmaduke C. Cope, another of the prosecutors; and Elizabeth C. Collins, wife of William M. Collins, another of the prosecutors. Part of the interest of these heirs came through Hannah Cooper. She died intestate, and her interest went to the above heirs. She was one of the heirs of Isaac Cooper, deceased. Isaac Cooper owned the whole of this land. He died intestate, leaving as his heirs his sister, Hannah Cooper, and Mary Ann Cope Morris, Marmaduke C. Cope, and Elizabeth C. Collins, the children of a deceased sister. These were his only heirs.

He left no issue. Since his death, the said Hannah Cooper has died intestate and without issue, and leaving as her only heirs the said Marmaduke Cope, Mary Ann Cope Morris, and Elizabeth C. Collins.

EDWARD H. SAUNDERS.

Affirmed and subscribed before me, this nineteenth day of February, A. D. 1859.

CHARLES P. STRATTON, *Commissioner*.

It is agreed by the attorneys of the parties in the above stated case that the testimony heretofore taken in the case of the State, (Joseph M. Kaighn, prosecutor,) *vs.* Jesse W. Starr, James P. Michellon, and John M. Paschall, Trustees of Liberty School District, No. 5, of the Township of Newton, County of Camden, be used in the argument of this case, so far as the same are admissible and proper.

EXHIBITS ON PART OF DEFENDANTS IN ERROR.

EXHIBIT A.

Assessor's Duplicate of Township of Newton for the year 1858.

OPINION OF COURT.

THE STATE, (JOSEPH KAIGHN, PROSECUTOR,) v. BENJAMIN BROWNING, CLERK OF THE COUNTY OF CAMDEN.

THE STATE (JOSEPH M. KAIGHN, PROSECUTOR,) v. JESSE W. STARR, JAMES P. MICHELLON, AND JOHN M. PASCHALL, TRUSTEES OF LIBERTY SCHOOL DISTRICT NO. 5, OF THE TOWNSHIP OF NEWTON, COUNTY OF CAMDEN.

THE STATE (MARMADUKE C. COPE, STEPHEN P. MORRIS, WILLIAM M. COLLINS, AND JOSEPH M. KAIGHN, PROSECUTORS,) v. RICHARD SNOWDEN, COLLECTOR OF NEWTON TOWNSHIP, CAMDEN COUNTY.

The above cases were argued together at February term, 1859, before Justices HAINES and CLAWSON..

T. H. Dudley, for plaintiffs in *certiorari*.

A. Browning, and *P. L. Voorhees*, for defendants.

Clawson, J. The object of the first of this series of *certioraris* is to bring up the record of certificate of alteration of an incoporated school district, called "Liberty No. 5," in the township of Newton, in the county of Camden. A certificate of the alteration intended is made out, and which appears among the papers brought up, dated April 12th, 1858, signed by the trustees of No. 5, and town superintendent of Newton township, the same having been sent to the defendant, the clerk of the county of Camden, to be recorded, pursuant to the statute. There is no law authorizing this certificate to be filed, and left permanently in the clerk's office, nor is there any law making the record thereof evidence, like many other records of said office. And all we have in answer to the writ is a certified copy of the certificate, not the record itself, as commanded, nor the original certificate. There seems to have been an oversight in the legislature, in not making this record, or a certified copy thereof, evidence, if such was the intention. By virtue of the statute, as it now is, the clerk has a mere special and limited possession of the certificate, for the single purpose of copying or recording it. When copied, the trustees of the corporation, or incorporated district, are again entitled to have it, they being the legal possessors thereof, and have the legal and exclusive right to its custody, for and in behalf of the corporation. The possession of the clerk whilst making the record is a mere incident; that may be done without either actual or constructive possession on his part. The original certificate being the property of the corporation which is represented by the trustees, and they being the legal custodians of it for the use and benefit of the corporation, the writ should have been directed to them, commanding them to bring it up, and not to the clerk to send the record, or a certified copy of it.

This writ must therefore be dismissed with costs.

The command of the second of this series of writs is, to certify and send to this court all resolutions and proceedings of said trustees and of the taxable inhabitants of said school district No. 5, had at a meeting held by them on April 5th, 1858, relative to raising two thousand dollars tax for school purposes, together with all things touching and concerning the same. By the return made, and by the papers and evicence produced, it appears that the inhabitants of No. 5 assembled on April 5th, 1858, in pursuance of legal notice, for the purpose of deciding whether the trustees of said district should be authorized to purchase land, to build a school-house thereon, and to determine whether they should raise additional funds for such purposes, and for maintaining free schools in said district by taxation, &c. By the minutes of proceedings and the resolutions of the meeting of the inhabitants, which are returned with the writ, it appears that the first thing done, in pursuance of the above mentioned notice, was to resolve to alter No. 5, so as to take in and include the whole of No. 7, thus abolishing and absorbing that district altogether. Then they resolve to raise two thousand dollars, by tax, for the purposes aforesaid; it thus evidently appearing that the alteration of the district was a material part of the contemplated proceedings to raise the desired funds. These were all proceedings by No. 5, alone, not one of the inhabitants of No. 7 being present.

The object now sought is to set aside this alteration and the assessment ordered to raise the two thousand dollars. As to setting aside the whole assessment, we think it clear, upon the authority of the case of the *State* v. *Kingsland*, 3 *Zab.* 85, that it ought not to be done, and that it is unnecessary in order to give the relief asked for by the prosecutor. The principle settled in this case is not to set aside the whole assessment, although illegal, but to grant relief therefrom to those who ask it. But more of this hereafter.

No notice whatever was given by the trustees of No. 5 of any intention to alter their coporate limits, either to the inhabitants of No. 5 or No. 7. Twenty-three inhabitants, twenty-one of whow are legal voters of No. 5, assembled in pursuance of the notice above specified. By the testimony, it appears that similar notices were put up in No. 7 and No. 5 eleven days prior to the fifth of April—that is, notices signed by the trustees of No. 5, who thus endeavor to assume in advance the control of No. 7, without the knowledge or consent of the trustees or any tax-payer or inhabitant thereof. No intimation, of the remotest kind, is given to the inhabitants of No. 7 that they are to by abolished as a school district. We find them on the same day (April 5th, 1858,) engaged in the election of trustees for their own district, whilst No. 5 is engaged in contriving and scheming to compel them to contribute to the desired amount of funds for the school projects of their district.

There is no evidence that it was the intention of the trustees of No. 5 to add No. 7 to their district previous to the hour of meeting; but soon after organizing the meeting, the addition of No. 7 is made a preliminary and necessary part of their proceedings, to secure the necessary amount of tax for the above mentioned objects. This is certainly contrary to every principle of justice,—it is but a re-enactment of the old offence of taxation without representation. It certainly is neither the meaning nor the spirit of the school law, that after a township has been divided into districts, in pursuance of the act by the town superintendent, and some of the districts, by submitting, perhaps, to heavy taxation, have possessed themselves of large and comfortable school-rooms, and all the necessary attachments and conveniences usual in common or free schools, that they should be absorbed or annexed by their more tardy, yet more potent neighbor, and compelled by them to contribute again to the purposes which should have been accomplished by themselves long before.

By the 41st section of the school law, an incorporated school district may be altered or abolished, with the consent of a majority of the taxable inhabitants of said district. Give to the words of this section a strict and literal signification, (this seems to be the construction claimed by defendant's counsel,) and there is no protection for the rights or property of any person, or of any district, incorporated or unincorporated. Every incorporated district would at once claim the privilege and power of acting, in this respect, uncontrolled and uncontrollable. Any incorporated district may lessen or abolish any other, incoporated or unincorporated, at pleasure, by adding to itself, if this be the true construction of the section. Absolute power, under and by virtue of this provision, certainly never was intended to be given to any district, to alter or abolish another, because the same right may be claimed by every other; and the exercise, or the attempt to exercise such power would necessarily result in absolute confusion.

Again, if a district has the right to alter or extend its limits, by taking in another district, or a portion thereof, at pleasure, without notice to or obtaining the consent of the inhabitants or owners of the part to be taken in, and at once tax the newly added portion to suit their wishes, may not the added district, after the design shall have been accomplished, as unceremoniously be put out again, and again left to take care of itself? Suppose, for a moment, it be a portion only of an adjoining district which is added; when it is again cut loose, does it at once become a part and parcel of the district from which it was taken? or is the consent of that district first to be obtained? Suppose, again, that that consent is withheld, must this portion become another independent district, and be driven to the necessity of a third assessment for school-houses and school purposes? or may it resolve itself into an incorporated district, and, in its own good time, absorb and annex both the others? Suppose, again, that two incorporated districts simultaneously annex each to the other, what is to be the result? These things may all occur, if the construction contended for by defendant's counsel be the correct one;—they are mere suppositions, it is true, yet they are the ligitimate results of such construction. Such suppositions wear too much the semblance of realities that may occur, if they have not already occurred in fact, to warrant the sanctioning of such construction. Such injustice never was intended in the practical operation of the school law, and the protective power of this court never will be invoked in vain by the weak, against such gross injustice by the strong. No. 7 has within its limits but nine children and seven taxable inhabitants. No. 5 has about one hundred legal voters. So that, so far as the numerical strength of the two districts is concerned, No. 5 would have had greatly the advantage if No. 7 had been invited to the meeting, and been allowed to participate in the proceedings. But when no notice is given of the intention to absorb them, and when, with one breath, they add No. 7, and with the next, subject them to taxation, the wrong looks doubly suspicious—it looks as if a surprise was intended; and being situated, in reference to these proceedings, similarly to an opposite party in a suit, the court will always exercise its power to relieve. But we must give a more liberal construction to this section, such a construction as will secure the rights and powers of others, as well as our own. By the construction contended for by defendant's counsel, the action of the town superintendent is set at nought, because he may in one moment set off a district in any part of his township, and the next moment we find it absorbed by another district. Furthermore, such a construction would render the section itself powerless and futile.

Again, if this alteration was made on the fifth of April, 1858, the legal majority of inhabitants of No. 5 did not assent. It is proved that they were, at that time, about one hundred legal voters in No. 5, probably between one hundred and one hundred and six. There were but twenty-three votes in favor of it at the meeting on the fifth, and two of these were illegal. A majority of all the legal voters of the district is necessary to alter an incorporated district; and the fact, that such majority consented, must be stated in the certificate. *State* v. *Deshler et al.*, 1 *Dutcher* 177. Now if this alteration was made on the fifth, only about one-fifth of the legal voters of No. 5 approved it. But it is said, the alteration was not made until the 12th of April, 1858, that being the date of the certificate signed by the trustees and town superintendent. It does not necessarily follow, that because the certificate bears date April 12th, 1858, that the alteration was made on that day; nor does it appear, by the certificate, when the alteration was made;—it fixes no time,—it merely states the fact, that by the consent of a majority of the taxable inhabitants of said district, the same *has been* altered, not that it *has been this day altered*, which would be understood to be a direct reference to the date of the certificate: it leaves the time when such alteration was made altogether uncertain, to be guessed at, or to be ascertained by some other legal certificate of alteration, or the evidence in the cause. The petition (as it is called) bears no date; the minutes of the meeting, alone, fix any certain time for this alteration. If altered at some time subsequent to April 5th, 1858, still it does not clearly appear, by the certificate nor by the evidence, that a majority of the legal voters, including those whose names appear on the so-called petition, assented, which should be the case. The certificate, it is true, states the fact, but the evidence proves the contrary, or at least renders it exceedingly doubtful.

Again, if the alteration was not made on the 5th, but on some subsequent day, we get ourselves in the dilemma of taxing No. 7 before it becomes a part of No. 5: because there is no pretence that there was any other resolution, than the one passed on the 5th, authorizing the tax to be raised. It will not do to say that the inhabitants of No. 7 had notice of the meeting to raise this tax. True it may be, that notices to the effect above mentioned, signed by the trustees of No. 5, were put up within the limits of No. 7 eleven days prior to the meeting at which the resolution was passed—at a time when the inhabitants of No. 7 were taking care of their own affairs, as they had a right to do, and when they had no reason to suppose that they had anything to do with the district meetings of No. 5 for raising school tax. They were not bound to govern their actions by any such notice, nor could they be expected to pay any attention to it. They are presumed, at the same moment, to be looking after the interests and necessities of their own children and schools, and, perhaps, discussing and adopting a similar resolution for school tax for themselves.

As to the single resolution authorizing the tax of two thousand dollars to be raised, we see no good reason for interfering with it. Incorporated school districts, by the 11th section of the supplement to school law, approved March 14th, 1851, (*Nix. Dig.* 739, *pl.* 42,) have an undoubted right to raise, by taxation, any such sum of money as two-thirds of the inhabitants assembled shall agree upon. No. 5, in pursuance of their notice, resolves to raise two thousand dollars, which they had a perfect right to do. And so far as this resolution, alone, is concerned, it is a matter, perhaps, with which we have no right in this case to interfere. Ample relief can be given to the prosecutors who complain of assessments by virtue of this resolution under the third writ of this series. The court will not set aside the whole assessment, when it can give proper relief without so doing. The *State* v. *Kingsland*, 3 *Zab.* 85. Nor can we, in this case, relieve the prosecutor of the tax assessed against him by virtue of this resolution, because the writ does not and could not bring up the tax. Whatever view, however, may be taken with reference to the alteration attempted to be made, the whole proceeding seems to be radically defective and unjust, and must be set aside.

The object of the last of the series is to bring up the assessment of taxes upon the property of the prosecutors in the Township of Newton, County of Camden, in pursuance of the resolution above mentioned; and with regard to this, after the decision of the second case, there need but little be said. We have produced in evidence, among other papers, what is intended for the sworn certificate of the trustees of School District No. 5, directed to the township collector, notifying him that two thousand dollars had been ordered to be raised by said district for school purposes. This certificate bears date April 17th, 1858, and says, in the body of it, that the tax was ordered to be raised on *April 5th*, 1858, the day of the meeting above mentioned, and previous to the 12th, the date of the certificate of alteration. However, without discussing this matter further, it is sufficient that the certificate is defective, in that it does not show upon its face a compliance with the requirements of the 11th section of act of 1851. *Nix. Dig.* 739. It states the fact, that notice was given of the time, place, and purpose of the meeting; but it does not state what the notice was, nor when and where copies were put up, nor the purpose of the meeting, and in this respect is clearly insufficient, according to the ruling in the case of *The State* v. *Hardcastle*, 2 *Dutcher* 143.

The above reason is sufficient and fatal; but another matter upon the face of this certificate, and not attended to by counsel, might be mentioned, which is, the *jurat*, or certificate of the justice. It states that the trustees, naming all three of them, were "sworn and affirmed," and upon their "oaths or affirmations say," &c. Does he mean that they were all sworn and all affirmed? or that some were sworn, and some affirmed? if the latter, which sworn, and which of them affirmed? Could perjury be assigned upon such a paper? Let the assessments made against the prosecutor for school tax by the collector of Newton township, in pursuance of the said notice, be set aside and for nothing holden.

NEW JERSEY SUPREME COURT,
November Term, A. D. 1858.

The STATE, (MARMADUKE C. COPE, STEPHEN P. MORRIS, WILLIAM M. COLLINS and JOSEPH M. KAIGHN and others, Prosecutors,)
vs.
RICHARD SNOWDEN, Collector of Newton Township, Camden County.

On Certiorari to remove Assessment.

Upon application, therefore, it is ordered that a writ of certiorari do issue, directed to Richard Snowden, Collector of Taxes, in the Township of Newton, in the County of Camden, to remove into this court the assessment of taxes made upon the property of Joseph M. Kaighn, and upon the property belonging to the estate of Isaac Cooper, deceased, in said township, in assessing taxes for the year of our Lord eighteen hundred and fifty eight, and of the duplicate thereof in his hands, and also all of the proceedings thereon; and it is further ordered, that both parties have leave to take affidavits, to be used on the final hearing of this cause, and that, in the meantime, all further proceedings touching the collection of said taxes be stayed until the further order of this court.

On motion of Thos. H. Dudley, Atty. Pros.

FEBRUARY TERM, A. D. 1859.

The STATE, (MARMADUKE C. COPE, STEPHEN P. MORRIS, WILLIAM M. COLLINS and JOSEPH M. KAIGHN and others, Prosecutors,)
vs.
RICHARD SNOWDEN, Collector of Newton Township, Camden County.

Certiorari.

The defendant having returned the writ to him directed in this case, with the duplicate and assessment annexed, and also with a certified copy of the assessment from the duplicate and proceedings, &c., it is ordered that the said certified copy and writ be filed, and said certified copy be taken and considered as and in place of said duplicate.

On motion of Thos. H. Dudley, Atty. of Plff.

June Term, A. D. 1859.

The State, (Marmaduke C. Cope, Stephen P. Morris, Joseph M. Kaighn and others, Prosecutors,)
vs.
Richard Snowden, Collector of Newton Township, in the County of Camden.
On Certiorari.

The court having heard the argument of counsel in this cause, and taken time to advise thereon, it is ordered that the assessment of taxes for school purposes in said Township of Newton, for the year eighteen hundred and fifty-eight, against the property of the said prosecutors and the estate of Isaac Cooper, deceased, be and the same is set aside, made void, and of no effect, with costs to be taxed.

On motion of Thos. H. Dudley, Plff's Atty.

I, Charles P. Smith, Clerk of the Supreme Court of New Jersey, do certify the foregoing to be a true transcript of the Rules in the above stated cause, entered on the minutes of said court.

[L. s.] In testimony whereof, I have hereunto set my hand, and affixed the seal of said court, at Trenton, this seventeenth day of October, A. D. eighteen hundred and fifty-nine.

Charles P. Smith, *Clerk.*

A true copy.

New Jersey Court of Errors and Appeals of the Term of November, in the year of our Lord one thousand eight hundred and fifty-nine.

RICHARD SNOWDEN, Collector of Newton Township, Camden County,
vs.
The STATE, (MARMADUKE C. COPE, STEPHEN P. MORRIS, WILLIAM M. COLLINS and JOSEPH M. KAIGHN, Prosecutors.)

In Error to the Supreme Court.

Assignment of Errors.

Afterwards, that is to say, on the third Tuesday in November, in the year of our Lord one thousand eight hundred and fifty-nine, before the Judges of the Court of Errors and Appeals, in the last resort comes to the said Richard Snowden, Collector of the Township of Newton, in the County of Camden, by Peter L. Voorhees, his Attorney, and says, that in the record and proceedings aforesaid, there is manifest error in this, to wit: that the said Supreme Court adjudges that the certificate made by the "Trustees of Liberty School District, No. 5, of Newton Township, Camden County," to assess taxes for school purposes in said district, was not in accordance with the statute in such case made and provided, and that the taxes assessed thereon against the prosecutors in said writ of certiorari were illegal and void; and also, there is error in this that the said Supreme Court gave judgment in favor of the State, (Marmaduke C. Cope, Stephen P. Morris, William M. Collins and Joseph M. Kaighn, prosecutors,) against the said Richard Snowden, Collector of the Township of Newton, on said writ of certiorari, for costs; and also there is error in this, that the judgment aforesaid, by the record aforesaid, appears to have been given for the State, (Marmaduke C. Cope, Stephen P. Morris, William M. Collins and Joseph M. Kaighn, prosecutors,) against the said Richard Snowden, Collector of Newton Township, Camden County; whereas, by the law of the land, the said judgment ought to have been given for the said Richard Snowden, Collector of Newton Township, Camden County, and against the said State, (Marmaduke C. Cope, Stephen P. Morris, William M. Collins and Joseph M. Kaighn, prosecutors;) and the said Richard Snowden, Collector of the Township of Newton, prays that the judgment aforesaid, for the errors aforesaid, and for other errors in the said record and proceedings being, may be reversed, annulled and altogether holden for nought, and that he may be restored in all things which he has lost by occasion of said judgment, &c.

PETER L. VOORHEES,
Attorney of Plaintiff in Error.

10 *Camden County, ss.*

Richard Snowden, Collector of Newton Township, Camden County, puts in his place Peter L. Voorhees, his attorney, to prosecute his Writ of Error against the State, (Marmaduke C. Cope, Stephen P. Morris, William M. Collins and Joseph M. Kaighn, prosecutors,) on a writ of certiorari.

JOINDER OF ERRORS IN USUAL FORM.