

BARKELOO'S HEIRS vs. MAYOR AND ALDERMEN, LITTLE ROCK.

The court refuses to supersede an order of the Mayor and Aldermen of Little Rock, directing lots to be sold to pay the expense of paving the side-walk in front of them, on the ground that there is no showing that the Circuit Court of Pulaski county was incompetent to administer justice in the premises.

*On Application for Supersedeas.*

The minor heirs of Barkeloo, by their guardian, applied to this court to supersede an order made by the Mayor and Aldermen of Little Rock, to sell certain lots in the city, belonging to them, to pay the expense of paving the side-walk in front of the lots, under an ordinance of the city. The court ordered a certiorari to bring up the proceedings, with a temporary supersedeas, to stay the sale of the lots until the application could be determined.

The petitioners asked the supersedeas on the grounds that the Mayor and Aldermen, acting in their political or legislative capacity, had condemned their property to be sold on account of an alleged failure of theirs to comply with an ordinance of the city; and that inasmuch as they could not be deprived of their property, under the Bill of Rights, except by the judgment and under the process of a court of competent jurisdiction, the order in question for the sale of the lots was null and void. This court declining to determine the case on its merits, it is not necessary to state the facts in detail.

E. H. ENGLISH, for the petitioner.

HEMPSTEAD, contra.

Mr. Chief Justice JOHNSON delivered the opinion of the Court.

This was an application for a writ of certiorari and superse-  
deas, which has heretofore been granted by this court, and the  
record and proceedings in the case returned in obedience to the  
mandate of the writ. The motion now presented is to quash the  
proceedings referred to in the petition, and to issue a perpetual  
supersedeas. This motion must be denied: the writ itself having  
been improvidently issued, and there being no showing that the  
Circuit Court was incompetent to administer justice in the premi-  
ses. The motion is, therefore, denied, and the petition dismissed.  
See *Carnall vs. Crawford County*, (6 Eng. 617,) and *Allis vs.*  
*Commissioners of Penitentiary*, decided at the present term of this  
court.

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