No. 11942

Supreme Court of Illinois

People, ex. rel.

vs.

Shaw, et al

71641 7

Stephenson.

The People ex. rel. George Dixon vs. Bela Shaw et als.

2. P.D.

11942

1852

State of Illinois }
Fourteenth Judicial Court }
Stephenson County }

Pleas before the Hon. Benjamin R. Sheldon Presiding Judge of the Fourteenth (late the sixth) Judicial Circuit of said State at a Circuit Court begun and held within and for the said County of Stephenson at Freeport in said Judicial Circuit on monday the 24th day of March in the year of our Lord Eighteen hundred and fifty

Present the Hon. Benjamin R. Sheldon Judge
F. A. Hoxby Sheriff
H. B. Stillman States attorney
John A. Clark clerk.

Be it remembered that at this same term of said Circuit Court the People of the State of Illinois on the relation of George Dixon by Burnap & Conrad caused to be filed in the said Circuit Court the papers and record of proceedings in the Winnebago County Circuit Court in a cause wherein the said People of the State of Illinois on the relation of George Dixon are Plaintiff and Bela Shaw, Newton Crawford, Harvey N. Spaulding and Bradford McKinney are defendants as appears to wit: the notice for quo warranto information, the affidavit of Bela Shaw and a transcript of the Record of the proceedings in the Winnebago County Circuit Court the said notice being in the words and figures following to wit:

"In the Winnebago Circuit Court

Notice [11942-1]

"To Bela Shaw, Newton Crawford, Harvey N. Spalding
"& Bradford McKinney of Rockford in the County of
"Winnebago and State of Illinois

Take notice that on the first day of the next ensuing term of the Circuit Court for the said County of Winnebago, to be held at the Court house at Rockford in said County, on the third monday of March next, being the eighteenth day of the said month, or as soon thereafter as counsel can be heard, the said Court will be moved for a rule upon ~~you~~ the said Bela Shaw, Norton Crawford, Harry A Spalding, and Bradford McKinney to shew cause why leave should not be given for the States Attorney of the Eleventh Judicial Circuit of the State of Illinois to exhibit in the said Court, according to the form of the Statute in such case made and provided, an information in the nature of a quo warranto, at the relation of George Dixon of Rockford aforesaid against the said Bela Shaw, Norton Crawford, Harry A. Spalding and Bradford McKinney jointly and severally for usurping, intruding into and unlawfully holding and executing the office of Bridge Commissioners of the Rockford Bridge; and that the annexed affidavit of the said George Dixon will be exhibited in support of the said motion — Dated 11 March 1850

Yours &c

(signed) Alonzo Platt

States attorney for the 11th Judicial Circuit"

"In the Winnebago Circuit Court

State of Illinois

Winnebago County } ss. George Dixon of Rockford in the County of Winnebago, being duly sworn upon his oath says, that on the twenty fifth day

of February, in the year of our Lord one thousand eight hundred and forty seven, an act was passed by the General assembly of the State of Illinois entitled an act to provide for the maintenance of Rockford Bridge, incorporating certain persons named in the said act, and their successors as a body politic, under the name and style of "Bridge Commissioners of the Rockford Bridge; for the purpose of maintaining and repairing the Bridge over Rock River at Rockford and paying certain debts alleged to be due for the building and repair thereof, and conferring upon them divers powers for those and other purposes, and among others the power of levying a tax upon the taxable property of the precinct of Rockford in said County for such purpose; and that the said act required that the successors of the said persons named and incorporated in and by the said act, should be ~~dated~~ elected annually at the General election in each year; and this affiant further says that ever since the first day of December last past or thereabouts Bela Shaw, Newton Crawford, Harvey Spalding and Bradford McKinney of Rockford aforesaid, have usurped, intruded into and unlawfully held and executed and still do usurp, intrude into and unlawfully hold and execute the office, powers and rights of such Bridge Commissioners as aforesaid without having been elected thereto at any annual election as aforesaid, and without having any legal warrant, right or title to do so, as this affiant is advised

[J1942-2]

and believes to be true — And this affiant further says, that the said Bela Shaw, Newton Crawford, Harry A Spalding and Bradford McKinney do being unlawfully such Bridge Commissioners as aforesaid purpose and intend to levy a tax under color of the said act upon the tax payers of the said late precinct of Rockford, to the amount of Eight hundred dollars and more and that it is unlawful for them to levy such tax, as this affiant is advised and believes; that this affiant is the owner of a considerable amount of taxable property within the said late precinct, and is interested in having the right and title of the said Bela Shaw, Newton Crawford, Harry A Spalding, and Bradford McKinney to the said office of Bridge Commissioners of the Rockford Bridge tried upon a legal proceeding to oust them from the said office. And this affiant further says, that an application for leave to file an information in the nature of a quo warranto against the said Bela Shaw, Newton Crawford, Harry A Spalding and Bradford McKinney could not be made sooner at his instance for the reason that this affiant was not aware at the last term of this Court of the facts constituting the want of title of the said persons to be such Bridge Commissioners as aforesaid, nor that it was material to the interests of this affiant that they should be ousted from being such Bridge Commissioners

Signed George Dixon

Sworn at Rockford in the County

of Winnebago this 11th day of March 1850 before me }
(S.) C. H. Spafford Clerk }

In the Winnebago Circuit Court

State of Illinois }
Winnebago County } ss.

Francis Brunap of Rockford in the County of Winnebago maketh solemn affirmation and saith, that he did on the eleventh day of March instant, serve Bela Shaw Harry A. Spalding and Bradford McKinney named in the annexed notice, with the said notice by delivering to each of them respectively a true copy of the said notice, and also a true copy of the affidavit of George Dixon hereunto annexed; and further that this affiant did on the fourteenth day of the same month of March, serve Austin Crawford also in the said notice named, with a true copy of the said notice and affidavit, and this affiant further saith that the said service upon each of the said persons was made at Rockford aforesaid (signed) Francis Brunap

Affirmed at Rockford in the County of Winnebago this 18th day of March 1850 before me }
(Sgd.) C. H. Spafford Clerk }

Which said notice is endorsed as follows:

"At Winnebago Circuit Court — People Ex. Rel. George Dixon v. Bela Shaw, Austin Crawford Harry A. Spalding and Bradford McKinney

Notice for Quo Warranto information —

[11942-3]

served personally upon Shaw, McKinney, & Spalding 11th March 1850 by delivering copies — on A. S. Miller Counsel 14th March, on Crawford same day

J. Bunnell.

Filed March 18th 1850. S. C. Stafford Clk.

Filed March 27 1850 S. John A. Clark Clk.

Further endorsed A Platt State's attorney

"Copy of original notice & affidavit filed by order of Court Sept. 19. 1851.

John A. Clark Clerk

The said affidavit of Bela Shaw filed as aforesaid is in the words and figures following to wit:

"Winnebago Circuit Court

Bela Shaw, Newton Crawford
Darius A Spalding & Rufford McKinney } March Term
ad } 1850.
The People ex rel. George Dixon

Winnebago County ss. — Bela Shaw one of the above named defendants being duly sworn deposes and says that by an act of the Legislature of the State of Illinois entitled "an act to provide for the maintenance of the Rockford Bridge" approved February 25th 1847 this deponent the said defendant Newton Crawford and Ephraim Wyman and Daniel McKinney are by said act appointed "Bridge Commissioners of the Rockford Bridge" and by said act appointed a body corporate and politic by said name and thereby authorized to declare the amount of tax to be levied on the taxable property of Rockford precinct for the maintenance of said Bridge

And this deponent further says that in compliance with the third section of said act an election for the choice of such Bridge Commissioners was held at the Court house in Rockford Precinct on monday the 2d day of August 1847 being the first monday in said August and the defendants Shaw and Crawford and the said Ephraim Wyman were in due form of law elected, the said Shaw residing on the East side of Rock River and the said Wyman and Crawford on the West side thereof; and that at said election the said Daniel McKinney and one Charles Weeks both residing on the East side of said River received an equal number of votes and a greater number than any other candidates for said office except the above named persons who were elected

And this deponent further says that on the 7th day of August 1848 being the first monday thereof an election for said Commissioners was held at the Court house in Rockford Precinct and the said Wyman & Crawford residing on the West side of the River and the said Shaw, this deponent, and one Luke Joslin residing on the East side thereof were in due form of law elected as such Commissioners

And this deponent further says that at an election for the choice of four bridge Commissioners for said bridge was held at the Court house in Rockford precinct on the 6th day of August 1849 being the first monday of said month when the defendants, two of them residing one side of the River and two residing on the other side thereof were in due form of law elected

[11942-4]

as such Commissioners and that under and by virtue of said election the defendants now claim to be and to act as such Commissioners

And this deponent further says that all the above named persons appointed and elected as aforesaid as Bridge Commissioners acted as such during the term of their appointment and election, and that each time they were severally sworn as required by said act before acting (signed) Bela Shaw

Sworn before me this 21st day of March 1850
(S.) Seldon M. Church
Judge of Cir. Court"

which said affidavit is endorsed as follows
"B. Wm Circuit Court — Bela Shaw et al ads. The People Ex. Rel. George Dixon — Affdt — Filed March 22. AD 1850 S. C. Hoffman Clerk.
Filed March 27 1850. John A. Clark Clerk"
endorsed also — "Copy of original affidavit filed by order of Court Sept. 19. 1854. John A. Clark Clk."

The said transcript of the Record filed as aforesaid is in the words and figures following to wit:
United States of America,
State of Illinois } Pleas before the Hon Hugh
Winnebago County } Henderson Presiding Judge of the Eleventh Judicial Circuit of said State at a Circuit Court begun and held at the Court house in Rockford in said Judicial Circuit & in the County & State aforesaid

on monday the eighteenth day
of March in the year of our Lord
Eighteen hundred & fifty
Present the Hon. Hugh Henderson Judge
Abram R. Maynard Sheriff
Platt Yates Attorney Pro. Tem.

Attest C. H. Spaffard Clerk

Be it remembered that at this same term of said Circuit Court proceedings were had in a cause wherein the People of the State of Illinois on the relation of George Dixon are Plaintiffs & Bela Shaw, Newton Crawford, Harry A. Spalding & Bradford McKinney are defendants, on appear of Record in said Court following to wit:

The People of the State of Illinois
on the relation of George Dixon
vs
Bela Shaw Newton Crawford
Harry A. Spalding & Bradford McKinney

On motion Francis Burnett of Counsel for the People & upon the reading of the notice to the above named Bela Shaw Newton Crawford Harry A. Spaulding & Bradford McKinney in this behalf by Alonzo Platt Esqrs late Yates Attorney for the eleventh Judicial Circuit [Circuit] & of the affidavit of the service upon them of the said notice & upon the reading of the affidavit of George Dixon above named as relator & of proof of the service of a copy thereof upon the said Bela Shaw, Newton Crawford, Harry A. Spaulding & Bradford McKinney respectively, which said papers are on file in this Court. It is adjudged that the said Bela Shaw, Newton Crawford, Harry A. Spaulding and Bradford McKinney and each of them show

[11942-5]

cause by Saturday morning next at 9 O'clock why leave should not be granted for the States Attorney of the Eleventh Judicial Circuit to exhibit in the said Court according to the Statute in such case made and provided an information in the nature of a quo warranto at the relation of George Dixon aforesaid against the said Bela Shaw, Newton Crawford, Harry A Spaulding and Bradford McKinney jointly & severally for usurping, intruding into & unlawfully holding and executing the office of Bridge Commissioners of the Rockford Bridge.

And afterwards to wit: on the 22d day of March at the said March Term of said Court A.D. 1850 in the Records of said Court is the following entry to wit:

The People of the State of Illinois
on the relation of George Dixon

vs

Bela Shaw, Newton Crawford
Harry A Spaulding, & Bradford McKinney

And now come the defendants by their attorney & file an affidavit herein, opposing the motion of the relator herein

And afterwards to wit: on the twenty fifth day of March at the said Term of said Court A.D. 1850 in the Records of said Court is the following entry to wit:

The People of the State of Illinois
on the Relation of George Dixon
vs
Bela Shaw, Newton Crawford
Darry A. Spaulding & Radford McKinney

And now at this day come the said Relator & files his affidavit herein & in terms thereof moves the Court for a change of venue in this cause, and the Court after hearing the arguments of counsel sustains the same. It is therefore ordered that the venue herein be changed to the County of Stephenson. And it is further ordered by the Court that the Clerk of this Court transmit to the clerk of the Stephenson County Circuit Court all the papers connected herewith together with a complete transcript of the Record herein forthwith and that the said cause be tried in said Circuit Court of Stephenson County in all respects as if the same had originated in the said County. And it is further ordered that the said Relator pay the costs of the change of venue in this cause — It is ~~further~~ therefore ordered and considered by the Court that the said Defendants have and recover of said relator their costs & charges in and about this change of venue expended and that they have execution therefor.

State of Illinois
Winnebago County } I Charles W. Spafford clerk of the Circuit Court within & for the said County of Winnebago do certify that the foregoing transcript is a true & correct copy from the Records of all

[11942-6]

the proceedings had in said Circuit Court in the case of the People of the State of Illinois on the relation of George Dixon against Bela Shaw Norton Crawford, Harry A Spaulding & Bradford McKinney and that the enclosed papers to wit: the affidavit & notice marked A and the affidavit marked B. are all the papers appertaining to said cause on file in the Court, and are herewith transmitted in conformity to the order of the Court above recited

Seal

In witness whereof I hereunto subscribe my name & affix the seal of said Court at Rockford this 27th day of March AD 1850

Charles W Spafford Clk.

which transcript is endorsed as follows

"Wm. Cir. Court — The People Ex. Rel. George Dixon vs. Bela Shaw & al. — Transcript —

Filed March 27. 1850

John A. Clark Clerk."

And afterwards to wit: at said March Term of the said Circuit Court of said County of Stephenson there appears upon the records of said Court the following order to wit:

"The People Ex. Rel. }
George Dixon } Chge. of venue from Winnebago Co.
vs }
Bela Shaw }

Now at this day came the State's Attorney for the Eleventh Judicial Circuit in behalf of the People and moves the Court for leave to file information

herein in the nature of a quo warranto and thereupon the said defendants appear by Jason Marsh Esq. their attorney and resist the said motion — And the counsel for the said parties being heard by the Court It is considered and adjudged by the Court that the said States Attorney have leave to file an information in this Court according to his application in that behalf —

and afterwards to wit on the 30th day of March AD. 1850 as per of the said March term of said Circuit Court there appears upon the Records of said Court for said Term the following order to wit:

The People ex. Rel. George Dixon
vs
Bela Shaw, Newton Crawford, Harry A Spaulding, and Bradford McKinney } Quo Warranto

This day comes again the States Attorney for the Eleventh Judicial Circuit ~~Court~~ and files his information in the nature of a Quo Warranto against the said defendants — And he also prays a writ of subpoena addressed to the said defendants for their appearance on the first day of the next term of this Court to answer to the said information And the same is granted by the Court — And it being suggested to the Court that the Sheriff of the County of Winnebago in which the said defendants reside is interested in this cause It is ordered that the said writ of subpoena be directed to the Coroner of the said County of Winnebago for service thereof

[11942-7]

the subpoena issued in accordance with the order of the Court above recited is in the words & figures following to wit:

State of Illinois
Stephenson County } ss. The People of the State of Illinois
to Bela Shaw Norton Crawford, Barry
A Spalding and Bradford McKinney
of Rockford in the County of Winnebago
and also to the Coroner of Winnebago
County, Greeting:

We command the said Bela Shaw, Norton Crawford Barry A Spalding and Bradford McKinney and each and every of them, to appear before our Circuit Court for the County of Stephenson at the Court house in Freeport in the same County on the first day of the next term of this Court on the fourth monday in August next then and there to answer unto the People of the State of Illinois upon a certain information filed in the said Court by leave thereof against the said Bela Shaw, Norton Crawford, Barry A. Spalding and Bradford McKinney by Phineas W. Platt State Attorney pro tempore of the eleventh judicial Circuit in said State, who sues in behalf of the said People in the premises at the relation of George Dixon of Rockford in said County of Winnebago and to shew by what warrant or authority they claim, and each or either of them respectively claims to have, hold, use and exercise the offices, powers and rights of Bridge Commissioners of the Rockford Bridge" And this the said Bela Shaw,

subpoena

Newton Crawford, Harry A. Spalding and Bradford McKinney are not, nor is either of them to omit, under the penalty which shall ensue. And we command the said Coroner forthwith to make service of this writ upon the said Bela Shaw, Newton Crawford, Harry A. Spalding and Bradford McKinney, and to return the same unto our said Court with an endorsement thereon of the manner in which he shall have served the same.

Witness John A. Clark Clerk of the Circuit Court of said County at Freeport this 30th day of March A.D. 1850.

Attest John A. Clark Clerk

Seal

which writ is endorsed as follows. to wit:
Stephenson Circuit Court — The People ex rel. George Dixon vs. Bela Shaw, Newton Crawford Harry A. Spalding, and Bradford McKinney — subpoena.—

I have made service of the within writ upon the within named Bela Shaw, Newton Crawford, Harry A. Spalding and Bradford McKinney as within I am commanded, by exhibiting the said writ under the seal of the Court to each of them and by delivering to each of them respectively at the same time a true copy of the said writ — Dated the 17th day of April 1850 — The answer of A. Witchcraft Coroner of the County of Winnebago

Service 2.00. Copies 1.00 Mileage 25. return 12½ = $3.37½

Filed Sept. 8. 1851.

John A. Clark Clerk.

And afterward to wit: at the September Term of the said Circuit Court thereafter upon the records of said Court for said Term the following entry to wit:

3 The People ex Rel. George Dixon }
vs } Quo Warranto
Bela Shaw et al }

Now at this day come the plaintiffs by their attorney and move the Court for leave to amend the information in this cause

and also the following to wit:

3 The People ex. Rel. George Dixon }
vs } Quo Warranto
Bela Shaw et al. }

On motion of the plaintiffs by their attorney, It is ordered by the Court that an attachment issue against the defendants in this cause unless they shall enter their appearance tomorrow morning at the opening of the Court

and also the following to wit:

3 P. The People ex Rel. George Dixon }
vs } Quo Warranto
Bela Shaw et al }

Now at this day come the defendants by their attorney and enter their appearance in this cause

and also the following to wit:

38. The People ex. Rel George Dixon }
vs } Quo Warranto
Bela Shaw et al }

Now at this time come the defendants by their attorney and file their plea in abatement in this cause

Which plea in abatement filed as aforesaid is in the words and figures following to wit.

"Stephenson Cir. Court
Of the Term of August 1850.
Bela Shaw, Newton Crawford
Darry A Spalding & Bradford McKinney }
vs }
The People of the State of Illinois }
ex Relatione George Dixon }

And the said defendants in their own proper persons come & defend the wrong & injury when &c & say that the Court here ought not to take cognizance of or sustain the action or proceeding by quo warranto aforesaid because they say that the cause of action & the right of the said Always Platt to file said information in the nature of a quo warranto arrived in the County of Winnebago & State of Illinois & within the jurisdiction of the Winnebago County Circuit Court & not within the jurisdiction of this Court, & this they are ready to verify: wherefore they pray judgment, if the Court will further take cognizance of or sustain the action aforesaid

Darry A. Spalding
Bela Shaw, Newton Crawford

[11942-9]

Bradford McKinney in person

State of Illinois
Winnebago County ss.

Bela Shaw one of the above named defendants being duly sworn says that the above plea is true in substance & matter of fact to the best of his knowledge & belief

Sworn & subscribed to this 23d day of Aug. AD 1858 before me

Bela Shaw

Seal

Alex Spafford Clerk of Winnebago County Circuit Court State of Illinois

Endorsed Shaw & als. ads the People.
Filed Sept 9. 1858.
John A. Clark Clerk.

And afterwards to wit: on the 10th day of September AD. 1858 as yet of the said ~~August~~ September term of said Court the Plaintiffs by O. Miller States Attorney file their Demurrer to the Plea of Abatement filed as aforesaid — which Demurrer is in the words & figures following to wit:

" In the Stephenson Circuit Court
Of September Term 1858.

The People at relation of George Dixon
vs
Bela Shaw, Newton Crawford
Harry A Spalding and Bradford McKinney

And Orrin Miller States Attorney of the fourteenth Judicial Circuit who prosecutes in this behalf in the name and by the authority of the People of the State of Illinois at the relation of the said George Dixon says that the said plea of the said ~~plea of the said~~ defendants

in manner and form as the same is above pleaded and set forth and the matters therein contained are not sufficient in law to prevent this Court from taking cognizance of the information aforesaid, and that neither the plaintiff nor the said relator are bound by law to answer the same &c. And this he is ready to verify &c. wherefore for the want of a sufficient plea in this behalf he prays judgment of the said plea, for the said People against the said defendants and that the said defendants may answer further to the said information &c.

O. Miller Jr.
Notes Atty

The said Demurrer has the following endorsement to wit:
"Stephenson Circuit Court
People &c. Rel. George Dixon
vs
Bela Shaw and others
Demurrer to plea to Information
Filed Sept. 10. 1854.
John A Clark Clk."

And afterwards to wit: on the 10th September AD 1854 as yet of the said September Term of said Circuit Court there appears upon the Record of said Court the following order to wit:

3 The People at the relation of George Dixon
vs
Bela Shaw and others } Quo Warranto information

Now is brought on the motion heretofore made for leave to amend the information

[11942-10]

in this cause — And the counsel for the parties having been heard, It is ordered by the Court that leave be given to amend the said information by striking out the word "Court" occurring after the words "duly appointed by the" in the introductory part of the said information and inserting in place thereof the words "Circuit Court for the said County of Winnebago in the absence from this State of Alonzo Platt Circuit Attorney of the" And also by inserting between the words "and for" and the words "the said people" where they first occur in the said information the words "and in the name and by the authority of" — And also by striking out the words "their dignity" at the end of the first Count of the said information and inserting in place thereof the words "the peace and dignity of the same people" And also by making the like amendment last before specified at the end of the second Count of the said information — and the said defendants by their attorney except to the ruling of the Court allowing said amendment

The information as amended as aforesaid filed by consent of the Court as aforesaid is in the words and figures following to wit:

"In the Stephenson Circuit Court
By change of venue from the County of Winnebago
Of the Term of March, in the year of our Lord one thousand eight hundred and fifty
Stephenson County ss.
Phineas W. Platt States attorney pro tem.

in the County of Winnebago of the People of the State of Illinois for the said County duly appointed by the Circuit Court for the said County of Winnebago in the absence from this State of Alonzo Platt Circuit attorney for the eleventh Judicial Circuit of the said State who sues for the said people in this behalf comes here into the Circuit Court for the County of Stephenson at the Court house in Freeport in said County on the thirteenth day of March in the year of our Lord one thousand eight hundred and fifty and for and in the name and by the authority of the said People of the State of Illinois at the relation of George Dixon of Rockford in the County of Winnebago, according to the form of the Statute in such case made and provided gives the said Court here to understand and be informed, that in and by a certain act of the General assembly of the State of Illinois, passed on the twenty fifth day of February in the year of our Lord One thousand eight hundred and forty seven entitled "An act for the maintenance of the Rockford Bridge" it was among other things enacted as follows, that is to say "a special tax is hereby authorized to be levied upon the taxable property in Rockford precinct in the County of Winnebago for the purpose of repairing and maintaining the Bridge across Rock River at Rockford, and defray the debt incurred in its erection and repair — And that in another part of the said act it is enacted as follows, that is to say, "Morton Crawford, Bela Shaw, Ephraim Nyman and David McKinney are hereby

appointed Bridge Commissioners of the Rockford Bridge" and said Commissioners and their successors are hereby appointed a body corporate and politic by such name and style, and are hereby vested with power to declare the amount of tax to be levied on the taxable property of Rockford Precinct aforesaid" meaning the said Special tax. And that in another part of the said act it is enacted as follows, that is to say "said Commissioners are hereby authorized to appoint a Treasurer to take charge of the funds collected, and are also empowered to apply the proceeds of such tax to the maintenance and repair of the Rockford Bridge, and to defray the amount of indebtedness incurred in erecting and repairing such bridge — And that in another part of the said act it is enacted as follows that is to say, "said Commissioners are hereby required to keep said bridge in a good ~~repair~~ and safe state of repair, as far as the funds produced by such tax will warrant" And that in another part of the said act it is enacted as follows that is to say "An election for four Commissioners under this act shall be held at the next general election on the first monday in August eighteen hundred and forty seven and every year thereafter to be elected by the legal voters of Rockford Precinct" as in and by the said act will more fully ~~appear~~ and at large appear — And that the said act still remains unrepealed.

And that Bela Shaw, Norton Crawford, Harry A. Spalding, and Bradford McKinney all of Rockford aforesaid, in the County of Winnebago aforesaid, for the space of one hundred and twenty days now last past and more, without any legal warrant, right or title whatsoever, have used and exercised, and still do use and exercise the said Office of Bridge Commissioners of the Rockford Bridge" to wit: at Rockford aforesaid, in the County of Winnebago aforesaid, and that each of them hath used and exercised, and still doth use and exercise the office of such Bridge Commissioners to wit: at the place and in the County aforesaid and that the said Bela Shaw, Norton Crawford, Harry A. Spalding and Bradford McKinney for and during all the space of time last above mentioned, without any legal warrant, right or title whatsoever, at Rockford aforesaid, in the County of Winnebago aforesaid, have claimed and still do claim to be "Bridge Commissioners of the Rockford Bridge" under the act aforesaid; and each of them hath claimed, and still doth claim to be one of the said "Bridge Commissioners of the Rockford Bridge" and to have and use and exercise all the powers and rights and duties appertaining to such Bridge Commissioners which said Office powers and rights the said Bela Shaw, Norton Crawford, Harry A. Spalding and Bradford McKinney for and during the whole time last above mentioned, upon the said people of the State of Illinois, have usurped, intruded into and unlawfully held and exercised, and still do usurp unlawfully hold and

[11942-12]

execute, and each of them hath usurped, intruded into and unlawfully used and executed, and still doth usurp, unlawfully hold and execute, to wit at Rockford aforesaid in the County of Winnebago aforesaid, in contempt of the said People of the State of Illinois, and to their great damage and prejudice and also against the peace and dignity of the same People.

And the said State's attorney of the said People of the State of Illinois, further giveth the said Court to understand and be informed that the said Bela Shaw, Norton Crawford, Harry A Spalding and Bradford McKinney for the space of One hundred and twenty days now last past and more, without any legal warrant right or title whatsoever, have used and exercised and still do use and exercise the office powers and rights of Bridge Commissioners of the Rockford Bridge" as a body corporate and politic, appointed by a certain other act of the General Assembly of the State of Illinois passed on the twenty fifth day of February in the year of our Lord one thousand eight hundred and forty seven, within entitled "An act to provide for the maintenance of the Rockford Bridge" to wit: at Rockford aforesaid, in the County of Winnebago aforesaid, and that each of them hath used and exercised and still doth use and exercise the office, powers, and rights of such Bridge Commissioners to wit at the place and in the County aforesaid, and that the said Bela Shaw, Norton Crawford, Harry A. Spalding

and Bradford McKinney for and during all the space of time last above mentioned, without any legal warrant, right or title whatsoever at Rockford aforesaid in the County aforesaid have claimed and still do claim to be the "Bridge commissioners of the Rockford Bridge" under the said last mentioned act; and each of them hath claimed and still doth claim to be one of the said Bridge Commissioners and to have and use and exercise all the powers and rights and duties appertaining to such Bridge Commissioners, which said offices, powers and rights the said Bela Shaw, Newton Crawford, Harry A. Spalding and Bradford McKinney for and during the whole time last above mentioned upon the said People of the State of Illinois, have usurped, intruded into and unlawfully held and executed, and still do usurp and unlawfully hold and execute, and each of them hath usurped into and unlawfully held and executed, and still doth usurp and unlawfully hold and execute, to wit: at Rockford aforesaid, in the County of Winnebago aforesaid, in contempt of the said People of the State of Illinois and to their great damage and prejudice and also against the peace and dignity of the same People

Whereupon the said State's Attorney for the said People prays the consideration of the Court here in the premises, and that due process of law may be awarded against the said Bela Shaw, Newton Crawford Harry

[11942-13]

A. Spalding and Bradford McKinney to compel them and each of them to answer to the said People, and to shew by what warrant or authority they claim and each and either of them respectively claims to hold, have, use and exercise the office, powers and rights aforesaid

Signed P. W. Platt State's Attorney pro tem.

which said information filed as aforesaid is endorsed as follows to wit:

"Stephenson Circuit Court — People ex rel. George Dixon vs. Bela Shaw, Morton Crawford, Harvey A. Spalding and Bradford McKinney — Filed March 30. 1850. John A. Clark clk. — Quo Warranto information copy of Original information with the amendments allowed filed by order of Court Sept. 19. 1851.

John A. Clark Clerk."

And afterwards to wit on the 12th day of September A.D. 1851. as yet of the said September Term of said Circuit Court there appears upon the Records of said Court for said Term the following order to wit:

3 P. "The People ex. Rel. George Dixon } Quo Warranto
vs
Bela Shaw et al }

And now at this day came on to be heard the demurrer heretofore filed by the relator by his attorney to defendants plea of Abatement herein and the Court being fully advised in the premises overrules

the said demurrer. And it is thereupon considered and ordered by the Court that the said defendants be discharged and that they go hence without day.

And afterwards to wit: on the 19th day of September A.D. 1851 as yet of the said September Term of the said Circuit Court there appears upon the records of said Court the following order to wit:

J. P. The People &c. rel. George Dixon
vs
Bela Shaw, Morton Crawford
Barry A. Spalding and Radford McKinney
} Quo Warranto

And now at this day comes the States Attorney in behalf of the People and moves the Court that the order heretofore entered in this cause overruling the demurrer to the plea in abatement and discharging the said defendants be vacated, and the said motion being heard and the Court having fully considered the same orders that said motion be sustained and that the said order so entered as aforesaid be vacated and annulled

And also the following order to wit:

J. P. The People of the State of Illinois
at the relation of George Dixon
vs
Bela Shaw, Morton Crawford
Barry A. Spalding, and Radford McKinney
} Quo Warranto
} change of venue from Winnebago

[11942-14]

this day comes on the to be heard the

demurrer filed on behalf of the People of the State of Illinois to the Plea of the defendants herein whereby the said defendants say that the Court here ought not to take cognizance of or sustain the action or proceeding or sustain the action or or proceeding by quo warranto aforesaid because they allege that the cause of action and the right of the said Alonzo Platt to file the information in the nature of a quo warranto now on file in this cause accrued in the County of Winnebago and State of Illinois and not within the jurisdiction of this Court; and whereby the said defendants pray judgment if the Court will further take cognizance of or sustain the action aforesaid — And the arguments of counsel being heard in the premises It is ordered by the Court that the said demurrer be overruled and that this Court proceed no further in the said cause for want of jurisdiction thereof — because the jurisdiction thereof belongs exclusively to the Circuit Court of the County of Winnebago, according to the allegations in that behalf of the Plea aforesaid — And it is further ordered that the said defendants recover against the said George Dixon the relator in this cause the costs which have accrued therein in this Court and that they have execution therefor — And upon the motion of the People of the State of Illinois by their Counsel it is further ~~order~~ ordered and that the State's Attorney have leave to withdraw the said information from the files of this Court upon filing a copy thereof — and that the

clerk of this Court transmit to the clerk of the Circuit Court of the County of Winnebago all the papers on file in this cause which were originally filed in the said Circuit Court of the County of Winnebago and also a certified copy of this order upon copies of the same papers being filed in his office to which last order the counsel for the defendants excepts and prays that his exception may be allowed which is done

And afterwards to wit: on the 19th day of September 1851 at yet of the said September Term of said Court the following Bill of Exceptions was signed, sealed & filed & made part of the Record herein to wit:

" In the Stephenson Circuit Court

The People on the relation of Bela Shaw } September Term 1851
vs
Bela Shaw, Norton Crawford
Barry & Spalding and Bradford McKinney

The Counsel of the Parties in this cause having been heard upon the demurrer of the People to the Plea of the defendants to the jurisdiction of the Court, and the Court having overruled the said demurrer the Counsel of the People move that this cause be remanded to the Circuit Court for the County of Winnebago And the Court overrules the said motion: and the said Counsel for the People except to the opinion of the Court in this behalf, and pray that this their Bill of Exceptions in that behalf be signed and sealed by the Hon. Benjamin R. Sheldon Judge of this Court in order that the same may become parcel of the

[11942-15]

cord in this cause, and it is so done accordingly

Benj. R. Sheldon Clerk

Endorsed as follows:

Stephenson Cir. Court People v. Shaw et al

Bill of Exceptions — Filed Sept. 19. 1851.

John A. Clark Clk.

State of Illinois
Stephenson County } ss.

I John A. Clark Clerk of the Circuit Court of the County aforesaid do hereby certify that the foregoing is a true and complete record of the proceedings and of all the papers in the said cause of the People of the State of Illinois ex. relatione George Dixon vs. Bela Shaw, Newton Crawford, Harry A. Spalding and Bradford McKinney

In witness whereof I have hereunto set my hand and affixed the seal of said Circuit Court at Freeport this 12th day of June 1852

John A. Clark Clerk

The People of the State of Ills.
Ex. Rel. George Dixon
vs
Bela Shaw et al
Complete Record

Jan 8 8.54
Cr.

And now, to wit on the second Monday in June, in the year of our Lord one thousand eight hundred and fifty-two, before the Justices of the Supreme Court of the state of Illinois, at the court-house at Ottawa in the county of La Salle, being the first day of the term of June, in the said year, comes George Dixon, the relator in the record aforesaid named, by Francis Burnap his attorney, and as well in his own behalf, as also in behalf of the People of the state of Illinois, says, that in the record and proceedings aforesaid, and in the giving of the judgment aforesaid, there is manifest error in this, that the said Circuit Court for the county of Stephenson overruled the said demurrer of the said state's attorney, to the plea of the said defendants, by them pleaded to the jurisdiction of the same Circuit Court in the said cause, and gave judgment upon the said demurrer in favor of the said defendants, and against the said People as well as against the said relator, to wit that the said Circuit Court proceed no further in the said cause for want of jurisdiction thereof, and that the said defendants recover costs against the said relator; whereas by the law of the land, the said Circuit Court ought to have sustained the said demurrer, and ought to have given judgment thereon in favor of the said People and against the said defendants, and ought to have adjudged that the said defendants answer further to the said information.

And also there is error in this, that the said

Circuit Court gave judgment that the said defendants recover against the said relator in the said cause, the costs which had accrued therein in that court, and that they have execution therefor; whereas according to the form of the statute in such case made and provided, the said defendants could not recover in the said cause against the said relator, more than their own costs by them expended therein.

And also there is error in this, that the said Circuit Court, upon overruling the said demurrer, ought to have remanded the said cause to the Circuit Court for the county of Winnebago, according to the motion aforesaid in that behalf, and ought not to have refused to remand the same.

And also there is error in this, that the said Stephenson Circuit Court ought not to have sustained the said plea to the jurisdiction thereof in the said cause, after the same question of jurisdiction had been raised by the said defendants in opposing the motion by the said states attorney for leave to file in the same Circuit Court the said information, and also again in opposing the said motion for an attachment against the said defendants, and after the said question so raised had been adjudged by the said court against the said defendants.

And also there is error in this, that the said Stephenson Circuit Court, after assuming jurisdiction of the said cause, ought to have continued the same throughout, and ought not to have declined the said jurisdiction upon the said plea in abatement.

And also there is error in this, that the said Stephenson Circuit Court, by ~~adjudging that it would proceed no further in the said cause~~ sustaining the said plea in abatement, and adjudging that it would proceed no further in the said cause, reversed the judgment in that behalf made by the said Circuit Court for the county of Winnebago, which had adjudged that the said cause should be tried in the said Circuit Court for the county of Stephenson county in all respects as if the same had originated in the said county.

And also there is error in this, that the said Stephenson Circuit Court sustained the said plea to abatement the jurisdiction upon the ~~the~~ at-thority pleaded after the said defendants had entered their appearance in the said cause by attorney.

And in case the said Justices should be of opinion there is no such error of the said Stephenson Circuit Court in the premises, as aforesaid, then the said relator says, there is manifest error in this, that it appears by the same that the said Circuit Court for the county of Winnebago, after the said defendants had filed in the same court an affidavit intitled in the ~~said~~ cause, in answer to the rule upon them to shew cause against the filing of the information aforesaid, upon the petition of the said relator, ordered the venue in the said cause to be changed to the county of Stephenson; whereas the said Circuit Court for the county of Winnebago ought to have denied the said petition, and to have retained jurisdiction of the said cause.

And also that there is error in this, that the said Stephenson Circuit Court ought not to have taken or entertained jurisdiction at all of the said cause, but

[11942-18]

ought forthwith have remanded the same back to the said Circuit Court for the county of Winnebago.

Wherefore for the errors ~~first~~ above assigned, the said relator prays that the judgment aforesaid may be reversed, annulled, and altogether holden for nought, and that the said People as well as the said relator may be restored to every thing they as well as the said relator have lost thereby; and that the said cause may be remanded, &c.

Francis Burnap,
Attorney and Counsel for the
said Relator.

Supreme Court.

The People of the State
of Illinois,
ex rel. George Dixon
vs.
Bela Shaw,
Newton Crawford,
Kerry N. Spalding and
Bradford M. Kenney.

Writ of Error and Return
and assignment of Error.

Filed June 28. 1852.
L. Leland Clk.

Burnap.

State of Illinois, sct.

WRIT OF ERROR—FREE TRADER PRINT.

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Stephenson **GREETING:**

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of Stephenson county, before the Judge thereof, between The People of the State of Illinois at the relation of George Dixon

plaintiff — and Bela Shaw, Newton Crawford, Harry A. Spaulding & Bradford McKenney

defendants it is said manifest error hath intervened, to the injury of the aforesaid George Dixon,

as we are informed by his complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distintly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our justices aforesaid at Ottawa, in the county of La Salle, on the 2d Monday in June — next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Ottawa, this 27th day of May — in the year of our Lord one thousand eight hundred and fifty two.

L. Leland *Clerk of the Supreme Court.*

[11942-20]

Supreme Court,

The People &c. ex rel. George Dixon

vs.

Bela Shaw,
Newton Crawford,
Harry N. Spalding and
Bradford McKenney.

Writ of Error.

To the Justices of the Supreme Court of the State of Illinois

The return to this writ appears by the Schedule and Record thereto annexed

The answer of the Clerk of the Circuit Court of the County of Stephenson and State of Illinois

Witness the signature of said Clerk and the seal of said Court at Freeport this 12th Day of June AD 1852

John A. Clark
Clerk

Burnett.

STATE OF ILLINOIS, } The People of the State of Illinois,
Supreme Court.

To the Sheriff of the County of Winnebago Greeting:

BECAUSE in the record and proceedings, and also in the rendition of the judgment of a plea which was in the circuit court of Stephenson county, before the Judge thereof, between The People of the State of Illinois at the Relation of George Dixon Plaintiff and Bela Shaw, Newton Crawford, Harry N. Spalding & Bradford McKenney

defendants, it is said that manifest error hath intervened, to the injury of the said George Dixon

as we are informed by his complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the state of Illinois, at Ottawa, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said Bela Shaw, Newton Crawford, Harry N. Spalding and Bradford McKenney

that they be and appear before the justices of our said supreme court, at the next term of said court, to be holden at Ottawa, in said state, on the Second Monday in June next, to hear the records and proceedings aforesaid, and the errors assigned, if they shall see fit; and further to do and receive what said court shall order in this behalf; and have you then there the names of those by whom you shall give the said notice, together with this writ.

Witness, the Hon. **SAMUEL H. TREAT,** Chief Justice of our said Court, and the seal thereof, at Ottawa, this 27th day of May in the year of our Lord one thousand eight hundred and fifty two.

L. Leland Clerk of the Supreme Court.
By P. K. Leland Deputy Clk.

[11942-21]

Supreme Court.

The People & ad. George Dixon

vs.

Bela Shaw,
Newton Crawford,
Harry N. Spalding and
Bradford McKenney.

Filed July 2d 1852.
L. Leland Clk.
By P. K. Leland Dep.

Seire Facias.

I have served the within writ by reading the same to the within named Bela Shaw Newton Crawford Bradford McKinney and Harry N. Spaulding as within I am commanded this 31st day of May A.D. 1852

Serv 2.00
Mileage 4.00
Return .12
$6.12

P. B. Johnson Sheriff of Wm. Co
by R. H. Williken Deputy

Burnap.

$5 pd clk.

In the Supreme Court

Illinois
to wit. } A writ of error directed to the clerk of the Circuit Court for the county of Stephenson commanding him to certify the record and proceedings in a certain cause lately depending in the said Circuit Court, wherein the People of the state of Illinois, at the relation of George Dixon were plaintiffs, and Bela Shaw, Newton Crawford, Harry N. Spalding and Bradford McKenney were defendants.

Francis Burnap,
Attorney for Plffs in error.

A writ of scire facias to hear errors in said cause, directed to the sheriff of the county of Winnebago, returnable the first day of next term at Ottawa. Dated 25 May, 1852.

Francis Burnap
Atty for Plffs in error.

$5 inclosed. Send by first mail
F. B.

[11942-22]

Stephenson.

The People ex relatione
George Dixon
vs
Bela Shaw et al.

Precipe.

Filed May 27th 1852
L. Leland Clerk
by P. R. Leland Depty

In the Winnebago Circuit Court

The People of the State of Illinois
upon the relation of George Dixon
vs
Bela Shaw Newton Crawford
Harry N Spaulding & Bradford McKinney

To the Honorable the Judge of the Circuit Court for the County of Winnebago

The petition of George Dixon the above named Relator

Respectfully shews

That he fears that he will not recieve a fair trial in the above intitled cause in this Court, on account that the Judge of the said Court is prejudiced against this Relator

This petitioner therefore prays a change of venue in the said cause to some County where the said cause of complaint does not exist

George Dixon

State of Illinois
Winnebago County ss George Dixon the above named relator makes oath and saith, that the facts set forth in the foregoing petition in the above intitled cause are true.

George Dixon

Sworn at Rockford in the County of Winnebago the 20th day of March 1858 before me

C. H. Spafford Clerk

[11942-23]

State of Illinois
Winnebago County } ss

I, C. H. Spafford Clerk of the Circuit Court within and for said County do Certify that the foregoing is a true Copy of the petition for a change of Name in the Above Entitled Cause filed in said Clerks Office on the 23d day of March A.D. 1850 as appears of Record in My Office

In Witness whereof I hereunto set My hand and affix the Seal of said Court at Rockford in said County this 15 day of June A.D. 1852

C. H. Spafford
Clerk

$0.50 paid

Supreme Court,

The People ex rel. Dixon

vs.

Shaw and others.

Petition for change of venue.

Copy filed by consent of parties 1 July, 1852.

Filed July 1st 1852.
V. Leland Clk

Burnap.