

11923

No. \_\_\_\_\_

# Supreme Court of Illinois

People, ex. rel.;, City  
of Chicago

---

vs.

Bd. of Trustees of Ill. and  
Michigan Canal

---

## Supreme Court of the State of Illinois

The people of the State  
of Illinois on the relation  
of the City of Chicago  
vs

The Board of Trustees  
of the Illinois & Michigan Canal

Application for a mandamus to  
compel the exchange of Block  
7. for Block 14

## County of Cook of Massachusetts

John Davis of the City of Worcester in said County  
Esquire being duly sworn deposes and says that the  
Legislature of Illinois having on the 21<sup>st</sup> day of July 1843  
passed an act entitled an act to provide for the  
completion of the Illinois & Michigan Canal and  
for the payment of the Canal debt. Such proceedings  
were had under & by virtue of the same that the  
deponent & Capt. William H. Swift were requested  
by Baring Brothers & Co of London & others to proceed  
to Illinois about the month of Dec 1843 and examine  
the said Canal & the property proposed to be pledged  
by said act, in mortgage as security to reimburse a  
loan of Money raised to complete said Canal; that  
the deponent and said Swift did <sup>at Peru</sup> meet, and after  
spending several weeks in investigating the condition  
of things returned to Boston & made report of their  
doings and opinions to Messrs W. Ward & others agents  
of said Baring & others; that deponent afterwards at  
the request of said Baring and others proceeded

to the City of London in England, where he  
 met the agents of Illinois and where numerous  
 meetings were held at which they were present, for  
 the purpose of negotiating a loan to complete the  
 canal upon the pledges specified in said act; that  
 about Oct. of the same year, deponent returned  
 to Boston, the subscriptions for the loan being in-  
 complete and the business apparently suspended  
 without immediate prospect of success - that afterwards  
 in the following winter deponent at the request  
 of said board met here David Beavitt's Esq and  
 Col Charles Oahly in Boston, to complete the mortgage  
 provided for in said act, the subscriptions having  
 in the mean time become sufficient to complete  
 the work; that the deponent said Beavitt and  
 Oahly proceeded to Springfield in Illinois to see  
 if the Legislature would pass certain acts deemed by  
~~deponent~~ the subscribers to the loan important  
 to them; that they all remained at Springfield some  
 weeks before the legislation was completed and then  
 returned to Boston where the business was consummated  
 by organizing the trust and making the transfer  
 complete - that during all these transactions and the  
 almost innumerable consultations had with the Gover-  
 nors of Illinois as well as <sup>with</sup> their authorized agents  
 in regard to the provisions of said act, the property  
 therein described as canal property to be pledged to  
 such as should subscribe for the loan - he never  
 to his remembrance heard a word said about any  
 exchange of Black seven for another Black of value

nor did he ever hear of any purpose of  
 said State to make such an exchange or to reserve  
 to itself from said property said Black - nor does  
 he remember of ever hearing of any law passed  
 relative to such an exchange or retention of said  
 lot until 1848 when the same was mentioned to  
 him by said Capt Swift; that said deponent  
 then believed the said act was of itself sufficient to transfer  
 the property pledged upon previous compliance with  
 the preliminary terms required - that nevertheless a  
 deed was executed by the Governor to the  
 trustees wherein & whereby deponent considered  
 them & still believes that all the property, (without  
 reservation) named or referred to in said  
 act, passed to & the title was vested in the trustees  
 for the benefit of the subscribers to the loan and  
 further the deponent saith not

John Davis

District of Columbia

City and County of Washington  
 I, Anthony Hyde, a Commis-  
 sioner of the State of Illinois, appointed  
 by the Governor thereof to take the  
 edgment and proof of said and  
 ment of writing in said Distric-  
 bia, to be used or recorded in said  
 Illinois, do hereby certify, That the honorable  
 John Davis of Massachusetts, now in the  
 City of Washington as a United States Senator

who is personally well known to me, came before me, at my office in the City of Washington, and having been by me first duly sworn according to law, did depose and say: That the foregoing annexed writing, on pages nos. 1. 2. & 3, in reference to the case, pending in the Supreme Court of the State of Illinois, of "The People of the State of Illinois on the relation of the City of Chicago vs. The Board of Trustees of the Illinois & Michigan Canal," and by him signed as his deposition in said case, is just and true as it stands stated, to the best of his knowledge and belief.

and I further certify that every alternate page of the three two sheets of paper is blank, and that the interlineation of the word "at Peru", line six, page one; the erasure of the word "demanded by", in line eighteen, page two; and interlineation of the word "with" in line twenty-five, page two; and the name "Seavitt" written over an erasure, in line eleven, were all done before said oath was administered. In testimony whereof I have hereunto set my hand, and affixed my official seal, at my office in said City of Washington, this seventh day of March A.D. eighteen hundred and fifty three.

Lucy Sydnor

Commissioner of the State  
of Illinois, in the District of Columbia

2.  
The People &c. ex rel.  
City of Chicago.

vs.  
Board of Trustees of  
The Illinois & Michigan  
Canal

~~2 P.D.~~  
Geo. Davis  
aff'd

Filed June 21<sup>st</sup> 1853.  
L. Leland Clk.  
By P. H. Leland Depy.

B-2

1853

11923