

No. 12641

Supreme Court of Illinois

People ex-rel.

vs.

Supervisors of Cook County.

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The People of Jackson
George W. Colby Collector
vs

The Board of Supervisors
of Cook County

320

12641

1858

Petition for Mandamus

State of Illinois. Supreme Court
Of the April Term AD 1838

To the Honorable, the Justices of the Supreme Court of the State of Illinois. ~~The People on the relation of~~ ~~of George H. Colby, who is a Resident of the City of Chicago, in the County of Cook, and State of Illinois~~ ~~respectfully represents and shows unto your Honor that Block number thirty nine (39) in the original Plan of Chicago in the said County of Cook, was at the time of the making of the apportionment thereof by the Common Council of said City of Chicago, as hereinafter mentioned, ever since has been, and still is, owned and occupied for the purposes of a Court House and Jail, by the said County of Cook, and that said Block is bounded on the North by Randolph Street, on the East by Clark Street, on the South by Washington Street and on the West by LaSalle Street, and is ^{now} of the value of near Hundred Thousand Dollars and upwards.~~

That said LaSalle Street, up to and until the institution of the Proceedings by the said Common Council, hereinafter mentioned, extended Southward from the Chicago River, to Madison Street, which is the next

Street, running East & West, South of said
Washington Street - That the Common
Council of said City of Chicago, in exer-
cise of its Power and authority therein
vested by the Charter of said City, on the
15th day of October 1855. ordered, that a sur-
vey be made, for the Extension of said LaSalle
Street, from its then present terminus at
Madison Street in a straight line South to
Jackson Street, to conform in width with that
part of LaSalle Street already opened - said Ex-
tension to run through Blocks ninety-five (95)
one hundred & eighteen (118). ninety six (96) one
hundred and seventeen (117) ninety seven (97) and
one hundred and sixteen (116) of the School Sec-
tion addition to said City of Chicago, and that
upon the completion of said Survey, the Clerk
of said City of Chicago, give due notice in the
Constitutional Newspapers of the intention of
said Common Council, to appropriate and
take so much Land as might be necessary
to make said Extension -

Your Petitioner further shows
unto your Honors, that immediately after the
making of said order by the said Common Coun-
cil, the survey for said Extension was duly
made, and thereupon the Clerk of said City
of Chicago gave notice, according to Law.

by Publication in the Cooperative newspaper
of the intention of said Common Council
to appropriate and take the said necessary
for said Extension, on the expenditure of
which said notice the said Common Council
chosen by Ballot, three disinterested Freeholders
residing in said City of Chicago, as Commis-
sioners to ascertain and assess the damages
and recoveries due the owners of such Lands
respectively, and to determine what persons
would be benefited by said Improvement and
assess the damages and expenses thereof on the
real Estate of persons benefited, in proportion
as nearly as might be to the benefits result-
ing to each -

Your Return further shows
that said Commissioners after being duly sworn
faithfully to execute their duties according
to the best of their ability, proceeded in all
respects regularly and according to Law to
ascertain said damages and expenses, and
apportion and assess the same, together with
the costs of said Proceedings upon the real
Estate of those persons benefited, and after-
wards and within the time granted to
them for that purpose, duly completed said
assessment, and returned the same to
the said Common Council, by which said.

relating thereto was regular and in due
form of Law, and the said extension of said
Sofale Street and all the Real Estate opened
therefor was and was situated in the South
division of said City of Chicago. That your
Petitioner was, in pursuance of an Ordinance
of said City, sworn to the Confirmation of
said apportionment, duly elected by the Common
Council of said City, Collector of Special
Apportionments for the South Division of said
City, and was given Bonds as required by Law.
That after the Confirmation of said apportionment
and the passing of the order by the Common
Council of said City for the issuing of a
Warrant for the Collection of the same, said
Warrant was duly issued and delivered to
your Petitioner as such Collector of Special
Apportionments as aforesaid for Collection - &
the same is now in the hands of your Petitioner
and in full force -

Your Petitioner further shows
that after the issuing of said Warrant and the
delivery thereof to him as aforesaid, he caused
due notice of the same, and the amount
of the apportionment aforesaid upon said Block
number Thirty nine (39), to be given to the
Board of Supervisors of said County of Cook
and requested them to order a warrant

to be issued for the Payment of said assessment
upon said Block No. thirty nine (39) or to make
such other Provision for the Payment of the
same as they might deem necessary - but
the said Board of Supervisors there refused
ever since then and still do refuse to order
such Warrant to be issued, or to make any
Provision whatever for the Payment of said
assessment - And your Petitioner has ever
been and still is wholly unable to collect
said assessment so made upon said Block
number thirty nine (39) or any part thereof -
Your Petitioner attaches hereto as a part of
this Petition a copy of the orders & proceedings
of said Common Council, and of said Com-
missions, together with a copy of all the
notices given in said Proceedings -

And your Petitioner therefore prays that
^{attestation}
a Writ of Mandamus, or such other writ as
you the Court shall deem suitable & proper
in the premises, may issue out of and
under the seal of this honorable Court
directed to the said Board of Supervisors
of said County of Cook, commanding them
to order a Warrant to be drawn upon the
Treasury of said County for the Payment
of said assessment so laid upon
said Block number thirty nine (39)

or affidavits, or show even why the same
 should not be done, and returnable by
 a certain day therein to be named - and
 upon the return of said writ that said
 writ of Mandamus may be made summary
 and that your Petitioner may have such other
 and further relief, as the nature of this
 particular case may require, and to your
 Honor shall seem meet and proper
 And your Petitioner will ever pray.
 Walter B. Sealie George W. Colby
 for Petitioner

State of Illinois }
 County of Cook }

George W. Colby being first duly
 sworn deposes and says that he is the same per-
 son named in and who signed the foregoing Petition
 that the said Petition has been read to him and
 he knows the contents thereof, & that the matters
 & things therein stated are of his own knowledge
 and true. And as to the other matters therein stated
 he believes them to be true -

Subscribed & sworn to before me this 3^d Day of May 1858 } George W. Colby
 William Colby }
 Notary Public

Assessment Roll for the
Extension of LaSalle St from Madison
Street to Jackson Street

The Common Council Oct 15th 1885
Ordered, That when the survey shall be made
that the City Clerk give ten day notice
in the Corporation newspaper that the
Common Council of the City of Chicago
intend to appropriate and take so much
land as shall be necessary for the
extension of LaSalle Street from its present
terminus at Madison Street in a straight
line south to Jackson St, to conform
in width with that part of LaSalle
St already opened, said extension to
run through blocks (95) (96) (97) (116)
(117) (118) School Section addition to
Chicago,

Ordered, That the City Surveyor
proceed forthwith to survey, mark out,
plat, and record in the Book provided for
that purpose, (showing particularly the
proposed improvement and the real
estate required to be taken therefor)
the extension of LaSalle St from its
present terminus at Madison St in a
straight line south to Jackson St
to conform in width with that part of
LaSalle St already opened, said extension
to run through Blocks (95) and (118) (96) and
(117) and (97) and 116 of the School Section
addition to Chicago

Passed
attest H. W. Zimmerman City Clerk ~~attest~~

612641-3

In Common Council November 12th 1855

By Alderman Fletcher

Ordered, That the Common Council do now elect by ballot three reputable discreet, and disinterested free holders of the City of Chicago whose duty it shall be to ascertain the damages and recompense due the owners, respectively, of such real estate as shall be taken and appropriated for the opening of LaSalle st, from Madison Street to Jackson Street, in accordance with an order for the survey thereof, passed Oct 15th 1855 and at the same time assess the amount of such damages, together with the cost of the proceedings, upon the real estate deemed benefitted by the improvement, in proportion as nearly as may be to the benefits resulting to each parcel of ground respectively.

The order was passed, and the Council proceeded to the election of Commissioners thereunder,

On the first ballot F. A. Brazy and Thos. Church received each 10 votes and were declared elected,

On the second ballot for a third Commissioner there was no choice

Attest H. W. Zimmerman
City Clerk

In Common Council Jan'y 10th 1856
By Ald. Calby

An order for the
Election of Commissioners for the opening
of Franklin Street,

The order was passed, and the Council
proceeded to the election of Commissioners
thereunder.

On the first ballot there was no choice
and on motion of Ald. Fletcher further
balloting on said order was suspended
for the purpose of electing three
Commissioners to make an assessment
for the extension of LaSalle Street.

On the first ballot there was no
choice. On the second ballot W. W.
Salomon still received ten votes and
was declared elected. On the third
ballot F. A. Bragg and Thos. Church
received each eleven votes and
were declared elected.

Attest H. W. Zimmerman
City Clerk

Corporation Notice

City Clerk's Office
Chicago Oct 19th 1855 }

Public Notice is hereby given to all persons interested, that the Common Council of the City of Chicago intend to appropriate and take the land necessary to extend Lasalle Street from its present terminus at Madison Street in a straight line south to Jackson St, to conform with that part of Lasalle Street already opened, said extension to run through Blocks (95) & (118) (96) & (117) (97) & (116), at the School Section addition to Chicago

cc, 10, 1063

H. W. Zimmerman

City Clerk

This certifies that the appended Notice relative to the extension of Lasalle St to Jackson St &c has been published in the Chicago Daily Democrat the Corporation Newspaper of the City of Chicago, County of Cook and State of Illinois, ten days consecutively, commencing with Oct 20th 1855

Chicago March 24th 1856

D. M. Bradley Publisher
and Proprietor

Oath of Commissioners

State of Illinois }
City of Chicago }^{ss} We the undersigned
freeholders of the City of Chicago, appointed
by the Common Council of said City as
Commissioners to ascertain the damages and
recompense due the owners of such real
estate as shall be appropriated and taken for
the extension of LaSalle Street from its
present terminus to Jackson Street
in accordance with the foregoing orders
and at the same time to assess such damages
together with the cost of these proceedings
upon the real estate deemed benefitted
thereby as nearly as may be, do solemnly
swear that we will faithfully and
impartially perform our duty as such
Commissioners according to the best of
our ability

Subscribed and sworn to before me this
16th day of Jan'y 1856
H. W. Zimmerman }
City Clerk

F. A. Bragg }
W. W. Saltsdale } Commissioners
Thos Church }

Commissioners Notice

All Persons interested in the extension
of LaSalle Street, ^{from Madison St to Jackson St} who wish to introduce
testimony as to the value of the land
appropriated for said improvement
are requested to meet the Commissioners
at the Supervisors Room in the Court
House on Monday the 24th instant at
10 o'clock A.M.

F. A. Bragg
W. W. Saltonstall } Commissioners
J. H. Church }

March 27 56

In Common Council Feb 18th 1856
Petition of the Commissioners for 40
days extension of time for making the
assessment for the extension of LaSalle
Street from its present terminus to
Jackson Street

Granted
attest H. W. Zimmerman
City Clerk

In Common Council March 24th 1856
Petition of the Commissioners for an extension
of fifteen days time to complete the
assessment for the extension of LaSalle St

granted

attest Heit W. Zimmerman
City Clerk

Commissioners Return

To the Mayor and Alderman of the City of
Chicago in Common Council assembled

The undersigned Commissioners appointed
by your Honorable body to ascertain the
damages and recompense due the owners
of such real estate as shall be appropriated
and taken for the extension of LaSalle
Street from Madison Street to Jackson
Street in accordance with the orders
passed by the Common Council and
hereto prefixed, and at the same time
to assess the amount of such damages
together with the cost of the proceedings
upon the real estate deemed benefitted
by the said improvement, in proportion as
nearly as may be, to the benefits resulting
to each lot or parcel of ground respectively;
Do hereby report and return to the
Common Council

That in pursuance of said apportionment they
were duly qualified before entering upon
their duties as appears by the oath recorded
herein; That they published a notice at the
time and place of their meeting

for the purpose of making their assessment
in the Chicago Daily Democrat the
Corporation Newspaper of the City of Chicago
for the period of ten consecutive days
previous to such meeting, a certificate at which
publication is hereto prefixed; that they were
present at the time and place and for the
purpose designated in said notice
that they adjourned from day to day until
April 5th 1856 when they were all present at
the same hour at room No 3 in the Court
House and after viewing the premises did
then and there, and do hereby assess the
respective amounts set opposite to each
lot or parcel of ground in the foregoing
assessment Roll mentioned in their
appropriate columns, as the damages and
benefits resulting from the said improvement
to such lots or parcels of ground respectively
having first fixed & valuations on the said
real estate, which is likewise set forth
in said Roll

All of which is respectfully submitted

Chicago April 5th 1856

Fit Bragg
Geo^d Church
W W Salstanstall } Commissioners

Commissioners Notice

Public Notice is hereby given to all persons interested that the undersigned Commissioners, appointed by the Common Council of the City of Chicago to ascertain the damages and recompense due the owners respectively of such real estate as shall be appropriated and taken for the extension of LaSalle Street from its present terminus at Madison Street to Jackson Street in accordance with an order for the Survey thereof passed Oct 15th 1855 and in accordance with an order passed in Common Council Jan 10th 1856 and at the same time to assess the amount of such damages, together with the cost of the proceedings, upon the real estate by them deemed benefitted, in proportion as nearly as may be to the benefits resulting to each parcel of ground, respectively, will meet at room 10 (1) in the Court House on the 15th day of February 1856 at the hour of 10 o'clock A.M. for the purpose of viewing the premises and of making said assessment

H A Bragg
W W Saltonstall } Commissioners
Thos Church }

This certifies that the appended Notice relative to the extension of LaSalle Street from Madison St to Jackson Street has been published in the Chicago Daily Democrat the Corporation Newspaper of the City of Chicago County of Cook and State of Illinois ten days consecutively commencing with January 24th 1856
March 24th 1856 D M Bradley Publisher
& Proprietor

State of Illinois }
City of Chicago } ^{ss} I do hereby certify that
the foregoing Assessment Roll was
returned to me and filed in my Office
by the Commissioners this fifth day
of April 1856

H. W. Zimmerman
City Clerk

City Clerks Office
Chicago April 7 1856

Assessment Notice, Public Notice
is hereby given to all persons interested that
the Commissioners appointed by the Common Council
of the City of Chicago to ascertain and assess
damages and benefits resulting to owners of
real estate in the South Division by
reason of the extension of LaSalle St
from its present terminus at Madison
Street in a straight line South to Jackson
Street, have completed their assessment,
and made return thereof to my Office,
Any person wishing to appeal from said
assessment must file their objections in
writing in my Office on or before Monday the
21st day of April 1856 at 7 O'clock P.M., as
the Common Council will, at that time in the
Council Room hear all objections to said
assessment and revise and confirm or amend
the same

H. W. Zimmerman
City Clerk

³²⁰
People at Relations
Geo W. Colby
Collector

ⁿ
The Board of Supervisors
of Cook Co

Petition for
Mandamus

Filed May 4, 1854.
L. Leland
Clerk.

To the Board of Supervisors
of Cook County Illinois }
Gentlemen.

You will please take notice
that on Saturday the 8th day of May instant, an
application will be made by me to the Justice of
the Supreme Court of the State of Illinois now in
session, at Ottawa, in the Third Grand Division
of said State, on the opening of Court on that day
or on some thereafter as Counsel can be heard,
upon a Petition now on file in said Court, for
an Attenuation writ of Mandamus to issue
against you out of said Court & under the seal
thereof, commanding you to order a Warrant to
be drawn upon the Treasurer of said Cook County
for the Payment of the Assessment levied by
the Common Council of the City of Chicago,
upon Block N^o Thirty nine (39) in the Original
Plan of Chicago for the Extension of LaSalle
Street from Madison to Jackson Street in said
City, or to make some other and proper Provision
for the Payment of said Assessment, or show cause
why the same should not be done - At which
time and place you can appear and resist
said application, if you think proper -

George H. Colby
Collector of Sp. Assessments & L. Div.
of City of Chicago.

By Scots McAllister & Leitch
his Attorneys

Sup. Ct. of Dist. of Ill.
The Sup. of it its or
& rd. of Co. of City
u 320

Board of Supervising
Cook County -

Notice of Application
for Mandamus -

Filed May 10. 1858
A. Deland
Plaintiff

Served by delivering a copy of the within to Henry
Farwell Deputy Clerk of the Board of Supervisors of Cook
County, at the office of the Clerk of the Board of
Supervisors in the Court House Chicago, Illinois,
May 5th 1858
John L. Wilson Shff
of Cook County Ills.
By Seth Taylor Deputy,

We therefore hereby command you
that ~~they~~ you order the Clerk of the
County Court to draw a warrant
upon the County Treasurer for the
sum of Seven thousand six hundred
and ninety seven dollars & thirty
cents, the amount of the said
assessment upon block thirty
nine for the opening La Salle
Street aforesaid — or Shew
Cause why they do not

State of Illinois }
Supreme Court } ss.

The People of the State of Illinois
To the Board of Supervisors of Cook County in
said State, Greeting.

Whereas it has been represented
to the Justices of our Supreme Court, at Ottawa,
in said State, that Block thirty nine (39) in
the original Town of Chicago in said Cook County
, was at the time of the making of the assessment
thereon by the Common Council of said City of
Chicago as hereinafter mentioned, ever since has
been, and still is owned and occupied for the purpose
of a Court House and Jail, by the said County of
Cook, and that said Block is ^{bounded} ~~bounded~~ on the North
by Randolph ~~by Randolph~~ Street, on the East by Clark
Street, on the South by Washington Street and on the
West by LaSalle Street, and is & was of the value of
Three Hundred Thousand Dollars and upward.

That said LaSalle Street, up to and
until the institution of the proceedings by the said
Common Council, hereinafter mentioned, extended
Southward from the Chicago River, to Madison Street,
which is the west Street running East & West,
South of said Washington Street. That the
Common Council of said City of Chicago, in
pursuance of the Power and authority therein

vested by the charter of said City, on the 15th
Day of October 1855, ordered, that a survey be made
for the Extension of said LaSalle Street, from
its then present terminus at Madison Street
in a straight line South to Jackson Street, &
conform in width with that part of LaSalle
Street already opened - Said extension to run
through Blocks ninety five (95) one hundred &
eighteen (118) ninety six (96) one hundred and
seventeen (117) ninety seven (97) and one hundred
and fifteen (116) of the School Section addition
to said City of Chicago, and that upon the completion
of said survey, the Clerk of said City of Chicago,
give due notice in the Corporation Newspaper
of the intention of said Common Council to
appropriate and take so much Land as might
be necessary to make said Extension. —

That immediately after the making
of said orders by the said Common Council,
the survey for said ~~Extension~~ extension was
only made and thereupon the Clerk of said
City of Chicago gave notice according to Law -
by Publication in the Corporation Newspaper
of the intention of said Common Council to
appropriate and take the Land necessary for
said Extension, on the expiration of which
said notice the said Common Council chose

by Ballot. ~~Then~~ Three disinterested Freeholders
residing in said City of Chicago, as Commissioners
to ascertain and ~~assess~~ ^{assess} the Damages and
recompense due the owners of such lands
respectively, and to determine what persons
would be benefitted by ~~such~~ ^{said} Improvements
and ~~assess~~ ^{assess} the Damages and expense thereof
on the real Estate of Persons benefitted, in
~~proportion~~ ^{proportion} as nearly ~~right~~ ^{as might be} to the benefits
resulting to each.

That said Commissioners after
being duly sworn faithfully to execute their
duties according to the best of their ability,
proceeded in all respects regularly and accord-
ing to law to ascertain said Damages and
expenses, and apportion and ~~assess~~ ^{assess} the same,
together with the costs of said Proceedings
upon the real estate by them deemed
benefitted, and afterwards and within the
time granted to them for that purpose,
duly completed said apportionment, and
return the same to the said Common
Council by which said return of the
said Commissioners, a large amount
of Real estate was duly assessed for the
purpose of Paying the Damages & Expenses

of said extension and amongst others ~~2~~
the said Block number Thirty nine (39) is
the original Town of Chicago aforesaid, was
assessed assessed the sum of Seven Thousand
Six Hundred and Ninety seven Dollars and
Thirty Cents (\$7697.30)

That said assessments
of the said Commissioners ^{made} ~~so~~ and
reported by them as aforesaid, was, after
wards and on the 9th Day of June AD 1836.
due notice of the return of the ~~same~~, having
been given as required by Law, upon careful
consideration and ^{revision} ~~revision~~ by said Common
Council, regularly and duly confirmed by said
Common Council, the assessment upon
said Block Thirty nine (39) remaining as
fixed by the said Commissioners, from
which said order of Confirmation no
appeal was ever taken by any persons ^{interested} ~~interested~~
therein - and the said Common Council
thereupon ordered a warrant to be issued
for the collection of said assessment, returnable
within Thirty Days from the date thereof.

That the assessment
aforesaid and all the Proceedings relating
thereto were regular and in due form

of Law, and the said extension of said
LaSalle Street and all the real estate affected
therefor were and are situated in the South
Division of said City of Chicago. And whereas
it has been further represented to the
justices of our Supreme Court that George
H. Colby was in pursuance of an Ordinance
of said City of Chicago, prior to the confirma-
tion of said Assessments, duly elected by
the Common Council of said City, Collector
of special assessments for the South Division
of said City of Chicago, & that the said George
H. Colby has given Bonds as required by
law; and that after the confirmation of
said Assessments and the passage of the
order by the Common Council of said City
of Chicago for the issuing of a Warrant for
the collection of the same, said Warrant
was duly issued and delivered to the
said George H. Colby as such Collector
of special assessments as aforesaid for
collection and that the same is now in
the hands of the said George H. Colby and
in full force. And whereas, it has been
further represented to the justices of our
said Court, that the said George H. Colby,
after the issuing of said Warrant and

~~and~~ the delivery thereof ~~thereof~~ to him
as aforesaid, caused due notice of the
same and the amount of the assessment
aforesaid upon said Block number thirty
nine (39) to be given to the Board of
Supervisors of said County of Cook and
requested them to order a warrant to
be issued for the payment of said as-
sessment upon said Block No. thirty
nine (39): And whereas it has been further
represented to the Justices of our said
Court that you the Board of Supervisors
of said County of Cook, notwithstanding
the premises with which you are well
acquainted, have, without any reasonable
cause whatever, hitherto refused, and
still refuse to order a warrant to be
issued or to make any provision
whatever for the payment of said
assessment although often requested
by the said George H. Colby Collector as
aforesaid ^{so to do} by means whereof the said
George H. Colby has been wholly pre-
vented from collecting said assessment
as we have understood by his Com-
plaint.

We therefore, being willing that
due and speedy justice be done to the
said George H. Colby in this behalf,
Command you the Board of Supervisors
of said Cook County that immediately
after the receipt of this writ, you do,
without further excuse or delay, order
the Clerk of the County Court of said Cook
County to draw a warrant upon the
County Treasurer of said Cook County for
the sum of seven thousand six hundred and
ninety seven dollars and thirty cents, the
amount of the said assessment upon said
Block No. thirty nine for the opening of LaSalle
Street aforesaid, for the payment of said
assessment, or signify to us Cause to the
contrary if any you have, lest in your
default, Complaint should come to us
repeated. And how you shall execute
this our Command, forthwith certify
to the justices of our said Supreme Court
now sitting at Ottawa, together with this
writ.

Witness the Hand John D. Eaton, Chief
Justice of our said Supreme Court at
Ottawa, this 14th Day of May A.D.
1878.
S. Delaney
Clerk of the Supreme Court
by J. B. Rice, Deputy



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People ex relatione
G. H. Colby

v
The Supervisors of
Cook County Illinois

Attorneys with
of Mandamus

Filed May 26. 1878
L. Leland
Clerk

