

No. 12613

Supreme Court of Illinois

People ex-rel.

vs.

Evans.

To The Honorable The Judges of the Supreme Court of
Illinois -

The Petition of Henry S. Beebe respectfully
shows unto your Honors that he heretofore filed his said
petition setting out the establishment of The Recorder's
Court for the Cities of La Salle & Peru under the act of
the General Assembly, approved Feby 18th: 1857, &
representing that one Samuel Francis duly appointed
and qualified as the Clerk of said Court refused to
perform certain ministerial duties imposed upon him by
law in his said capacity as Clerk of said Court,
& praying for a mandamus &c., all which will
more distinctly appear by reference to the Record of
the case in which the said petition was filed -
to-wit: the case of The People on the Relation of
Beebe (Pl) Samuel Francis Clerk of The Recorder's
Court for the Cities of La Salle & Peru, & which
said Record is now on file among the Records
of this Honorable Court.

Said Petitioner further represents that
upon the hearing of his said petition the prayer
thereof was denied by this Honorable Court.

That in the opinion pronounced by this
Honorable Court upon the said petition, the Court
advised & declared, that the said act of the Genl:
Assembly of Illinois, approved Feby 18th 1857,
creating the said Recorder's Court for the Cities
of La Salle & Peru, is repugnant to the 18th:
Sec: of the 5th: Art: of the Constitution of this
State & therefore void & of no effect: that said
act is repugnant to said Article of the Con-
stitution for the reason, that by said Article
the Legislature authorizes to establish Courts in this State

is limited to the establishment of Courts whose jurisdiction shall be strictly confined to the Cities for which and in which they are established, and that the said act of the General Assembly proposed to extend the jurisdiction of said Recorder Court beyond the limits of the City for which ~~the~~ same was established.

Your Petitioner represents that in delivering said opinion this Honorable Court for the above said "we should have been willing to have obviated this objection to the law by holding that by the provision of the Constitution the territorial jurisdiction of the Court should be limited to the City limits; & that such a decision the Court could have more fairly done so, were the extension of the jurisdiction contained in a separate clause so that the unauthorized ^{part} of the law could be separated from that which is authorized and might possibly have held that part alone to be unconstitutional."

Your Petitioner further represents that all that the Court again to obviate the objection to said act of the General Assembly, had been done by the General Assembly by act approved July 10th: 1857 & which act was not ^{published} at the time of pronouncing the opinion herein upon referred to & which was not at this time ^{known to your petitioner nor his Counsel,} known to this Honorable Court.

Your Petitioner further represents that it is enacted by said last mentioned act that the same shall take effect from & after the date of its passage: & provides "That any act establishing an inferior Court of civil & criminal jurisdiction in any city of this State, & all acts amendatory thereof, shall be so construed as to confer on such Court a uniform organization & jurisdiction with the Recorder Court of the City of Chicago, & the Court

of Common Pleas of the City of Cairo, anything in
such act or acts to the contrary notwithstanding-
and all jurisdictions conferred upon any such court
inconsistent with such organization & jurisdiction
is hereby repealed, or so far modified as to be con-
sistent with the provisions of this act."

And The second section of said ~~act~~ act declares,
"That this act shall be considered a part of
all acts creating or in any manner relating to
inferior courts in Cities of this State -"

Your Petitioner represents, that at the
time judgment was pronounced by this Honorable
Court in the matter of his said petition praying
for a mandamus as aforesaid ^{at the time} ~~and then~~, this Court
declared & adjudged the said act of the General
Assembly, creating the said Recorder Court for
the Cities of La Salle & Peru, to be unconsti-
tutional & void, - all parts of said act so
creating the said Court infringing on the con-
stitution, and has expressly repealed by the
said last mentioned act of the General Assembly
approved Feb'y 10th 1857 -

Your Petitioner therefore prays that
Your Honors will grant him a rehearing in
the matter of his said petition & he will
comply &c

By his Counsel
C. B. Runtle

May 18. 1858. I have rec^d due notice of the within petition and all
further notice is hereby waived.

Daniel Evans
By D. J. Hough - his atty

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The People &c
vs
Henry S. Porter
vs
Daniel Evans

Petition for rehearing

Filed May 19. 1858
J. Leland
Clerk

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The People &c. vs
Henry S. Beebe
vs
Daniel Evans.

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Petition for Re-hearing