

Case No. 886. BANK OF DANVILLE v. TBAVERS.
[4 Biss. 507.]¹

Circuit Court, N. D. Illinois.

Dec., 1868.

EQUITY—MOTION TO SUPPRESS DEPOSITIONS—WAIVER.

A motion to suppress depositions for irregularity comes too late when they have been on file for three years.

[See *Doane v. Glenn*, 21 Wall. (88 U. S.) 33.]

In equity. Motion [In a suit by the Bank of Danville against Eliza Travers] to suppress depositions for insufficiency of the notarial certificate, the depositions having been returned and opened in July, 1865.

J. H. Knowlton, for the motion.

DRUMMOND, District Judge. I think after a cause is set down for hearing, and the deposition has been on file for three years, it is too late to move to exclude it on a technical ground. I think the parties have a right to presume that such a delay is a waiver of any objection of that kind.

NOTE, [from original report] The general rule is that all objections or exceptions to the formality of depositions must be taken before trial. *Corgan v. Anderson*, 30 Ill. 95; *Swift v. Castle*, 23 Ill. 209; *Frink v. McClung*, 4 Gilman, 569; *Moshier v. Knox College*, 32 Ill. 155. But as to substance it is sufficient to make them on the trial or hearing. *Swift v. Castle* and *Frink v. McClung*, *supra*.

¹ [Reported by Josiah H. Bissell, Esq., and here reprinted by permission.]