

No. 14704

Supreme Court of Illinois

Pres. & Trustees of the Town of
Keithsburg.

vs.

Frick.

STATE OF ILLINOIS,

Apr 18 1864
SUPREME COURT,

THIRD GRAND DIVISION.

No. 129

J. W. Middleton & Co., Stationers, 126 Lake St.

14704

Ottawa 22 April 18th 1864

Lorenzo Leland Esq
Clerk Supreme Court
Ottawa 22

No 129

Dear sir

Herewith
find Brief and argument of Depend-
ant's counsel in the case of The pres-
ident & Trustees of the Town of Northampton
vs Charles A. Smith. The case is
now ready for trial, and there will
be no oral argument in the case.
And no attorneys will be in at-
tendance on either side. Please make
a memorandum, and when it is
called, it will then be heard in its
order.

Yours Truly
J. R. & S. C. Bassett

The join in the above request.

Chas. S. Spaulding.
att. for Plaintiff in Error

129
Pres. ex.
✓
Frick

Fid of p. 21. 1864
L. Island
cer.

STATE OF ILLINOIS,
SUPREME COURT. } ss. The People of the State of Illinois,

To the Sheriff of Mercer County, GREETING:

Because, In the record and proceedings, and also in the rendition of the judgments of a plea which was in the Circuit Court of Mercer County, before the Judge thereof, between The President & Trustees of the town of Keithsburg plaintiff, and Charles A. Frick Charles A. Frick

defendant, it is said that manifest error hath intervened, to the injury of the said President & Trustees of the town of Keithsburg

as we are informed by his complaint the record and proceedings of which said judgments 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 Charles A. Frick

that he 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 first Tuesday after the third Monday in April A. D. 1864, to hear the record and proceedings aforesaid, and the errors assigned, if he 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 Charles A. Frick

notice, together with this writ.

Witness, The Hon. Pinkney H. Walker, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this fifth day of April in the year of our Lord One Thousand Eight Hundred and Sixty-four



L. Leland
Clerk of the Supreme Court.
J. B. Riney Deputy

¹²⁹
The President and
Trustees of the Town
of Kentbury

Charles A. Frick

Scm fees

Sheriff fees

Ret	10
Postage	10
	20

Filed Apr. 29. 1864.
L. Keland
Clk.

I cannot in my County find the partition named
Charles, of which I spoke April 18th 1864
D. A. Bridgford
Sheriff of Mercer County

SUPREME COURT OF ILLINOIS,
THIRD GRAND DIVISION.
APRIL TERM THEREOF, A. D. 1864.

The President and Trustees of the Town of Keithsburg }
vs.
Charles A. Frick. }

ERROR TO MERCER COUNTY.

Brief for Plaintiff in Error.

The essential and undisputed facts in this case are the following :

1. On the 27th day of October, 1855, the corporation of the town of Keithsburg, in said Mercer county, was duly organized under the general law of the State of Illinois relating to incorporating towns and cities in said State.
2. On the 10th day of November, 1855, an election was held in the limits of said corporation, when the legal voters of said town *owning real estate* within the limits of said corporation were permitted to vote for or against the said town of Keithsburg making a subscription to the capital stock of the Warsaw & Rockford Rail Road Company for a sum not exceeding \$20,000, at which election *legal voters residing within said town, but not owning real estate therein, were not allowed to vote* ; that all the votes cast at such election were in favor of such subscription ; and that no other election was ever held in said town in relation to taking stock in said Rail Road Company.
3. On the 16th of February, 1857, a special charter was, by the General Assembly of Illinois, granted to the said town, in which charter, by Section 17, "The subscription heretofore made by said corporation to the capital stock of the Warsaw & Rockford Rail Road Company for a sum not exceeding \$20,000," was attempted to be "*legalized and confirmed.*"
4. On the first day of June, 1857, the said town issued eight bonds of that date for one thousand dollars each, to the Warsaw & Rockford Rail Road Company, under an ordinance of said town passed on the 4th day of May, 1857, and printed on the back of each of said bonds, with forty coupons attached to each of them, in payment of so much of the subscription of said town to the stock of said Rail Road Company.

5. That the said town of Keithsburg has levied a special tax to pay the interest on said bonds, and collected the same and paid such interest for several years after the issuing of the bonds to said Rail Road Company, and has at different times appointed a proxy to cast the vote of said town in the election of directors for said Rail Road Company.

This leads to the consideration of the second question presented by this record :

If the town of Keithsburg had no power or authority to make a subscription to the Warsaw & Rockford Rail Road Company, and the bonds issued in payment of the same were void, then, could the said bonds be made valid by any action of the Board of Trustees of said town recognizing their validity, or by an act of the Legislature of this State?

The Legislature may change the remedies of parties, and perhaps cure some irregularities in the execution of powers by ministerial officers, but it is not competent for the Legislature to make contracts for parties, or make a void act valid. *McDaniel et. al. vs. Correll et. al.*, 19 Ills., page 228, which was a case where a bill was filed to set aside a will, and a decree obtained, with a summons issuing against only a part of the devisees under the will, and the error was sought to be corrected by an act of the Legislature; and this Court, in passing upon the legality of the act in question, use the following language :

"If it was competent for the Legislature to make a void proceeding valid, then it has been done in this case. Upon this question we cannot for a moment doubt or hesitate. They can no more impart a binding efficacy to a void proceeding than they can take one man's property from him and give it to another. Indeed, to do the one is to accomplish the other. * * The effect upon them (the legatees) is precisely the same as if it had declared in direct terms that the legacies bequeathed by this will to these defendants should not go to them, but descend to the heirs at law of the testator according to our law of descent. This it will not be pretended they could do directly, and they had no more authority to do it indirectly, by making proceedings binding upon them which were void in law."

The act of the Legislature of February 16, 1857, was therefore, so far as the same attempts to *"legalize and confirm"* the "subscription heretofore made," by the town of Keithsburg, to the Warsaw & Rockford Rail Road Company, for a sum not exceeding twenty thousand dollars, null and void; it being beyond the power of the Legislature to *legalize or confirm* a void act. Session Laws 1857, page 874, Sec. 17.

Neither could the said bonds be made valid by any action of the town authorities, because no act or proceeding which is absolutely void, can be "ratified" so as to have any binding force. *Clark vs. Board of Sup. Hancock Co.*, 27 Ills., page 310 where this Court held that — "If an election was held without warrant of law, or if it were ordered by a person or a tribunal having no authority, there could be no doubt that

"the whole proceeding would be absolutely void. Such an election, and every subsequent step would be unauthorized and void, and therefore incapable of ratification by the County authorities."

It is submitted that this case falls within the rule laid down by this Court in the case last cited. The town Trustees had no authority to call an election to vote for or against taking stock in said Rail Road Company, neither had it any authority to take such stock, and the whole proceeding was therefore void, and incapable of being ratified or made valid.

By the second section of the act of the Legislature passed February 16th, 1857, it being an act to incorporate the town of Keithsburg, the inhabitants of said town it seems were authorized to subscribe for and take stock in the Warsaw & Rockford Rail Road Company, to an amount not exceeding \$20,000, and to issue the bonds of said town in payment thereof to run for a term not exceeding twenty years, at a rate of interest not to exceed ten per cent. By the seventeenth section of the same act, "The subscription heretofore made by said corporation to the capital stock of the Warsaw & Rockford Rail Road Company of a sum not exceeding twenty thousand dollars, to be paid for in town bonds to run for twenty years at an interest not exceeding ten per cent, is hereby legalized and confirmed to the full extent and for the purpose for which such subscription was made," * * and the President of said corporation was authorized to issue bonds of the corporation as therein specified for the payment of such subscription. Session laws, 1857, page 857, sec. 2, and page 874, sec. 17.

The third and last question arising in this case would seem to be :

Were these bonds, introduced in evidence on the trial below, issued in payment of a subscription to the capital stock of said Rail Road Company made by said town, under the second section of the act of 1857, or were they issued by said town under the 17th section of said act and in payment of the subscription made by it to said Rail Road Company, which was attempted to be "legalized and confirmed?"

This question is, we think, easily settled by referring to the records and ordinances of said town. The ordinance passed May 4th, 1857, by the town of Keithsburg, and printed on the back of said bonds, recites as follows : "Whereas, by virtue of an ordinance of the Board of Trustees of the corporation of the town of Keithsburg, heretofore made, said corporation then being duly authorized under a general act of the legislature of the State of Illinois, providing for the incorporation of towns and cities, an election was held in said town by the citizens legal voters thereof, to vote for or against said corporation subscribing to the capital stock, in a sum not exceeding \$20,000, to the Warsaw & Rockford Rail Road Company, on the 4th [should be 10th] day of November, 1855, in pursuance of public notice, &c. * * and whereas, afterwards, on the 16th day of February, A. D. 1857, a special charter was granted, incorporating the said town of Keithsburg, whereby the subscription taken as aforesaid was legalized by the provisions following, to wit :

Section 17 of said special charter, being then copied into said ordinance, and reading as follows : "The subscription heretofore made by said corporation to the capital stock of the Warsaw & Rockford Rail Road Company, of a sum not exceeding twenty thousand dollars, to be paid for in town bonds to run for twenty years at an interest not exceeding ten per cent, is hereby legalized and confirmed to the full extent and for the purpose for which such subscription was made, and the President of said corporation is hereby fully authorized and empowered to execute and issue said bonds under his hand and the corporate seal of said town, and for the payment of which bonds, and the interest accruing thereon as the same becomes due, the faith of said corporation shall be fully pledged and bound. * * "

The whole of section seventeen of said special charter is copied into said ordinance, and printed on the back of each and all of the aforesaid bonds, giving notice to all who had anything to do with such bonds, whether as owner or otherwise, that they, and each of them, were issued in pursuance of the power vested in the Board of Trustees of said town by virtue of the election held on the 10th day of November, 1855, and the proceedings had under the same, and the 17th section of said special charter, by which such proceedings were attempted to be legalized and confirmed. The second section of said special charter is not even alluded to in said ordinance, and indeed it is not mentioned in any one instance by said town in any proceedings it may have had in relation to taking stock in the Warsaw & Rockford Rail Road Company, or in relation to the bonds issued by said town, and so far as the record in this case shows, section two, of said charter, has never, in any instance, been mentioned or taken any notice of in any ordinance or proceeding of said town. If this subscription had been made, and these bonds issued in payment thereof, under and in pursuance of the power and authority granted the board of trustees of said town by said section two, would not said board have referred to it in some ordinance or proceeding relating to such subscription and bonds? Can it be presumed for a moment that the said trustees were acting under the second section of said special charter, when they in all cases refer to the 17th section thereof, and the election held in November, 1855, as the source of the power and authority under which they claimed to act. These questions are so plain that their statement suggests the correct and only answer that can be given to them.

The town of Keithsburg in the ordinance above mentioned says, in substance, to said Rail Road Company, that it feared that its proceedings to make a subscription to the capital stock of said company, while it was acting under the general law relating to incorporating towns and cities, was illegal, and that it had obtained a special charter, in and by which the said proceedings had been "*legalized and confirmed.*" That it would then issue its bonds for the payment of its subscription founded thereon to the capital stock of said company, as fast as the same became due from the assessments made thereon, and that no *possible mistake* or question should arise as to its authority, it would print the section of said special charter on the back of said bonds, showing to every person into whose hands the same should fall, that the Legislature had legalized and confirmed its subscription, and that it claimed to act, and did act, so far as said bonds were concerned, from the authority derived from section 17, of said charter, and under the proceedings therein attempted to be legalized and confirmed.

As early as *April 2d*, 1857, a resolution was passed by the Board of Trustees of said town, authorizing the President of said board to issue "Corporation Bonds" as contemplated in the special charter granted to said town, "*on the subscription of the said town of Keithsburg to the capital stock of said Warsaw & Rockford Rail Road Company.*" What subscription is here referred to? It could not be a subscription to said Rail Road after the passage of said special charter, for the town had not then organized under said special charter, and it must have referred to the subscription "*heretofore made*" and attempted to be legalized and confirmed. It shows also, that a subscription was then made, in payment of which the President of said board was authorized to execute and issue the bonds of the town of Keithsburg—and only one subscription is mentioned in any ordinance or resolution of said town to the capital stock of the Warsaw & Rockford Rail Road Company, which is the one that was attempted to be "*legalized and confirmed*" by the Legislature in the special charter.

It is contended by the defendant in error that these bonds, and consequently the coupons which were attached to the same, were only voidable, supposing they were issued under the 17th section of said special charter, and that said town has ratified and confirmed the same by levying and collecting taxes to pay the interest on the same, and appointing a proxy to cast the vote of said town at one or more elections for directors for said rail road company, and that this case falls within the rule laid down by this Court in *Johnson vs. Stark Co.*, 24 Ills., page 75, which was to the effect that

informalities and irregularities in the issuing of bonds might be cured by the action of the corporation issuing them, in paying interest on the bonds and otherwise recognizing their validity ; there were other points in the case, but this was the chief rule established. In the case last cited it was admitted that the County had authority to issue the bonds from which the coupons were detached, but there was an irregularity committed in the issuing of said bonds, which, it was claimed, rendered them null and void. The facts in the case on trial are entirely different. Here it is claimed that the bonds were issued without *any authority* of law, and were, from their inception, entirely *void*, and consequently could not be made valid, by any act of recognition by said town, or by any curative act of the Legislature. *McDaniel et. al. vs. Correll et. al*, 19 Ills., page 227; and *Clark vs. Hancock Co.*, 27 Ills., page 305.

It is claimed that by the second section of the act of 1857, the board of trustees of said town had authority to take stock in said Rail Road Company without the consent of the legal voters thereof, and to issue the bonds of said town in payment of such stock, which would be valid and binding ; and that the issuing of these bonds by the President and Trustees of Keithsburg, is but a fair exercise of such power.

This position has, perhaps, already been answered. It may, possibly, be competent for the Legislature to enable the county court of a county, the common council of a city, or the board of trustees of a town, to take stock, or make a subscription to the capital stock of a rail road company, without the consent of the legal voters of such county, city or town, but it is seldom if ever done in this State. And so far as this case is concerned, it makes no difference what power may have been granted by the second section of the act of 1857 to the president and trustees of Keithsburg, inasmuch as they have *never exercised such authority*.

These bonds were issued in payment to a subscription to said Rail Road Company, which was attempted to be "*legalized and confirmed*" in the 17th section of the act of February 16, 1857, which was based on the election and proceedings of said town in 1855. Steps were taken to issue bonds in payment of such subscription or some part of it before the town was organized under the special charter, and all the ordinances and resolutions of the town show that the board of trustees were acting under the election of November 10, 1855, and proceedings had subsequent to that time, and the attempted legalization of the same in the special charter granted to the town as above mentioned.

The plaintiff below cannot be considered as an *innocent holder* of the bonds and coupons, because the law under which they were issued is printed on the back of the bonds, giving notice to every holder thereof of the law and authority under which they were made and issued.

To recapitulate—the plaintiff's position is this :

HARRIS & SPAULDING, *Attorneys for Plaintiff in error.*

129 15-

Town of Kithsburg.

Chas A. Frost

Plaintiffs Brief
Argument

Filed April 19, 18

L. Sealand

President and Trustees of } Supreme Court of
the Town of Kithsburg, } Illinois, 3rd Grand-
Division -
Charles A. Dirick }
Error to Mercer County.

The Clerk of said court will please issue
writ of error to Clerk of Circuit Court of Mercer
County and a Scifa. to Charles A. Dirick
defendant in error, directed to the Sheriff of
Mercer County Robt. J.

Harris & Spaulding -
attys for Pff.
in Error.

The President &
Trustees of the town
of Kuthsburg

vs

Charles A. Frick

Precipe

Filed April 5th 1884
L. Leland
Clerk

State of Illinois Mercer Circuit Court
Mercer County & September Term 1863.

Pleas before the Honorable Charles B. Lawrence
Judge of the Sixth Judicial Circuit of the State of Illinois
at a term begun and held at the Court House in
the Town ofledo in said County on the first Monday
in the month of September in the year four thousand and
eight hundred and sixty three it being the seventh day
of said month in said year.

When Present Honorable Charles B. Lawrence Judge &
James H. Stewart State Atty.
Oliver A. Bridgford Sheriff
James M. Mannon Clerk.

Be it known that here tofore to wit: on the 15th day of
August 1863 came R. & J. H. Bassett counsellors at law
and filed in said Court a Precept for Summons. Bond
for Costs and Declaration in the words and figures
following to wit:

State of Illinois Mercer County Circuit Court
Mercer County & To the September Term AD 1863.
Charles C. Smith

vs The Debt: Debt. 14,000 / Damages 200
The President and Trustees of the Town of Ruthsburg
The Clerk will issue Summons for the President and
Trustees of the Town of Ruthsburg in an action of Debt, Debt 14,000. /
Damages 200 as in the above entitled cause, directed to the Sheriff
of Mercer County J. R. & J. H. Bassett Attorneys

"State of Illinois Mercer County ss.

Charles A. Frick

Merger County Circuit Court
The President and Trustees of the Board of Trustees

I do hereby enter myself security for costs in this cause, and acknowledge myself bound to pay or cause to be paid all costs which may accrue in this action, either to the opposite party, or to any of the officers of this Court, in pursuance of the laws of this State. Dated this Fifteenth day of August AD 1863.

John A. Bassett.

On the back of which bond is the following endorsement to wit:

"Filed and approved the 15th day of August AD 1863 &

J. M. Mannon Clerk

By H. P. Brown Dep.

"State of Illinois In the Circuit Court of the
Mercer County & September Term AD 1863.

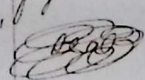
Charles A. Frick the plaintiff in this suit by J. A. Bassett his attorney complains of the President and Trustees of the Board of Trustees the Defendant in this suit of a Plea, that it owes to the said Charles A. Frick, the sum of Fourteen thousand dollars which it owes to, and unjustly detains from him.

For that whereas the said defendant heretofore to wit on the first day of June in the year of our Lord one thousand eight hundred and fifty seven at Keokuk in the County of Mercer State of Illinois by its its seven certain writings obligatory severally sealed with its seals severally numbered, one, two, three, four, six, seven and eight and each in the word following to wit:

3
Town of Keithsburg Rail Road Bond
State of Illinois \$1000.

Know all men by these presents that the town of Keithsburg is hereby held and bound unto the Warsaw & Rockford Rail Road Company in the sum of One thousand Dollars which the said town of Keithsburg promises to pay at the American Exchange Bank in the City of New York to Warsaw & Rockford Rail Road Company or assigns twenty years after the date hereof with interest at the rate of ten per cent per annum from the date of this bond payable at the American Exchange Bank in the City of New York viz: on the first day of December A.D. 1857 and semi annually thereafter on the Presentation and delivery of the respective interest coupons hereto severally adjoined. This Bond is issued under authority and subject to provisions of an act of the Legislature of the State of Illinois, and the Ordinances of the town of Keithsburg copies of which are hereto attached.

This Bond is redeemable at the expiration of twenty years from the date hereof. In Testimony whereof and pursuant to the authority granted by said act and ordinances, the President of the Board of Trustees of the Town of Keithsburg has signed and the Clerk of said Corporation has countersigned these presents, and caused the seal of said Corporation to be affixed hereto, at the town of Keithsburg in the County of Mercer, and State of Illinois this first day of June A.D. 1857.



R. Keith President
M. J. O'Brien Clerk.

To which said several writings obligatory there were respectively attached forty interest Coupons for Fifty Dollars each, three of which coupons to each writing obligatory, were severally and respectively due and payable on the first day of June A.D. 1862 the first day of December?

4

1862 and the first day of June 1863, which said seven writings obligatory with said Coupons attached were then and there delivered to the said Warsaw & Rockford Rail Road Company, and the said Warsaw & Rockford Rail Road Company afterwards to wit: on the day and year last aforesaid endorsed the said seven writings obligatory to the plaintiff, with the said Coupons attached which said several writings obligatory are now to the Court here shown

2 Count

And whereas also the said defendant on the first day of June A.D. 1867 at Pittsburgh in the County of Mercer aforesaid by its seven other writings obligatory severally sealed with its seals and now to the Court here shown acknowledged itself to be held and firmly bound severally unto the Warsaw & Rockford Rail Road Company in the sum of One thousand Dollars upon each several writings obligatory to be paid to the said Warsaw & Rockford Rail Road Company or assigns at the American Exchange Bank in the City of New York in twenty years after the date thereof, with interest at the rate of ten per cent per annum from the date of said writings obligatory payable at the American Exchange Bank in the City of New York on the first day of December A.D. 1867 and semiannually thereafter, on the presentation and delivery of the respective interest coupons thereto severally adjoined to which said several writings obligatory there were attached thirty interest coupons for the payments of interest as specified in said writings obligatory, three of which coupons attached to each several writing obligatory were for fifty dollars each, interest due and payable respectively on the first days of June and December 1862 and the first day of June 1863, which said writings obligatory in

5

This Court mentioned with the said several coupons attached were severally delivered to the Warsaw & Rockford Rail Road Company on the day and year first above mentioned, and then and there endorsed and delivered to the Plaintiff. And whereas also the said defendant, afterwards to wit on the first day of August in the year of our Lord One thousand eight hundred and Sixty three was indebted to the said Plaintiff in the sum of Seven ~~hundred~~ thousand Dollars, for money then lent by the Plaintiff to the defendant at its request; and for money paid by the Plaintiff for the use of the defendant at its request, and for money found to be due to the Plaintiff from the said defendant upon an account then stated between them; and for interest upon, and for the forbearance of divers large sums of money before then due and owing from the said defendant to the Plaintiff and by the said Plaintiff foreborne to the said defendant for divers large long spaces of time, before then elapsed, at the like special instance and request of the said defendant, and being so indebted, the said defendant in consideration thereof then and there undertook and agreed to pay the Plaintiff the moneys in this Court mentioned when requested.

Yet the said defendant, although often requested so to do, hath not as yet paid, the said sum of Fourteen thousand Dollars above demanded or either of them or any part thereof, to the said Plaintiff, but hath hitherto wholly refused and still doth refuse to the damage of the said Plaintiff of two thousand Dollars, and therefore he brings his suit by J. R. & J. M. Bassett
his attorney

The following are copies of the instruments

6
sued on which with the coupons, attached of which copies
are herewith given are relied on to recover in this suit.

J. R. & J. A. Bassett

Attys for Plaintiff

(\$1000.)

(No. 1)

Town of Ruthsburg Rail Road Bond
State of Illinois

Know all men by these presents that the Town of Ruthsburg
is hereby held and bound unto the Warsaw & Rockford Rail Road
Company in the sum of One thousand Dollars, which the said
town of Ruthsburg promises to pay at the American Exchange
Bank in the City of New York, to Warsaw & Rockford Rail Road Company
or assigns, Twenty years after the date hereof with interest at
the rate of ten per cent per annum, from the date of this bond,
payable at the American Exchange Bank in the City of New York
viz: On the first day of December A.D. 1857 and semi-annually
thereafter on the presentation and delivery of the respective interest
coupons hereto severally adjoined. This Bond is issued under
authority and subject to provisions of an act of the Legislature of
the State of Illinois, and the ordinances of the town of Ruthsburg,
copies of which are hereto attached. This bond is redeemable at the
expiration of twenty years from the date hereof.

In Testimony whereof and pursuant to the authority granted
by said Act, and Ordinances, the President of the Board of
Trustees of the town of Ruthsburg has signed, and the Clerk of said
corporation has countersigned these presents and caused the
seal of said Corporation to be affixed hereto at the town of
Ruthsburg in the County of Mercer and State of

7
Illinois this first day of June 1st 1857
R. Keith President
M. J. O'Brien Clerk.

On the face of said bond is written
"Pay to Bearer," S. S. Phelps Pres. N & R. R. R

To said bond were attached the following coupons (with others)
to wit: Town of Keithsburg Mercer County Ill, Warsaw &
Rockford Rail Road Bond No. 1, June 1st 1857, Pay the bearer fifty
dollars on the first day of June 1862 interest to that date

R. Keith President

Town of Keithsburg Mercer County Ill, Warsaw & Rockford
Rail Road Bond No. 1, June 1st 1857, pay the bearer fifty dollars on
the first day of December 1862 interest to that date

R. Keith President.

Town of Keithsburg Mercer County Ill, Warsaw & Rockford Rail
Road Bond No. 1, June 1st 1857 Pay the bearer fifty dollars on the
first day of June 1863 interest to that date.

R. Keith President.

The above is a copy of Bond No. 1 and the three coupons
attached, and is also a correct copy of the other six Bonds and the
three coupons attached to each, relied upon with the exception that
the bonds and coupons are severally numbered 2, 3, 4, 6, 7 & 8

J. R. & A. Bassett

Copy of g/s declared on The town of Keithsburg
to Charles A. Frick Dr

To money had and received	\$14000.00
" " due on accounts stated	\$14000.00
" " due for interest on money	\$14000.00
" " paid for use of dep't	\$14000.00

Upon the filing of which Process, Bond for Costs and Declaration Summons issued in the words and figures following to wit:

State of Illinois The People of the State of Illinois,
Mercer County & To the Sheriff of Mercer County Greeting;

We command you to summon the President and Trustees of the Town of Keokuk to be found in your county, personally to be and appear before the Circuit Court of said Mercer County on the first day of the next term thereof to be held at the Court House in Alton on the first Monday of September next, there and then to answer unto Charles A. Frick of a file of Debt: due in the sum of fourteen thousand (\$14,000) Dollars & to his damage in the sum of (\$2,000) Two thousand Dollars, as he says and have you then this writ and make return thereon in what manner you execute the same.

Witness James M. Marrison Clerk of our Circuit Court and the seal then of Alton, this 15th day of August in the year four thousand eight hundred and sixty three J. M. Marrison Clerk

Expire Stamp 50 cts.

By A. O. Brown Deputy

On the back of which Summons appears the following endorsements to wit:

I have served the within Summons by reading & delivering a true copy of the same to the within named B. D. Ellett & William H. Hughes this 24th day of August A.D. 1863

O. A. Bridgford Sheriff

Filed 1 Sept 1863 J. M. Marrison Clerk

By A. O. Brown Dep. Clerk,

1863 came the parties by their attorneys and filed their agreement herein in the words and figures following to wit:

It is admitted that on the 30th day of October 1855, in obedience to an ordinance of the town of Keithsburg, then passed notices were posted in ~~fronts~~ of the most public places in said town notifying the freehold voters of said town that an election would be held on the 10th day of November 1855, at which election the freehold voters of said town would be permitted to vote for or against said town taking a subscription to the capital stock of the Warsaw & Rockford Rail Road Company not exceeding twenty thousand dollars by the issue of bonds to run twenty years at interest not to exceed ten per cent per annum, interest payable semi annually - the proceeds of which bonds to be applied exclusively to the grading and tying of that portion of said road located between the towns of Keithsburg in Mercer County Illinois, and the town of Ogawata in the County of Henderson in the State of Illinois, and in pursuance of said notices an election was held within the corporate limits of said town on the said tenth day of November 1855 for the purposes in said notices specified, at which said election persons residing in and being the owners of real estate in said town were allowed to vote - persons not owning real estate in said town but residing therein and being legal voters were not allowed to vote, and that no other election was ever had in said town in regard to the said town taking stock in said ^{rail} road company. And it is further admitted that on the 1st day of June 1857 bonds numbered one, two, three, four, six, seven & eight were issued by the President and Trustees of the Board of Keithsburg in said Mercer County, that the signature of Robert Keith to each of said bonds is genuine and made while

11
he was President of the board of Trustees of said town, that the signature of M^r J. O'Brien upon each of said bonds is genuine and made while he was clerk of the board of Trustees of said town, that the signature of S. S. Phelps to the indorsement on each of said bonds is genuine and made while he was President of the Wareham & Taunton Rail Road Company, that the signature of John McKinney to the certificate on each of said bonds is genuine and made while he was treasurer of said Rail Road Company. That the coupons sued on in this case were attached to said bonds respectively and the signature of Robert Smith to each of these same is genuine and made while he was President and at the time of the making the bonds, of the Board of Trustees of said town. The above and foregoing is to be taken and considered as an agreement in the case of Charles C. Smith vs the President & Trustees of the Town of Taunton, pending in the Worcester County Circuit Court September Term 1863. J. R. & A. N. Bassett attys for Plaintiff

Pepper & Harris & Spaulding attys for Defs.

It is also admitted that a demand was made on the treasurers of said corporation for the payment of the coupons on which this suit brought which was refused and that such demand was made before the commencement of this suit, that at the election held on the aforesaid 10th day of November 1855 forty seven votes were cast & all of them in favor of such subscription J. R. & A. N. Bassett

attys for Plaintiff

Pepper & Harris & Spaulding
attys for Defs.

And afterwards to wit: on the said 16th day of September 1863 in said Court the following pro

ceedings were had in said cause to wit:

Charles A. Frick

77

vs

Debt.

The President & Trustees of the Town of

Keithsburg

Witness Thomas B. Cateen having been brought into Court on an attachment issued herein, and he having purged himself of his supposed contempt, It is ordered by the Court that he be discharged, and that the costs of the writ of attachment be taxed against the Plaintiff herein

And afterwards to wit on the same day and year last aforesaid the following order was made by said Court in said cause to wit:

Charles A. Frick

77

vs

Debt.

The President & Trustees of the Town of Keithsburg

This day came the parties by their attorneys and issues being joined and jury waived for trial submitted this case to the Court. And the Court having heard the evidence takes the case under advisement to be decided in vacation by consent as of this term, either party to have sixty days after entry of judgment for filing bill of exceptions and praying and appeal, and filing an appeal bond in such sum as the Court shall direct with security to be approved by the Clerk.

And afterwards to wit: on the 29th day of October, 1863, the following order was made by the Judge of said Court in said case to wit: "In Vacation

October 29th 1863.

Charles A. Frick

vs 3 In Debt.

77

3

The President and Trustees of the town of Deithsburg
 And now on this 29th day of October A.D. 1863
 at the Chambers of the Judge of this Court and in the vacation
 of the Mercer Circuit Court the parties hereto by their attorneys
 being present, and the Court having fully considered the matters
 herein and being sufficiently advised in the premises finds the issues
 for Plaintiff and also finds the amount of his debt herein to be ten
 hundred and fifty dollars. It is therefore ordered by the Court that Plaintiff
 recover of the said defendants the said sum of ten hundred and fifty
 dollars his debt aforesaid, together with his cost herein and may have
 execution therefor. And the said defendants by their said attorney
 having excepted to the ruling in the rendition of said judgment
 prayed an appeal to the Supreme Court of this State, which appeal the
 Court grants upon condition that said defendants file their
 appeal bond herein within sixty days from this date, in the penal
 sum of Two thousand dollars with security to be approved by the
 Clerk by consent of the parties, and that they also file their bill of exceptions
 herein within sixty days from this date.

and afterwards to wit on the 23rd day of January 1864
 came the said defendants by their attorney and filed their Bill
 of Exceptions herein in the words and figures following to wit:

"Charles A. Trick

3 In the Circuit Court of the County
 3 of Mercer and State of Illinois September
 Term A.D. 1863.

The President and Trustees of the town of Deithsburg
 Be it remembered that on the trial of the above
 entitled cause in said court at said term a jury was waived &
 the case submitted to the Court by consent, the plaintiff to maintain
 the issues on his part offered in evidence omni bonds made by the

said Town of Keithsburg of Mercer County in the State of Illinois numbers respectively 1, 2, 3, 4, 5, 6, 7 & 8 and the Ordinance of the said Town of Keithsburg passed on the 4th day of May 1857 and printed on the back of each of said bonds, each being bond being for one thousand dollars with coupons attached bearing date June first 1857 and due in twenty years to the Hannaw & Rockford Rail Road Company which said Bonds and the ordinance on the back of said bonds are in the words and figures following to wit:

\$1000.

No. 1.

Town of Keithsburg Rail Road Bond State of Illinois.

Know all men by these presents that the Town of Keithsburg is hereby held and bound unto the Hannaw & Rockford Rail Road Company, in the sum of one thousand Dollars which the said Town of Keithsburg promise to pay at the American Exchange Bank in the City of New York, to Hannaw & Rockford Rail Road Company or assigns Twenty years after the date hereof, with interest at the rate of ten per cent. per annum, from the date of this Bond, payable at the American Exchange Bank, in the City of New York viz; on the first day of December 1857 and Semi-annually thereafter on the presentation and delivery of the respective interest bearing coupons hereto severally adjoined.

This Bond is issued under authority and subject to provisions of an act of the Legislature of the State of Illinois, and the Ordinances of the Town of Keithsburg, copies of which are hereto attached.

This Bond is redeemable at the expiration of Twenty years from the date hereof. In Testimony whereof, and pursuant to the authority granted by said act and Ordinances the President of the Board of Trustees of the Town of Keithsburg, has signed and the Clerk of said Corporation has countersigned these presents and caused the

seal of said Corporation to be affixed hereto at the town of Keithsburg in the County of Mercer and State of Illinois.
 this first day of June 1857 R. Keith President
 M. J. C. Brien Clerk

Across the face of which is the following
 "Pay Bearer

S. S. Phelps Pres. N & R. R. R."

and on the back thereof the following.

Corporation of Keithsburg.

Ordinance No. 28. Ordinance to issue Town Bonds to the Hannawand Rockford Railroad Company for their purposes
 Whereas by virtue of an Ordinance of the Board of Trustees of the Corporation of the Town of Keithsburg heretofore made, said Corporation then being duly authorized, under a general act of the Legislature of the State of Illinois providing for the organization and incorporation of towns and cities within said State an election was held in said town by the citizens, legal voters thereof, to vote for or against said Corporation subscribing to the Capital Stock in a sum not exceeding \$20,000 in the Hannawand Rockford Railroad Company, on the fourth day of November 1855, in pursuance of Public Notice duly given by the Clerk of said Board of town trustees, which said election was conducted in the usual form, and which resulted in a unanimous vote in favor of taking said subscription and whereafter to wit: on the 10th of February A.D. 1857 a special charter was granted by the Legislature of the State of Illinois incorporating the said Town of Keithsburg, whereby the subscription taken as aforesaid was legalized by the provisions following to wit:
 Sec. 18 - the subscription heretofore made by said Corporation to the Capital Stock of the Hannawand Rockford Railroad Company for a sum not exceeding

Twenty thousand Dollars to be paid for in Town Bonds to run for twenty years at an interest not exceeding ten per cent, is hereby legalized and confirmed to the full extent and for the purpose which subscription was made, and the President of said corporation is hereby fully authorized and empowered to execute and issue said bonds under his hand and the corporate seal of said town, and for payment of which bonds and the interest accruing thereon as the same become due, the faith of said corporation shall be fully pledged and bound: and whenever said bonds shall be issued a lien is hereby declared to be created against all the real estate within the bounds of said corporation to secure the faithful payment thereof and the interest that may accrue thereon. The said President and Trustees are hereby vested with full power to make provision for the payment of the same by levying a special tax to be collected as other taxes are herein provided for."

Now therefore, be it ordained by the President and Trustees of the corporation of the Town of Keithsburg,

Sec. 1. That the President of said Board is hereby authorized, empowered and directed to subscribe in the sum of Twenty thousand Dollars to the capital stock of the Harrow and Rockford Rail Road Company on the behalf and in the name of said corporation by which said act of its executive officers the faith of said corporation shall be irrevocably pledged to said Company in the sum of Twenty thousand Dollars, that for the assessment estimates heretofore made and hereafter to be made on that portion of said Harrow and Rockford Rail road between the stations thereon or near the town of Keithsburg in Mercer County, and the town of Ogawka, in Henderson County, including the first five per cent, to be paid upon subscription, the President and Clerk of said Board for the time being shall execute the Bonds of said

1/2
17
corporation for the sum of One thousand Dollars each for the amount assessed upon the stock so subscribed by the said Corporation of Keithsburg, signed by the President as provided for by the act of Incorporation aforesaid, and also that the said Bonds be attested by the Clerk of said Board, which said Bonds shall be dated when issued, and shall be made due and payable in Twenty years from the date thereof.

The said Bonds shall be made payable to the order of the Warsaw and Rockford Rail Road Company, principal and interest at the American Exchange Bank in the City of New York and shall bear interest at the rate of ten per cent per annum, payable semiannually, and for which coupons bearing date as the bonds aforesaid, signed by the President of said Corporation, shall be attached. Said Bonds in other respects shall be in the usual form and shall be entitled "Warsaw and Rockford Rail Road Bonds": upon the back of which this Ordinance authorizing their issue shall be printed. That said Bonds when executed as provided in the preceding Section, shall be delivered to the directors of the Warsaw and Rockford Rail Road Company, in the payment of the subscription aforesaid, by the said Corporation of the Board of Keithsburg to the capital stock of said company as the Board of Trustees of said Corporation shall from time to time direct.

Be it further ordained that an annual tax shall be levied by the Board of Trustees of the Corporation aforesaid on the assessed value of all the real estate within the limits of said Corporation and all the personal property of the inhabitants thereof, sufficient to pay the interest for one year on all said bonds so issued and delivered to the Directors of said company after deducting such dividends on said stock as may from time to time be made to said Corporation by said company, said dividends so far as the same may

extent, to be applied to the payment of said interest.

And when said levy shall have been made by the Board of Trustees as aforesaid, it shall be the duty of the said Board of Trustees to have the same entered on the collector's Books for the year in which the said levy shall be made, and in a separate column, to be denominated Rail Road Tax, which tax shall be collected in the same manner as other taxes of the said Town Corporation, and the payments thereof by the same regulations and provisions of Statute and Ordinance as are and may be in reference to all other taxes of said corporation. That it shall be the duty of the Treasurer of said corporation to keep all monies arising from the collection of said Rail Road tax separate and apart from the ordinary funds of said Corporation, to be paid out by him or the order of the President of said Board countersigned by the Town Clerk, to the satisfaction of the interest semi-annually accruing and due on said Bonds and for no other purpose or purposes whatsoever.

That the Rail Road stock of which said corporation of Keithsburg shall become seized and possessed by the subscription herein before provided for, and all dividends arising therefrom are hereby pledged and set apart for the payment of principal and interest of the Bonds of said corporation issued for and in payment of said subscription and no money of said Rail Road stock shall be sold by said corporation the proceeds of every such sale shall be applied forthwith to the redemption of said Bonds, so far as the same may extend thereto, and for no other purpose whatsoever. That any holder or owner of any or all of said corporation Bonds may at any time deposit the same with the corporation and receive in exchange therefor an

equal amount of Railroad stock; Provided the application for such exchange shall be made before the said corporation shall have sold or otherwise disposed of said Railroad stock so applied for.

Be it further ordained, that at all elections for directors for said Harrow and Rockford Rail Road or other elections in which stockholders of said Company by the rules and regulations thereof are authorized or entitled to vote such vote or votes as said corporation of Keitsburg may be entitled to cast by virtue of her said subscription of Twenty thousand dollars, shall be thrown on behalf of said corporation by the President for the time being or such other person or persons as the Board of Trustees thereof may designate, for such purpose or by such proxy or proxies as may by him or them so designated ~~be appointed~~ by said Board be appointed in accordance with by laws of said company, said ~~undel-~~gated authority, stock of said corporation to be represented by undelgated authority, in the same manner and to the same extent; subject to the same restrictions as stock owned and represented by individuals in said company.

Passed May 4th 1857

Robert R. H. President

Mark J. O'Brien Secretary.

State of Illinois

Mercer County J. Mark J. O'Brien Clerk of the Corporation of the

County of Keitsburg in the County and State of said certify the foregoing to be a true copy from the records of said corporation. Per Testimony whereof I have hereunto set my

hand and affixed the seal of said Corporation this first day of June 1857 Mark J. O'Brien Clerk

We certify that the within Bond

has been received at par and in lieu of cash, in payment
of an installment of the subscription of the Revue Kathoburg
to the capital stock of the Warsaw and Rockford Railroad Company
to the amount required to be paid at the time of said two
subscriptions, and for the amount of dividends the time when a
like assessment upon all the stockholders of said company
was regularly assessed and made payable. Sept. 7th 1857

John McKinney

Treasurer W & R. R. R. Co.

21

To the admission of which said bonds and each of them to be read in evidence on such trial the said defendant by its counsel objected. First because the same and each of them were issued without any authority of law and were void, and because they and each of them were improper and incompetent evidence in the case but the Court overruled said objection of the defendant and permitted said bonds to be read in evidence, to which opinion and decision of the Court in overruling said objection and permitting said bonds to be read in evidence the defendant by its counsel then and there excepted. And thereupon the plaintiff to further maintain the issues on his part offered in evidence on the trial of said cause twenty one Coupons which had been detached from said bonds and they being for interest on said bonds, and were according to the terms thereof respectively, June 1st 1862, December 1st 1862 & June 1st 1863 thereof said coupons being detached from each of said bonds which said coupons are in the word and figures following to wit:

Town of Keithsburg Mercer County Ill. Warsaw & Rockford Rail Road Bond No. 1 June 1st 1857, pay the bearer fifty Dollars on the first day of June 1862 interest to that date

R. Keith President

Town of Keithsburg Mercer County Ill. Warsaw & Rockford Rail Road Bond No. 1 June 1st 1857, pay the bearer fifty Dollars on the first day of December 1862, interest to that date.

R. Keith President

Town of Keithsburg Mercer County Ill. Warsaw & Rockford Rail Road Bond No. 1 June 1st 1857, pay the bearer fifty

Dolla is, on the first day of June 1863, interest to that date.

R. Keith President

To the admission of which said Coupons and each of them to be read in evidence the defendant by its Counsel then and there objected, because said Coupons and each of them were void, because they and each of them were cut and detached from the aforesaid bonds which were issued contrary to law, and as interest was due on the same, and because they were incompetent and improper evidence in the case, but the Court overruled said objection of the defendant and permitted said Coupons to be read in evidence in said cause, to ~~which~~ which opinion and decision of the Court in overruling said objections and permitting said Coupons to be read in evidence the said defendant by its Counsel then and there ~~objected~~ excepted. The Plaintiff then offered and read in evidence the agreement of the parties to this suit for the purpose of the said trial which said agreement is in the words and figures following to wit.

It is admitted that on the 30th day of October A.D. 1855 in obedience to an ordinance of the town of Keithsburg then passed notices were posted in four of the most public places in said town notifying the freehold voters of said town, that an election would be held on the 10th day of November 1855 at which election the freehold voters of said town would be permitted to vote for or against said town taking a subscription to the capital stock of the Wisconsin & Rockford Railroad Company not exceeding twenty thousand dollars by the issue of bonds to run twenty years at interest not to exceed ten percent per annum, interest payable semi-annually, the proceeds of which bonds to be applied exclusively to the grading and tying of that portion of said road located between

the town of Keithsburg in Mercer County Illinois, and the town of Ozarks in the County of Henderson in the State of Illinois, And in pursuance of said notice an election was held within the corporate limits of said towns on the said tenth day of November 1855 for the purposes in said notice specified, at which said election persons residing in and being the owners of real estate in said towns were allowed to vote - persons not owning real estate in said towns but residing therein and being legal voters, were not allowed to vote, and that no other election was ever had in said towns in regard to the said towns taking stock in said railroad company.

And it is further admitted that on the 1st day of June 1857 bonds numbered One, two, three, four, five, seven & eight were issued by the President and Trustees of the town of Keithsburg in said Mercer County, that the signature of Robert Keith to each of said bonds is genuine and made while he was President of the Board of Trustees of said town, that the signature of M^{rs} J. P. O'Brien upon each of said bonds is genuine and made while he was Clerk of the Board of Trustees of said town, that the signature of J. S. Phelps to the endorsement on each of said bonds is genuine and made while he was President of the Warsaw & Rockford Railroad Company, that the signature of John M. Kinney to the certificate on each of said bonds is genuine and made while he was treasurer of said railroad company, that the coupons attached in this case were attached to said bonds respectively and the signature of Robert Keith to each of the same is genuine and made while he was President, and at the time of the making the bonds of the Board of Trustees of said town. The above and foregoing is to be taken and considered as an agreement in the case of Charles

McNish vs The President & Directors of the town of Keithsburg pending in the Mercer County Circuit Court, September Term 1868

*J. R. & A. N. Bassett atty for Plaintiff
Pepper & Harris & Spaulding atty for Deft.*

It is also admitted that a demand was made on the Treasurer of said Corporation for the payment of the coupons on which this suit is brought which was refused and that such demand was made before the commencement of this suit, that at the election held on the afore said 10th day of November 1858 forty seven votes were cast & all of them in favor of such subscription.

*J. R. & A. N. Bassett atty for Plaintiff
Pepper & Harris & Spaulding atty for Deft.*

Whereupon the Plaintiff to further maintain the issues on his part on the trial of said cause offered and read in evidence without objection the record of the incorporation of the town of Keithsburg afore said under the General law of the State of Illinois & which said record is in the words and figure following to wit:

Whereas the white male residents of the town of Keithsburg in the County of Mercer and State of Illinois, said town having over one hundred and fifty inhabitants wishing to become incorporated for the better regulation of their internal police did in pursuance of the Statute in such case made and provided on the 29th day of September A.D. 1858. assemble themselves together in public meeting at the Court House in said town ten days previous public notice of the time and place of said meeting having been given by setting up written notice thereof in three of the most public places in said town afore said and proceeded to choose St. Clair Ross President and J. B. Ross Clerk of said meeting who after being duly sworn to faithfully discharge

the trust reposed in them severally as President and Clerk aforesaid.

The said residents being over twenty one years of age and ~~being~~ having resided over six months therein proceeded to vote by Ballot whether they would become incorporated or not, and as appears from a Poll Book of said Election and Certificates of the same under the hands of the said President and Clerk, by them delivered to the Board of Trustees herein after mentioned, which said Poll Book and Certificate is now on file and entered of record in the County Clerk's office of said County and State aforesaid, there was eighty votes cast in favor of said town becoming incorporated and not any ^{and also offered and read in evidence the record of the election of the Board of Trustees and President of said incorporation under the general incorporation laws of this State, which record is in the words and figures following to wit:} against it.

And whereas the said qualified Voters having decided that they wished to become incorporated, therefore in pursuance of public notice given by said Clerk five days previous the said residents qualified voters of said town did on the 6th day of October A.D. 1855 assemble at the Court House in said town it being the time and place mentioned in said notice by said Clerk and proceeded to elect by Ballot five residents and freeholders of said town for Trustees of same. Whereupon Robert Kirk, William Gayle, Abraham Rife, Abraham B. Sheriff and Thomas B. Bebeew were duly chosen.

Who afterwards to wit: on the 27th day of October A.D. 1855 met and after being duly sworn to faithfully discharge their duty as Trustees proceeded to organize by choosing Robert Kirk out of their number as President and proceeded to enact, make, ordain and establish the following by laws and ordinances to wit:

No. 1. As it ordained by the President and Trustees of the town of Smithburg that Jas. A. Holt be and is hereby appointed Clerk of our said Board, whose duty it shall be to keep a fair Journal

and also offered and read in evidence the record of the organization of the said town of Keithsburg under the said charter granted to said town in the year 1857 and which said record is in the words and figures follows to wit:

Keithsburg Ills. March 2nd 1857

Board of Town Trustees met at A. Ripes Counting Room at 7 o'clock P.M. Present Robt. Keib President, S. B. Cabeen, A. B. Sheriff John H. Marshall, A. Ripe Trustees, J. A. Noble Clerk.

Whereupon the act to incorporate the town of Keithsburg or a certified copy thereof passed by the General Assembly of our state, signed and approved by W. H. Bissell Governor of the State of Ills., was read to the Board dated Springfield Ills. February 16th 1857, whereupon the following resolutions was offered by A. B. Sheriff:

Resolved that our clerk cause a notice to be published in the Keithsburg Observer of an election to be holden at the Court House in said town of Keithsburg for the purpose of electing five trustees for the town of Keithsburg pursuant to the act passed by the last General Assembly of the State of Illinois entitled an act to incorporate the town of Keithsburg Adopted

J. A. Noble Clerk

Keithsburg Ills. April 6, A.D. 1857.

Board met pursuant to adjournment at the Court House for the purpose of holding an election for trustees for the town of Keithsburg for the ensuing year in accordance with notices previously given and as may be seen by Pool Book on file on hand

Robt. Keib	Received Fifty one	Votes
A. B. Sheriff	"	Forty seven
A. Ripe	"	Sixty four
J. A. Marshall	"	"

J. N. Marshall	"	Fifty Six	"
Thos. B. Cabeen	"	Seventy eight	"
Jos. Thompson	"	Thirty five	"
Jahalon Sykes	"	Twenty	"
R. B. Cabeen	"	Twenty Three	"
Wm. H. Ungles	"	Seventeen	"

whereupon it was found that Robt. Keith A. B. Sheriff, H. Rife, J. N. Marshall, J. B. Cabeen were chosen as Trustees of the town of Ruthsburg for the year ending April 6, 1858.

And thereupon the said Plaintiff offered in evidence on the trial said cause all the ordinances passed by the said President and Trustees of the said town of Ruthsburg in relation to or concerning the aforesaid bonds both before and after the organization of said town under the said special charter, and which said Ordinances are in words and figures following to wit:

" Ruthsburg Ill. October the 30th 1855.

Board met pursuant to adjournment when Present Robt Keith President and Wm Gayle, Abram Rife, H. B. Sheriff & J. B. Cabeen Trustees

Ordinance No. 3

Be it Ordained by the President and Trustees of the Town of Ruthsburg Mercer County Illinois, that on Saturday the tenth day of November next it shall be lawful for the free hold voters of said town to hold an Election: to vote for or against said town incorporation taking a subscription to the capital stock of the Warsaw, and Rockford Rail Road Company not exceeding twenty thousand dollars by the issue of Bonds to run for twenty years at interest not to exceed ten per cent per annum, interest payable semiannually, the proceeds of which Bonds to be

applied exclusively to the grading and tying of that portion of said Road located between the town of Ruthsburg Mercer County Illinois and the town of Oquawka in Henderson County Illinois.

J. A. Noble Clerk

Ruthsburg Ill. April 2, 1857.

Board met present Robt. Ruth President, S. B. Leabeen, A. B. Shuff John H. Marshall, N. R. Truett and J. A. Noble Clerk
The following Resolution was offered by S. B. Leabeen and carried unanimously.

Resolved that the President of this Board of town Trustees be and is hereby directed to issue Corporation Bonds as contemplated in the act entitled an act "to incorporate the Town of Ruthsburg approved February 16th A.D. 1857, in Bonds of the denomination of One thousand dollars in proportion to the amount due on the subscription of the Corporation of Ruthsburg to the Capital stock of the Warsaw and Rockford Rail Road as may be shown to the satisfaction of the said President of the Board of Trustees of the town of Ruthsburg by the estimate of work done on the division of said Rail Road between the town of Oquawka in Henderson County State of Illinois and the town of Ruthsburg in Mercer County and State of Illinois
motion to adjourn to meet at the Court House on Monday the 6th inst at one o'clock P.M. carried J. A. Noble Clerk,

Ruthsburg Ill. April 15th 1857

Board met and proceeded to elect officers for ensuing year, R. Ruth President Pro tem, J. H. Marshall Secretary Pro tem on motion Robt. Ruth was elected President of the Board for one year

Motion to appoint a clerk and Treasurer carried, where on motion Jas. Noble was regularly appointed clerk and, W. J. Hughes Treasurer & David Lloyd Town Constable, St. Clair Ross Street Commissioner. On motion the clerk was directed to notify the several persons of their appointments.

Keithsburg Ill. May 2^d 1857.

Board of Trustees of the Town of Keithsburg met pursuant to adjournment
 Present Robt. Keith President, Thos. B. Cabee, John H. Marshall
 A. Rife Trustee A. B. Sheriff Trustee

W. J. O'Brien clerk. A. B. Sheriff offered the following resolutions which was adopted. Resolved &c

That the resolutions passed 2^d of April 1857, authorizing the President to issue Rail Road Bonds and the same be amended so that the said Bonds shall be issued in amt. of not less than one thousand dollars nor more than five thousand dollars R. Keith Pres.

W. J. O'Brien clerk

Keithsburg Ill. Monday May 4, 1857

Board met pursuant to adjournment Present Robt. Keith President
 T. B. Cabee Trustee Abram Rife Trustee
 John H. Marshall Trustee Abram Sheriff Trustee

W. J. O'Brien clerk being reported sick and unable to attend to business on motion A. B. Sheriff was appointed clerk Protem.

A. Rife offered the following preamble and Ordinances which was adopted entitled an ordinance to issue town bonds to the Warsaw & Rockford Rail Road Company and for other purposes.

Whereas by virtue of an Ordinance of the Board of Trustees of the Corporation of the Town of Keithsburg heretofore made, said Corporation then being duly authorized under a General act of the Legislature of the State of

Illinois providing for the organization and incorporation of Towns and Cities within said State an election was held in said town by the citizens legal voters thereof to vote for or against said Corporation subscribing to the Capital Stock in a sum not exceeding twenty thousand Dollars (\$20,000) in the Warsaw and Rockford Rail Road Company on the 4th day of November A.D. 1856, in pursuance of Public Notice duly given by the Clerk of said Board of Town Trustees which said election was conducted in the usual form and which resulted in a unanimous vote in favor of taking said subscription and whereas afterwards to wit: on the 16th day of February A.D. 1857 a Special Charter was granted by the Legislature of the State of Illinois incorporating the said town of Ruthsburg ~~whereof~~ whereby the subscription taken as aforesaid was legalized by the provisions following to wit:

Sec. 18.

The subscription heretofore made by said Corporation to the Capital Stock of the Warsaw and Rockford Rail Road Company of a sum not exceeding Twenty thousand dollars to be paid for in Town Bonds to run for twenty years at an interest not exceeding ten percent: is hereby legalized and confirmed to the full extent and for the purposes which said subscription was made and the President of said Corporation is hereby fully authorized and empowered to execute and issue said Bonds under his hand the Corporate Seal of said Town and for payment of which Bonds and the interest accruing thereon as the same become due, the faith of said Corporation shall be fully pledged and bound and whenever said Bond shall be issued a lien is hereby declared to be created against all the real estate within the ~~Bonds~~ Bonds of said Corporation to secure the faithful payment thereof and the interest that may accrue thereon. The said President and Trustees are hereby vested with full power to make provision for the payment of the same by levying a special tax to be

collected as other taxes are herein provided for."

Now therefore be it ordained by the President and Trustees of the Corporation of the town of Keithsburg

Sec. 1

That the President of said Board is hereby authorized, empowered and directed to subscribe in the sum of Twenty thousand Dollars to the Capital Stock of the Warsaw and Rockford Rail Road Company on the behalf and in the name of said Corporation by which said act of its Executive officer the faith of said Corporation shall be irrevocably pledged to said company in the sum of Twenty thousand Dollars. That for the assessments or estimates heretofore and hereafter to be made, on that portion of said Warsaw and Rockford Rail Road between the stations thereon at or near the town of Keithsburg in Mercer County and the town of Ogden in Henderson County including the first five percent to be paid upon subscription.

The President and Clerk of said Board for the time being shall execute the Bonds for said Corporation for the sum of One thousand Dollars each for the amount so assessed upon the stock so subscribed by the said Corporation of Keithsburg, signed by the President as provided for by the act of incorporation aforesaid, and also that the said Bonds be attested by the Clerk of said Board, which said Bonds shall be dated when issued, and shall be made and payable in twenty years from the date hereof. The said Bonds shall be made payable to the order of the Warsaw and Rockford Rail Road Company, principal and interest at the American Exchange Bank in the City of New York, and shall bear interest at the rate of ten percent per annum payable semiannually, and for which coupons bearing same date as the Bonds aforesaid signed by the President of said Corporation shall be attached. Said Bonds in other respects shall be in the usual form, and shall be entitled, Warsaw and Rockford Rail Road Bonds "

Upon the back of which this Ordinance authorizing their issue

shall be printed. That said Bonds when executed as provided in the preceding section, shall be delivered to the directors of the Warsaw and Rockford Railroad Company in payment of the subscription aforesaid by the said Corporation of the town of Rockburg to the Capital Stock of said Company as the Board of Trustees of said Corporation shall from time to time direct.

Be it further Ordained that an annual tax shall be levied by the Board of Trustees of the Corporation aforesaid, on the assessed value of all the real estate within the limits of said Corporation and all the personal property of the inhabitants thereof, sufficient to pay the interest for one year on all said Bonds so issued and delivered to the directors of said Company after deducting such dividends on said Stock as may from time to time be made to said Corporation by said Company, said dividends so far as the same may extend to be applied to the payment of said interest. And when said levy shall have been made by the Board of Trustees as aforesaid it shall be the duty of said Board of Trustees to have the same extended on the Collector's Books for the year in which the said levy shall be made and in a separate column, to be denominated Rail Road tax which tax shall be collected in the same manner as the taxes of the said town Corporation, and the payments thereof by the same regulations and provisions of State and Ordinances as are and may be in reference to all the taxes of said Corporation.

That it shall be the duty of the Treasurer of said Corporation to keep all monies arising from the collection of said Rail Road tax separate and apart from the ordinary funds of said Corporation to be paid out by him on the order of the President of said Board countersigned by the Treasurer, to the satisfaction of the interest semiannually.

accruing and due on said Bonds, and for no other purpose or purposes whatsoever. That the Rail Road Stock of which said corporation of Keithsburg shall become seized and possessed by the subscription herein before provided for, and all dividends arising therefrom are hereby pledged and set apart for the payment of principal and interest of the Bonds of the said Corporation issued for and in payment of said subscription, and whenever any of said Rail Road Stock shall be sold by ~~any~~ ^{said} corporation the proceeds of any such sale shall be applied forthwith to the redemption of said Bonds so far as the same may extend thereto, and for no other purpose whatsoever. That any holder or owner of any or all of said Corporation Bonds, may at any time deposit the same with said Corporation and receive in exchange therefor an equal amount of Rail Road Stock Provided the application for such exchange shall be made before the said Corporation shall have sold or otherwise disposed of such Rail Road Stock so applied for.

Be it further ordained, that all elections for directors for said Harrow and Rockford Rail Road or other elections in which the stock holders of said Company by the rules and regulations thereof are authorized or entitled to vote such vote or votes as said Corporation of Keithsburg may be entitled to cast by virtue of her said subscription of Twenty thousand Dollars, shall be thrown on behalf of said Corporation by the President for the time being, or such other person or persons as the Board of Trustees thereof may designate for such purpose or by such proxy or proxies as may by him or them be designated by said Board be appointed in accordance with Bylaws of said Company.

said Stock of said Corporation to be represented by undelegated authority in the same manner and to the same extent subject ^{also} to the same

restrictions as stock owned and represented by individuals
in said company

R. Keith President,

A. B. Sheriff Clerk,

Keithsburg Ill, June 8th 1857

Board met at the call of the President, Present R. Keith President

A. B. Sheriff,

A. Rife Trustees

J. M. Marshall Trustees

M. J. O'Brien Clerk,

A. B. Sheriff offered the following resolution which was adopted,

Resolved &c, that our clerk be and he is hereby instructed to enter
a subscription of Twenty thousand dollars for the town of Keithsburg Illinois
to the Capital Stock of the Warsaw and Rockford Rail Road Company on the
stock Book of said Company to be paid in the Bonds of said town

M. J. O'Brien Clerk.

R. Keith Pres,

Keithsburg Ill, July 8th 1857

Board of Trustees met at the call of the President Present R. Keith

President, J. B. Cabeen, A. Rife, A. B. Sheriff and J. M. Marshall Trustees

M. J. O'Brien Clerk,

A. B. Sheriff offered the following which was adopted,

Resolved &c, that the President be and is hereby authorized to sign
six more of the Town Bonds to be by him delivered to Thos. B. Cabeen on
~~on~~ tomorrow morning so that he may take them to Oquawka and get them
countersigned or endorsed by the President of the Warsaw and Rockford Rail
Road Company and afterwards deliver a pair of said Bonds to
B. P. Arick contractor provided that the Cabeen be satisfied on examination
that there is said amount due him on the estimates for work.

M. J. O'Brien Clerk

Keithsburg Ills, October 8th 1857.

Board of Trustees of the Town of Keithsburg met at the

7
36
Council Room. The President Robt. Rusk being absent, J. N. Marshall was chosen President Protem, present. Sheriff, Leaven & Rife Trustees, M. J. O'Brien Clerk. A. B. Sheriff reported an Ordinance providing for the assessing and collecting of a special tax to pay interest on town bonds to the Warsaw and Rockford Rail Road Company and other purposes as follows.

"Be it Ordained by the President and Trustees of the Town of Ruskburg, that a tax of six tenths of one percent, shall be assessed on all the real estate and personal property within the limits of said Town, the valuation of which to be taken from the Township Assessment Book for the year 1887, made out and computed by the Clerk of said Town for the purpose of paying the interest on bonds falling due on the first of December and June next, on Town Bonds which have, or may be issued to the Capital stock of the Warsaw and Rockford Rail Road Company, and for other Town purposes at the discretion of said Board which said tax shall be due within ten days after the publication of this Ordinance or as soon thereafter as a Collector shall be appointed and qualified and the tax book delivered to him under the hand of the President, attested by the Clerk and seal of said Town, with a Warrent commanding him said Collector to collect from the several persons named in said tax book the several sums mentioned in the last column opposite to their respective names. The Collector upon receiving the tax list and Warrent shall proceed to collect the taxes therein mentioned and for that purpose shall call at least once on the person taxed or his or her place of residence or business if within the Town and demand payment of the tax so charged.

to him or her on their property, and upon the payment of which shall give him or her a receipt for the same, specifying the description of the real estate so paid in. In case any person shall refuse or neglect to pay the said tax imposed on him the collector shall levy the ~~amount~~ same by distress and sale of the goods and chattels of the person who ought to pay the same. The collector shall give public notice of the time and place of sale, and of the property to be sold at least six days previous to the day of sale by advertisement to be posted in three of the most public places in said town, one of which shall be on the door of the Post Office. The sale to be by public auction provided that no person's property shall be sold for an amount sufficient to pay the taxes if the same can be divided, and the case in case it cannot be divided then the surplus of money if any to be returned to the person in whose possession the property was when distrained. The said collector shall be required to pay over to the Town Treasurer all the taxes collected by virtue of his office on or before the fifteenth day of November 1857, and Monthly thereafter until all is paid, retaining for himself compensation or commission of three percent for collecting and paying over same and his duplicate receipts, one of which he shall file with the town Clerk.

If any of the taxes entered in his bill annexed to his Warrant on any real estate belonging to non-residents or to persons who have not goods and chattels within the jurisdiction of said collector shall remain unpaid on the first day of February 1858 it shall be the duty of said collector to make out and deliver a list or transcript of the names description and amount of tax set opposite to each tract or lot so remaining due or unpaid together with the affidavits sworn to before some Justice of the

58
Peace attached thereto to the effect that the same is due and
unpaid, to the County Treasurer of Mercer County Ills, previous
to his making out his delinquent list for publication with request
that he add paid Corporation tax to the amount of State and County
lates and collect the same pursuant to the ninth section of
an act entitled an act incorporating towns and cities
approved February 10th 1849 and take his duplicate receipt for the same
one of which he shall file with the clerk of said town and for amount
of which said collector shall have credited together with his statements
for list of taxes on personal property which he has been unable to collect
upon his final settlement with said Board J. N. Marshall Pres. Protem.

M. J. O'Brien Clerk.

Kirkburg Ills. December 17, 1857 Board
met Present R. Keith President, F. B. Cabeen, J. N. Marshall
A. B. Sheriff Trustees, On motion of F. B. Cabeen A. Sheriff
was appointed Secretary Protem.

On motion of F. B. Cabeen resolved that the Secretary draw on the
Treasurer in favor of N. N. Thornton for fifty dollars to be by him
paid to S. S. Phelps of Ogawa to lift the coupon attached to one
Town Bond in his hands falling due 1st inst.

Order issued pursuant to above resolution and delivered
to N. N. Thornton Esq, adjourned to meet at call of President
A. B. Sheriff Sec. Protem. R. Keith Pres

Kirkburg Ills. Dec. 24, 1857

Board met Present F. B. Cabeen, A. Rife, A. B. Sheriff Trustees
On motion F. B. Cabeen was appointed President Protem and A. B.
Sheriff Secretary Protem. On motion of A. Rife Resolved
that the Secretary draw on the Treasurer in favor of N. N. Thornton

for one hundred dollars to pay two Coupons No. 6 & 8, being the interest on two town bonds falling due on the first inst. which said coupons is now in the possession of our said Board. Order drawn as above and delivered to H. W. Thornton and said coupons canceled J. B. Cateen Pres. Pro tem.

A. B. Sheriff Sec. Pro tem.

Keithsburg Ill. March 1st 1858

Board met Present, R. Keith President, A. B. Sheriff J. B. Cateen, J. H. Marshall, A. Rife Trustees

On motion of Tho. B. Cateen that an order be drawn in favor of B. P. Frick for fifty dollars to pay a coupon now in the hands of said B. P. Frick carried R. Keith President M. J. O'Brien Sec.

Keithsburg Illinois April 5th 1858

Board of Trustees of the Town of Keithsburg met at their usual place of meeting Present Tho. B. Cateen, J. H. Marshall, A. Rife Trustees M. J. O'Brien Clerk.

On motion A. Rife was appointed President Pro tem.

On motion of John H. Marshall, J. B. Cateen was appointed Proxy for this Board with instructions to cast such vote as the Board may be entitled to at the election for directors of the Warsaw and Rockford Rail Road to be held this day in the Town of Ogawto, On motion adjourned at 2 o'clock P. M. M. J. O'Brien Clerk.

Keithsburg July 20. 1858

Board of Trustees of the Town of Keithsburg met at the call of the President Present Philip Gore President,

J. H. Marshall, A. Rife, J. B. Cateen Trustees, M. J. O'Brien being absent on motion J. H. Marshall was appointed Clerk Pro tem.

On motion of Geo. B. Calhoun, that an order be drawn on the Treasurer in favor of Philip Gore for fifty two dollars to pay the Coupon No. 4. on Warsaw and Rockford Rail Road Bonds falling due December the 1st 1857 and interest thereon to date, adjourned to meet next Monday evening.

Philip Gore President

J. V. Marshall Clerk Pro tem.

Keithsburg December 12. 1859.

Board of Trustees of the Town of Keithsburg met at the call of the President, Presant Willert, Sponeler & Sheriff, Trustees Mark J. O'Brien Clerk.

Mathew Sheriff offered the following which was adopted, Resolved that a tax of four Mills on the dollar to pay interest on the Warsaw and Rockford Rail Road Bonds; and a tax of two Mills on the dollar for other Town purposes to be levied on the assessed value of all the Real Estate within the limits of the Corporation and all of the Personal Property of the Inhabitants thereof for the year of 1859 to be taken from the Township assessors Book for the year 1859 to be made out and computed by the Clerk of the Corporation, which said tax is hereby declared to be due from the date hereof or as soon as the collector shall be qualified and the tax list placed in his hands; Provided that the Collector shall be required to collect said taxes and return his tax list on or before the first day of March 1861, but in all cases of collecting said taxes not herein provided for the same shall be collected and recovered as provided for in Ordinance No. 28, of said Town providing for collecting taxes for the year 1857 and entitled an Ordinance to provide for assessing and collecting a special tax to pay interest on Town Bonds to the Warsaw and Rockford Rail Road Company and other purposes

passed Oct. 8th / 1857. Mark J. O'Brien Clerk

Friday evening March 9, 1860

Board of Trustees of the Town of Northburg met Present
Philip Gore President, Messrs. Trazier, Dunn, Evans & Frick
Trustees, ~~and~~ committee on Charter was allowed
further time. The clerk reported tax list made up from
the Township Assessors Book for the year 1859 according to previous
instructions. Whereupon B. S. Frick offered the following which
was adopted. Resolved, that a tax of five mills on the dollar to
pay the interest on the Harlow and Rockford Rail Road Bonds
and a tax of two and one half mills (2 1/2) on the dollar for other town
purposes be levied on all the real & estate and personal property
within the Corporation limits of the town of Northburg for the
year AD 1860 as taken from the Township assessors Book (by
the clerk of this Board) for the year 1860: to be made out and extended
by the clerk of said Board which said tax is hereby declared to be
due from and after the first day of December next, and that the
same be and is hereby levied and assessed in accordance
with an Ordinance passed May 4th 1857 and entitled an
Ordinance to issue Town Bonds to the Harlow and Rockford
Rail Road Company and for other purposes, and that the same
shall be collected by the town Constable after his giving bond with
approved security and the said Town Constable and his officers
collector is required to make returns on or before the first
Monday in March 1861 and it shall be his duty to collect said
tax in accordance with the provisions of Ordinance No.
28 passed October 8th / 1857 and entitled an ordinance -

providing for the assessing and collecting of a special tax to pay interest on town bonds to the Warsaw and Rockford Rail Road Company and other purposes.

M. J. O'Brien Clerk,

Philip Gore Pres,

Keithsburg Ills. December 3. 1860

Board of Trustees of the Town of Keithsburg met when present Philip Gore President, Magier, Dunn, Evans & Thickett Trustees. Daniel Evans offered the following which was adopted.

Resolved that the clerk notify the holders of coupons of the Warsaw and Rockford Rail Road Bonds for the year 1858, that on presentation of one of said coupons an order will be issued for the payment thereof with interest on the amount of same at the rate of Six percent per annum from the time of its having become due and it is hereby resolved that there be appropriated so much of the funds now in the Treasury as shall be sufficient to pay the same and the President and Clerk are hereby authorized to issue an order for the amount of said coupon and interest.

M. J. O'Brien Clerk

Philip Gore Pres,

Keithsburg Ills. January 8. 1861

Board of Trustees of the Town of Keithsburg met when present, Philip Gore President, B. J. Thickett, S. M. Evans, J. L. Dunn & Magier Trustees.

Resolved that the clerk notify the holders of coupons of the Warsaw and Rockford Rail Road for the year 1858, that on presentation of three of said coupons an order will be issued for the payment thereof with Six percent interest thereon from the time of their having become due and there is hereby appropriated so much of the funds now in the Treasury as shall be sufficient to pay the same.

M. J. O'Brien Clerk

P. Gore President

Keithsburg Ills, March. 4. 1861.

Board met Present Philip Gore President, Brick, Dunn, Mrazier & Evans Trustees, A. Mager offered the following which was adopted. Resolved that H. B. Sheriff is hereby authorized to represent the Town of Keithsburg in the election of the Board of Directors of the Kansas and Rockford Rail Road Company at 9 o'clock on the first Monday in April next and the Clerk is hereby notified to acquaint Mr. Sheriff with the fact of his appointment and furnish him with a certificate.

On motion of Saml. Evans the following was adopted.

Resolved that the Clerk be instructed to notify the holders of Six Coupons for the year 1860, that on presentation to the Clerk an order will issue for the payment thereof and the said Clerk is authorized to issue an order for the amount of said Coupons on presentation, and that the said Clerk also notify the holders of Coupons ~~an order~~ due and unpaid for the year 1858 that on presentation of said Coupons an order will issue for the payment thereof with 6 percent interest per annum from the time the same became due.

S. Gore Pres.

J. M. Heidner Clerk Pro tem.

Keithsburg Ill. 7th November 4. 1861.

Board met Present Philip Gore President Messrs. Mrazier, Dunn and Evans Trustees, The Clerk having been instructed at a previous meeting to make out a tax list for the year 1861, from the assessors Book, reported, that the aggregate value of the property liable to taxation in the corporate limits of the Town of Keithsburg as copied from the Township Assessors Book was about \$20181⁰⁰/₁₀₀ Dollars whereupon Mr. Saml. Evans offered the following resolution which was adopted.

Resolved that a tax of four Mills on the Dollar to pay the interest on

the Harmon and Rockford Rail Road Bonds, and a tax of one mill
on the dollar for other town purposes be levied on all the real estate and
personal property within the corporate limits of the town of Keithsburg
for the year A.D. 1861, as taken from the Township assessment Book by the
Clerk of this Board for the year 1861, to be made out and extended by
the Clerk of said Board which said tax is hereby declared to be due from
and after the first day of December next and that the same bond is
hereby levied and assessed in accordance with an ordinance
passed May the 4th A.D. 1857, and entitled an ordinance to issue town
Bonds to the Harmon and Rockford Rail Road Company and for other
purposes, and that the same shall be collected by the Town Constable
after his giving bond with approved security and the said Town Con-
stable and Officer Collector is required to make and return on or
before the first Monday in March 1862 and it shall be his duty to collect
said tax in accordance with the provisions of ordinance No. 28, passed
Oct. 8th 1857 and entitled an ordinance providing for the assessing
and collecting of a Special tax to pay interest on Town Bonds to the
Harmon and Rockford Rail Road Company and other purposes.

G. C. Matlock Clerk,

P. Gore President

Keithsburg March 24, 1862

Board met Present P. Gore President, Duran, Evans, Brazier
& Prick Trustees.

On motion of A. Brazier the President was instructed to appoint
a Proxy to cast the vote of the Corporation of Keithsburg at the election
to be held on the 7th day of April 1862 by the stock holders of the Harmon
and Rockford Rail Road Company for Directors for said Company
during the ensuing year.

Kirksburg Ills. April 12, 1862

Board met Present P. Gore President, Dunn, Evans, Brick and Frazier Trustees, the President reported that he had appointed S. S. Phelps a proxy to cast the vote of the Town of Kirksburg at the election held on the 7th inst by the stock holders in the Harrow and Rockford Rail Road Company for Directors for said Company during the ensuing year.

Wm. L. Matlock Clerk P. Gore Pres.

To the admission of which said Ordinances and each of them to be read in evidence on the trial of said cause the said defendants then and there by his counsel objected, because the same were ~~without~~ irrelevant and incompetent testimony under the issues in this case, but the Court overruled the objections of the said defendants and permitted said Ordinances and each of them to be read in evidence on the trial of said cause, to which opinion and decision of the Court in overruling said objections of the said defendants, to the admission of said Ordinances and each of them to be read in evidence in said cause and permitting the same to be read in evidence on the part of the plaintiff, the said defendants by its counsel then and there excepted.

And thereupon the said Plaintiff called Thomas B. Cabeen a witness on the part of said plaintiff who being first duly sworn, testified as follows to wit:

"I am acquainted with the plaintiff in this suit, and live in the said Town of Kirksburg, there were eight Bonds of five hundred Dollars each issued by said Town to the Capital Stock of the Harrow and Rockford Rail Road Company and delivered by said town to the agents of the Company on behalf of the Rail Road Company, I delivered four bonds to Benjamin Brick for grading done by him on said road, between

"the towns of Ogonska and Reithsburg in said state of Illinois
 "I do not know anything about the other bonds, I think on one
 "occasional election of Directors for said Rail Road Company
 "I cast the vote of the Town of Reithsburg as a proxy by the authority of the
 "Town Trustees. I think I delivered the said four bonds to the said
 "Benjamin A. Trick in the Spring of 1858."

The above and foregoing is all the evidence offered by
 either party on the trial of the aforesaid cause.

Whereupon the Court found the issues in said cause for the plaintiff and
 also found the amount of his debt in the sum of one thousand and fifty
 dollars, Whereupon the said defendants then there entered a motion
 for a new trial in said cause for the following reasons to wit:

- 1st the finding of the Court is against the weight of evidence in the case.
- 2nd the finding of the Court is against the law,
- 3rd the Court mis took the law.
- 4th the Court erred in admitting of said bond and companion evidence.
- 5th the Court erred in admitting said depositions in evidence.
- 6th the Court erred in finding for the plaintiff.
- 7th the Court should have found the issues for the defendants.

But the Court overruled said motion for a new trial and
 rendered judgment on said finding for the said plaintiff and
 against the said defendants for the said sum of one thousand and fifty
 dollars and for costs of suit, to which opinion and decision of the
 Court in overruling said motion for a new trial and rendering
 judgment on said finding as aforesaid the said defendants by their
 counsel then and there assented.

And inasmuch as the foregoing matters do not appear of
 record in said cause, and in order that the same may appear

the said defendant prays that this Bill of exceptions may be signed and sealed by the Judge of said Court and made a part of the record in this case which is hereby done

C. B. Lawrence ~~Secy~~

It is admitted that all of the aforesaid bonds are for the same amount, tenor and date and we hereby agree that only one of them need be copied into the record. *Harriet Spaulding atty. at l.*

J. R. & A. H. Basse Attys for Plffs.

State of Illinois Mercer County ss.

I, James M. Mannon Clerk of the Circuit Court in and for said County hereby certify that the foregoing is a full true and perfect copy of the conveying order of Court for said Court at the September Term 1863; of the Precipos for summons, Bond for costs and Declaration filed in the case stated, of the summons issued thereon and return of the officer thereon; of the Plea filed by Defendant, of the agreement entered into by the parties, together with a full and true copy of all the orders of the Court made in the premises case and also a true copy of the Bill of Exceptions filed in said case except that but one of the Bonds and those of the Coupons were copied by agreement of the parties, and which with that exception includes a full, true and complete copy of the record and files of said case as the same appears to me from the Books and files of my office

In Testimony of which I have to my name and affix the seal of said Circuit Court at office this 26th day of February A.D. 1864.

J. M. Mannon Clerk
By A. D. Brown Deputy



Assignment of Errors.

The President and Trustees of the
Town of Keithsburg Plaintiff in Error
vs
Charles A. Frick Defendant in Error

} Supreme Court
of Illinois
3rd Grand
Division May
Term 1881.

Now comes the said plaintiff in error, and says that the Circuit Court erred in the trial and decision of said cause as follows:

1st The Court erred in admitting the bonds made by the defendant below to the Warsaw and Rockford Rail Road Company numbered respectively 1. 2. 3. 4. 6. 7 & 8. in evidence, &c.

2nd The Court erred in admitting in evidence the said twenty one coupons detached from said bonds.

3rd The Court erred in admitting and considering improper evidence.

4th The Court erred in not granting a new trial asked for by the defendant.

5th The Court erred in finding for the plaintiff and rendering judgment in his favor.

6th The Court erred in not rendering judgment for the defendant.

7th The said Town of Keithsburg had no authority to issue said bonds and coupons - and the same and each of them were void.

8th The said town of Keithsburg had no authority to make a subscription to the Capital stock of the Warsaw & Roxford Rail Road Company.

9th The proceedings below were otherwise irregular, informal and insufficient.

W. B. Spaulding.
atly. for Plff. in Error.

State of Illinois / Mercer Circuit
Mercer County / Court. *April*

Charles A. Frick Plaintiff

The President & Trustees of the Town of Ruthsburg Defendant

It is hereby stipulated
that any defence may be made under
the general issue, that could be made
under special pleas well pleaded.

J. R. & J. N. Bassett
Attys for Plff.

The judge on the trial of this cause, failing
to make a note of the above stipulation,
so that the same has unintentionally been
omitted in the certified copy of the record, -
We therefore, the attorneys for the ~~Defendant~~ in
Error Certify that the above stipulation was made
on the trial, and desire the Supreme Court
to so regard it on the trial of this cause
in the appellate Court. We desire, on
behalf of plaintiff that said stipulation
be treated by the Supreme Court as a
part of the record in this cause.

J. R. & J. N. Bassett
Attys for Plff in *Error*
Larrie & Spaulding
attys for Plff in *Error*



129

President & Trustees of
the Town of Hertsburg
is

Charles A. Fries

agreement

Filed April 12, 1864
J. L. Linnell clerk

State of Illinois
Third Grand Division of the Supreme Court
to April Term 1864

Charles A. Frick

Att^s 3 Founders in Error.
The President & Trustees of
The Town of Rutledge

And the said Charles A.
Frick, defendant in error, now comes and
says, that there is no error, either in the record
and proceedings aforesaid, or in giving
judgment aforesaid, in manner and
form as above assigned; and therefore he
prays that the said judgment may be
affirmed, and that his costs may be ad-
judged to him &c.

By J. R. & J. K. Bapett
Attys for Deft. in Error.

129
President & Justices of
the Court of North Carolina
as

Charles A. Smith

London in Error

Filed April 12, 1864
J. Selman clerk

J. R. & J. W. Bassett
attys for Deft in Error

129 / 5

The President & Trustees
of the Town of Keittsburg
vs

Charles A. Grick

Record & Errors

Filed April 9, 1864

S. Selmon, Clerk