

12th Crof Int. Did you ever see either of those bags afterwards?

Ans. I think I did, but am not positive.

13th Crof Int. About how long after, did you think you see one of them?

Answer. I should think within ten days or two weeks?

14th Crof Int. How many did you see at that time

Answer. I saw one perhaps more there was one with a tag on that, apparently had not been opened.

15th Crof Int. Where was it?

Answer. It was in the safe in the vault.

16th Crof Int. Could you identify that as being one of the bags that French brought home with him at the time he had your horse and buggy?

Only the one, and that only by the tag and the size of the bag.

17th Crof Int. Is it not customary for all Bankers when they send away Bags of Specie to put cards or tags on the bags to show the amount of Specie in the Bags?

Ans. Not necessarily it would depend whether it is

59 belongs to parties receiving the money or whether it was sent in a package

18th Crof Int. What was there on the tag or card by which you could identify this as being one of the bags, that French brought home with him at the time he had your Mooser and Buggy?

Answer Only from the size of the card and the impression that I got from William B Weeks hand writing on the card.

19 Crof Int. Did you see William B. Weeks hand writing upon the card at the time French brought home the bags with your Mooser and Buggy's.

Ans I could not say that I did.

20th Crof Int. Was this the same bag which you see in the vault after the death of Kirwin's?

Ans. It was the same Bag.

21 Crof Int. You say in your answer to the 20th direct interrogatory that you advised Kirwin not to go bail for French ~~at that time had not~~ do you not know that French at that time had not received any money belonging to the School fund?

Ans. I dont. He had received it for 1857 but had not received it for 1858.

60 Examination-direct resumed.

29th direct Int.

State about how often after the time Mr French had your horse and Buggy to go to Geneva to get the School fund spoken of to the time of J. M. Keirwin's death you was in the Vault of his Banking House, and about how often you was in said Vault for a few weeks prior to the said French's trip to Geneva?

Ans.

Generally every day, when at Home I was generally in there every day to get my private papers in the Vault.

30th Int.

obj. to by Dept. State whether or not you noticed immediately after said French's trip to Geneva above spoken of, any bag or bags of specie or money which you had not noticed prior to such trip, if yes state how soon thereafter you noticed such bags and if you learned from whom or when such Bags came, then state such facts and from whom you learned them? And if there were bags of specie then state whether they were such bags as Mr French brought from Geneva?

Ans.

~~obj. to by Dept.~~ I did not and I might go into the Vault every day for a month and not see any money as the money was kept in a safe in the Vault.

31. Int.

Did you learn from Rella French, when he obtained the Bags of specie above referred to by you if yes.

obj. to 6/29/44

State from whence he obtained it, and to what fund it belonged if you know. And the total amount according to the best of your knowledge?

Answer.

Only from what he said to me when he got home and buggy. He said at that time that he was going after the school fund at Geneva.

32th Int.

obj. to

State all the conversation you had with Rella French pertaining to his having your horse and Buggy above spoken of by you, and all he said when he returned the horse and buggy to you pertaining to the object of the trip which ~~he~~ had made?

Ans.

He said he wanted my horse and buggy to go to Geneva to get the school money. I am not positive that when he returned he said get it or not.

33rd

obj. to 6/29/44

State whether or not you have any reason for believing that the bag of specie containing \$275 dollars or thereabouts, which you have referred to as being in the Banking Office of J. W. Kirwin after his decease and which was passed over to said Henry Stevens as above referred to was the same fund which Mr. French received as a part of the school fund at Geneva. If yes, state such reasons frankly, fully, and at large.

62
Answer

obj def.

suppress
with the
brackets

[I have no doubt but that the two hundred and seventy five dollars in this bag was a part of the School money] The reason that I have for thinking so is that Mr. French told me that it was musty in silver and the tag on the bag marked in William B. West's own hand writing.

32) Int.

State whether from your knowledge of the business transactions of this Banking house of J. M. Kirwin you have any reason to believe to what fund or from what source the balance of the specie found in such Banking House at said Kirwin's decease, belonged, or was obtained if you state to what fund such money belonged and from whom and where they were obtained. State your reasons at large.

Ans.

I have no reasons to know anything about it.

Cross Examined

How do you know that French ever had your Horse and Buggy to go to Geneva to get School funds.

Ans.

I only know from what French told me and he generally told me the truth. He told me he wanted my Horse and Buggy to go to Geneva and was gone about long enough to go there and back.

object to

Then all you know about it is what French told you.

63
Ans.

I only know from what French told me, and the reasons that I gave above.

Ira Meinar

By agreement of Parties all the questions directed to be put by the Plaintiffs Council were objected to by the defendants council, and all the questions directed to be put by the defendants council were objected to by the Plaintiffs Council.

Adjourned until Oct 8th 1859 at 9 o'clock AM

State of Illinois
Kane County)
J. A. R. McWayne a Justice of the
Peace in and for said County & State
aforesaid do certify that the foregoing deposition was
taken before me at the time and place mentioned
in the Caption thereof, that the said witness was first duly
sworn, and that the said deposition was carefully read
the witness and signed by him.

dated this 7th day of October 1859 A. R. McWayne
Justice of the Peace

Deposition of Reed Terson of the County of Kewanee and State of Illinois a witness aged about fifty years produced sworn and examined before me A. K. McWayne Justice of the Peace in and for the County of Kewanee and State of Illinois at my Office in the Town of St Charles in said County on the 8th day of October 1859 pursuant to a notice attached, to be used as evidence in the trial of a cause now pending and undetermined in the Kewanee County Circuit Court on the Chancery side thereof, wherein the Board of Trustees of Township number forty Range Eight East of the third Principal Meridian are Plaintiffs and Mary Ann Kirm and Henry Stearns Administrators of the Estate of Francis W Kirm are defendants, on the part of said Plaintiffs.

1st Int.

What is your name age and occupation and where do you reside?

Ans

My name is Reed Terson, live in St Charles, farmer by trade, and age fifty.

2^d Int.

State whether or not you were acquainted with the pecuniary circumstances of Rollo French during the years 1857 and fifty Eight, if you state what they were?

Ans.

Well I used to be a little acquainted with them We used to frequently want to hire money.

3^d Int.

Had he any money means to your knowledge, if you state what they were.

65

Ans. We had none to my knowledge

3rd Int. Would you have been likely to have known such fact if he had means? If yes. State such reasons.

Ans I don't know as I would.

4th Int. State whether or not you were familiar with the business habits and the pecuniary condition of Ralla French during the years 1857 and 1858.

Ans I should say his business habits were good. I was acquainted with his business habits and call them good

5th Int. If you know state in whose employ, he was from about the first of December 1857 to about the first of April 1858. If you state what his special duties were?

Ans. We was in Kierwin's Employ. He was Book Keeping and tending bank.

6th Int. State about how long to your knowledge the said Ralla French, had been in the employ of or been connected in business with directly or indirectly, with Ira Minard.

Ans. Five or six years. four or five or something.

7th Int.

State whether or not you have been his bail as Township Treasurer for the Town of St Charles. If yes state for what year.

Ans.

It was for 1856 + 7 I think it was. I was bail I think two years.

8th

Was you acquainted with his pecuniary condition during such period if yes state what it was?

Ans

I was not.

9th

Do you know of his having any property liable to execution during the period he was in the employ of F. M. Kirwin. If yes state what it was?

Ans.

I dont know as I do.

Crop & —

1st Crop

French might have had property liable to execution and you not have known it.

Ans

We might.

Read Person

67 State of Illinois)
Kane County } J. A. R. McWayne a Justice of the Peace
in and for said County and State
aforesaid do certify that the foregoing deposition was taken
by me at the time and place mentioned in the caption
thereof: that the said witness was first duly sworn and that
the said deposition was carefully read to the witness and
signed by him
Dated this 8th day of October 1859.

A. R. McWayne
Justice of the Peace

Deposition of John Mease of the County of Kane and
State of Illinois a witness produced sworn and examined
before me A. R. McWayne a Justice of the Peace in and
for the County of Kane and State of Illinois at my
Office in St Charles in said County on the 8th day of October
1859 pursuant to notice attached ~~hereto~~ to be used as
evidence in the trial of a cause now pending and
undetermined in the Kane County Circuit Court, on the
Chancery side thereof wherein the Board of Trustees of
Township number forty, Range eight East of the third Principal
Meridian are plaintiffs and Mary Ann Kirwin and Henry
Stevens, Administrators of the Estate of Francis M. Kirwin
are Defendants: on the part of said Plaintiffs.

1st Int.

What is your name age and occupation and
where do you reside?

Ans.

My name is John Mark. occupation a —
and reside in St Charles Kane County Illinois

2nd Int.

Did you know Ralla French and J. M. Kirwin
during their dip time and how long have you known
them?

Ans.

I knew them four or five years.

3^d Int.

State whether you was a collector for the town of
St. Charles for the current year of A D 1857

Ans.

I was.

4th Int.

State who was Townships Treasurer for the Town of
St. Charles for the current year of A D 1857 and
until April A D 1858.

Ans.

Ralla French.

5th Int.

State whether or not you paid to such, ^{Township} Treasurer
as collector of said Township any funds? if you state
what such funds were, to whom you paid the same about
the amount, and date of each payment as near as
you can recollect? state fully and particularly.

Ans.

I did. They belonged to the School fund. I paid them
to Ralla French. the first I paid was five hundred
dollars it was some time in the month of December

69 A.D. 1857. the next that I have got any account of was on the 27 day of January A.D. 1858. I paid him two hundred dollars. In the month of February 1858 I paid him \$3.853 and two cents. The 8th of March A.D. 1858 I paid him Eleven hundred and sixty dollars and ninety six cents. And the twenty ninth day of March 1858 I paid him Seventy nine dollars and fifty cents. amounting in total to \$57.93. dollars and forty eight cents.

6th Int. State where the said Rolle French was and in whose employ if any one. at the times you paid him the several sums mentioned in your last answer?

Answer He was in the Bank with J. W. Kirwin. I dont know in whose employ he was in, he never told me he was in the employ of any one.

7th Int. State if you learned from said French or otherwise what he done with or where he deposited said funds. if yes. State from whom you learned such facts and what he done with the same?
obj by Def

Answer I dont know as he ever told me where he deposited such funds or what he done with it.

8th Int. State in what capacity in relation to Mr Kirwin's Bank Mr French appeared to be acting during the times you paid him the above funds?
obj by Def

ans^d

Hee was in the Bank there and paid off checks whenever I called on him for any.

9th Int.

State who was the Book Keeper and acting man about the Banking house of J. W. Kirwin from or about the first of December 1857 to about the first of April A D 1858.

Ans

I suppose Mr French was from appearance.

10th Int.

State whether or not, J. W. Kirwin was present in his Banking house when you paid the said French the funds by you above enumerated?

Ans.

Hee was generally there, but I could not say that he was there every time I paid him any.

Cross Examined by Defendant Counsel

1st Cross Int.

what kind of funds did you pay French's?

Ans.

I paid him in paper money with the exception of when I had checks on that bank from individuals he gave me receipts the same as money for them

2nd Cross Int.

What proportion of the above amount did you pay in checks?

Ans.

I might have paid a thousand dollars, I could not state how much. I never kept no account of it.

John Mark

State of Illinois

Keane County

I A. R. McWayne a Justice of the Peace in and for said County and State aforesaid do hereby certify that the foregoing deposition of was taken by me at the time and place mentioned in the caption thereof, that the said witness was first duly sworn, and that the said depositions were carefully read to the witness and signed by him.

dated this 8th day of October 1859

A. R. McWayne

Justice of the Peace

Deposition of Henry B. Peirce a witness aged about twenty six years produced sworn and examined before me. A. R. McWayne a Justice of the Peace in and for the County of Keane and State of Illinois at my Office in St. Charles in said County on the 8th day of October AD 1859 pursuant to notice. To be ^{used} as evidence in the tract of a cause now pending and undetermined in the Keane County Circuit Court on the Chancery side thereof wherein the Board of Trustees of Town number forty Range Eight East of the third principal meridian are Plaintiffs and Mary Ann Keane

and Henry Starns Administrators of the Estate of Francis Mc Keirwin are defendants, on the part of said plaintiffs.

1st Int. What is your name age and occupation and where do you reside?

Ans. My name is Henry B. Peare age 26 years occupation Book Keeper in Bank, residence Geneva.

2nd Int. Please to state in whose employ and what your business was from the first of January 1858. to the first of May 1858.

Ans. I was in the employ of West and Moore Bankers at Geneva my business was book keeping and letter

3rd Int. State whether or not there was any money on deposit with said West and Moore belonging to the School fund of the Town of St. Charles about the month of March 1858. If you please state about how much.

Ans. There was no fund so designated as the School fund of St. Charles. I don't know whether there was any money there for the Town of St. Charles or not. there was money deposited by Mr Higgins the School Commissioner, and the gave checks for it.

4th Int. State whether or not Rella French drew out of said Bank any monies so deposited by said Higgins. if you state about when, how much, the kind or

73 denomination of money so drawn out, who paid or delivered the same to him about the ~~same~~ number and kind of bags if it were in Bags. State fully and at length all you know upon this Subject.

Answer.

Well it was some time in March I believe 1858. I have no way of knowing how much except by recollection. My impression is it was about a thousand dollars, some where near that. It might have been more or less. There was some silver paid to him and some gold. I delivered it to him, well there were two Bags certainly I think three. two of silver, and one ~~containing~~ containing gold. the Bags were common Short Bags.

5th Int.

Describe the kind of coin of the Bags containing silver and the manner of their being put up and designated and about the amount in each as near as you can recollect.

Answer

Well the silver was principally American half and quarter dollars. I could not say of which there was the most. It was put into these Short Bags and counted out. Well then there were cards or tabs marked with the amount, they were not sealed. I could not say the exact amount, in each probably about two hundred and fifty dollars.

6th Int.

State your manner of putting up specie into bags, when it consisted of halves & quarters, and state your recollection as to the manner in which the money was put up, as

74 whether the quarters were placed in a Bag separately or otherwise? taking into consideration the whole transactions, the probable amount of specie in each bag, and the capacity of such bags state your best recollection.

Answer

I usually counted the halves and quarters separate if there were enough of either kind to fill a Bag. I filled it with one kind, if not I then filled with one kind and finished with another, that was my usual way of doing it. I have not any definite recollection more than the usual way of doing business. If I knew certain the exact amount I paid French I could then tell about what proportions of silver he received.

7th Int.

State about the amount these bags would contain of silver separately in each bag.

Ans.

From two to three hundred dollars about two hundred and fifty.

8th Int.

How came you to pay this money to Mr French?

Ans.

We presented the check of David Higgins School Commission.

9th Int.

What has become of that check? State fully all you know about it.

Ans. I dont know where it is at present it has been given up by Mr West & Moon to Mr. Higgins as is the custom on settlements.

10th Int. Who was with Mr French when the money was paid him if any one?

Ans. W. S. Gale.

11th Int. State if Mr. French to your knowledge, during the year 1858 at any other time except the time above referred to drew out any considerable sum of money from said bank? if yea state the same fully?

Ans. I dont recollect that he did.

12th Int. State whether or not to your knowledge J. W. Keenan from the first of December A D 1857 until his death ever drew from said Bank at Geneva any considerable sum or sums of money or bag or bags of specie. If yea state when and about how much?

Ans. I have no recollection of his ever doing so.

13th Int. State to what fund the money the said French so drew out belonged. state your reasons therefor?

Ans. I have no way of knowing except from the Books. The money was deposited by David Higgins School

76 Commissioner of Kawe County, and I understand that Mr ~~Kane~~ French drew it as Town Treasurer for St. Charles.

14th Int. State the full name of the firm of West and Moor.

Ans. Alexand. B. Moor and William B. West.

Crop Examined by Defendants Counsel

1st Crop Int. State how you came to the conclusion that it was the School fund?

Ans. Mr. Higgins told me that the money he deposited was School money and that he gave checks to the Township Treasurers for the proportion of School money belonging to the several towns.

2^d Crop Int. Show all you know about it is what Mr Higgins told you?

Ans. Yes Sir.

3^d Crop Int. How did you know that French was township Treasurer for the Town of St. Charles?

Ans. I got the information from common Report that he was elected.

4th Crop Int. did you pay this money to French on Mr Higgins check as School Commissioner or simply on his own name

Ans. 7

In his own name.

5th Crof. Inq.

Was not Higgins in the habit of depositing money in the Bank of West and Morris during the winter and Spring of 1857 and 1858.

Ans.

He deposited small amounts previous to about the middle of March 1858. about that time he deposited the School money, some twelve thousand dollars.

Direct Examination resumed

15th direct Inq.

State from whom the identical coin above spoken of as paid Ballu French came?

Answer

Came from William P West Treasurer of Kaw County.

16th Inq.

State about what time in March the above money was paid to Mr French as near as you can recollect?

Ans

It was in the last days of March. it was after the twentieth.

Question excepted to by both17th Inq.

Explain how the money came from William P. West?

ans.

Mr. West gave Higgins a check which was placed to Higgins Credit. West had previously deposited funds belonging

78 to the County of Kane with West & Moore and the check was charged to his West account.

Henry B. Pira

State of Illinois }
Kane County } J. A. R. McWayne a Justice of the Peace
in and for the said County and State aforesaid
do hereby certify that the foregoing deposition was taken by me at
the time and place mentioned in the caption thereof; that the
said witness were first duly sworn and that the said
deposition was carefully read to the witness and signed
by him.

dated this 8th day of Oct 1859

A. R. McWayne J. P.

State of Illinois Kane County } ss.

Board of Trustees of Iron Mine
Forty Range Eight East of the
Third Principal Meridian
V
Mary Ann Keirwin & Henry
Stevens Administrators of the
Estate of Francis W Keirwin

Pending in the Kane County
Circuit Court on the Chancery
side thereof.

W D Barry Esq Atty for Deft.
take notice that on the 7th day of October AD 1859, I shall
appear before A R McWayne Esq a Justice of the Peace
in and for the Town of St Charles County and State

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appeared at his office in said town at 9 o'clock AM for the purpose of taking the depositions of John Marks, Henry Peaner, Wm B West, Reed Jensen, Mrs Mary French, and of taking or completing the depositions of Ira Minard & William G. Gale, heretofore commenced by agreement to be used as evidence in the trial of the above entitled case on the part of said Plaintiff, and to continue from day to day until such depositions are all completed, if necessary when and where you may appear & take such steps as the law allows.

Dated this 27th day of Sept A.D. 1859 D. L. Eastman
Plaintiff atty.
for R. W. B
Filed Dec. 14th 1859 }
J. R. Wright clerk }

And afterwards to wit: on the 14th Dec. A.D. 1859 the following Depositions were filed in the Clerk's Office of the said Circuit Court in the words & figures following to wit:

Deposition of William J. Gale a witness aged about thirty five years produced sworn and examined before me A. R. McWayne a Justice of the Peace in and for the County of Boone and State of Missouri at the House of D. L. Eastman in the Town of St. Charles in said Boone County (by agreement of the Parties) on the 9th day of May 1859 to be used as evidence in a cause now pending and undetermined in the Boone County Circuit Court (on the chancery

80
Side thereof wherein the Trustees of Township Number forty
North, Range Eight East of the third Principal Meridian are
Plaintiffs and Mary Ann Kirwin and Henry Stearns Admini-
strators of the Estate of Francis W. Kirwin are defendants on
the part of said Plaintiffs.

1st Int.

Please state your name age, occupation and place of
residence?

Answer.

My name is William J. Gale. My age is about
thirty five years occupation a Dentist and residence
St. Charles Kane County. Illinois.

2^d Int.

State whether or not you were acquainted with Francis
W. Kirwin and Ralla French, during their life times. If yes
state when you were first acquainted with each of them
and where, and how long such acquaintances continued.

Ans.

I was acquainted with them. My first acquaintance
with Ralla French was in 1851 in St. Charles; and was
acquainted with him all the time up to his death. I think
my first acquaintance with Kirwin was in 1854 and
such acquaintances continued in St. Charles up to his death.

3rd Int.
obj. to by Defts.
Counsel

Please to state whether or not you know of Ralla
French acting as Township Treasurer for the Town of
St. Charles in the County of Kane and State of Illinois.
If yes, state when or for what years he so acted?

Ans.

I

21
Ans.

We acted in the capacity of Township Treasurer in the years fifty seven and fifty eight.

4th Int.
obj to suff

Do you know of his receiving any money as such Treasurer from any person or persons? if you state about when he received it: from whom, and the amount as near as you can state recollect. state fully and at large?

Ans

I went to Genoa with him the last of March 1858 at the Bank of Genoa he received some money. We received I think about Eleven or twelve hundred dollars in specie

5th Int.
obj to suff

State whether or not you saw the money referred to in your last answer, counted and put up at the time mentioned for said French if you state the names of each person who was present and assisted in such acts, and if such funds were in gold or silver state about the proportion of each describe the denomination & the value, in the part in gold also the denomination of the value of the part in silver as near as you can state fully?

Ans.

I think I did. Mr Henry Peire counted the money and put it up in bags. I think there was no one present but him & French and myself while I was in the Bank. my impressions ^{is} there was about five hundred dollars in gold and the balance in silver. American quarters ~~mostly~~ mostly. I have no recollection about ^{denomination of} the gold my impression it was American Gold.

6th Int. 82

obj. to by Deft. State if you know of in what manner such funds were put up, if the gold and silver was separatly state in what manner it was separatly?

Ans. It was put up in shot bags, the gold by it self and the silver by it self.

7th Int. State how many Bags was the silver put. and into how many bag was the gold put?

Ans The gold was put into one bag. I dont remember how many Bags in silver there was but there was more than one.

8th Int.

obj. to by Deft.

describe the Bags as they appeared when received by said French particuarly If they had any particuler mark Charactr or figures upon them or appended to them or any of them, describe the kind, Charactr and appearance of such mark.

Ans They were common shot Bags. tied up with string with a tag to them with the amount marked upon them to each Bag.

9th Int

obj. to by Deft.

What did said French do with said bags and their contents?

Ans. We brought them to St Charles, and carried them into J. W. Keimin Bank.

10th Int.

Did you ever see the said bags or either of them afterward If you state when and where you saw them or either of them, the reason why you supposed them to be the same

obj. to
by Dep't. 3

Bags, and the appearance of such Bags when you thus saw them: be particular and full in your description.

Ans

I don't know as I ever saw them afterwards to recognize them as the same bags

11th Int.

obj. to by Dep't

Did you learn from Rolla French or otherwise at the time the money spoken of by you was received at ~~the time the money spoken of~~ General and brought to St Charles and carried into Keirwin. Bank from what source such funds were received to what fund if any they belonged and in what capacity they came into the possession of the said French whether as said School Treasurer or otherwise. If you state how you learned such fact or facts and all you learned upon such subject

Ans

He told me that he got an order from Mr. Higgins the School Commissioner to go to the Bank to get the money. he said it was the school fund. It came into his possession as school Treasurer. I had heard him say he was school Treasurer

Adjournment and Examination continued by agreement until May 13th 1859 at 9 o'clock

May 13th Parties appeared and Examination continued

12th

obj. to Dep't

Describe the condition of the money referred to by you above from whence it was taken. The manner of its being counted and delivered to the said French

Ans ²⁴

It was in that Bag taken out on the counter and counted and put back into the bag. French took them and brought them to St Charles

13th Int.

obj. to by diff

State whether the said money was replaced into the same Bag by said Peiver. from whence he took it. at the time he counted the same and put it up referred to by you above? If not describe the differences in the Bag he put the same into from those from whence he took it state definitely and fully?

Ans

I cannot state whether the money was put back into the same Bag or not.

14th Int.

obj. to

Have you any interest in the Estate of J. M. Kirwin by way of deposit account or otherwise? If yes, state the nature and amount of such interest.

Ans

I have no interest there now.

15th Int.

obj. to by diff

Had you any interest in the Banking House or Estate of J. M. Kirwin by the way of deposit or otherwise at the time of his death? If yes state the nature and amount of that interest fully?

Ans

I had about two hundred and ninety dollars I think money deposited there.

16th Int⁸⁵
objected to

Has the amount of such deposit or any portion thereof been canceled or paid by the representatives of the said J M Keown deceased. If you state whom and how much was thus paid or cancelled, and by whom state fully.

Ans

I don't know as it has ever been paid or cancelled.

17th Int.
objected

To whom did you deposit your certificate of deposit above referred to, and for about how much? State definitely and fully?

Ans

I sold a hundred and four dollars to S. J. Scott, took his note for it, the balance of it I sold to E. Chapman, the balance I turned out to E Chapman a trade I made with him for a piece of land in Minnesota.

18th Int.
objected

Was there any understanding or agreement between you and said S. J. Scott that in case said Scott failed to collect the same of the Estate of said Keown by way of sett off or otherwise that the said note which said Scott gave you should not be cancelled collected or any arrangement of a kindred nature affecting such transfer. If you state what such arrangement was?

(The counsel for the defence hereto told the witness that to answer the question or not just as he had a mind to. against the remonstrance of the counsel for the Plff.)

Ans ⁸⁶

I shant answer that.

19th Int.

objected to.

Did you learn at the time you made the transfer to said G. Y. Scott that he was indebted to the Estate of F. W. Kirwin? If yes, was not such arrangement between you and said Scott made for the express purpose of making the said debt about One hundred and four dollars a set off to so much of said debt due from said Scott to the Estate of said F. W. Kirwin? If not state the full object of such transfer?

Ans

I'll not answer that. It is about the same as the other.

The Plaintiffs counsel then asked. Will the Examining Magistrate please instruct the witnesses that the above questions No 18 and 19 are put for the sole and only purpose of ascertaining the witnesses real and lawful interest in the result of this suit. And also to ascertain whether there has been an improper application of the funds of said Estate since the commencement of this suit. and that the Counsel for the Plaintiff again requests an answer to said Interrogatories 18 and 19 and in default thereof he will apply for the proper process in the Circuit Court of Kane County where said cause is pending to compel answers to said Interrogatories: and also to answer in contempt of such Court: for which said Complainants counsel here gives notice

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to said witness, and the opposite party

Witness was asked whether he desired to make any answer and he said he did not.

1st Prop Int.

State if you know from any other source than the declaration of said French, that the said French was Township Treasurer for the Town of St Charles Kane County Illinois?

Ans

Only by Common Report.

2^d Prop Int.

State if you know from any other source than the declaration of said French that he said French ever received any money, as Township Treasurer except from the declaration of said French himself?

Ans.

I never did.

3rd Prop Int.

State who were present in the Bank at Geneva during the time the money was counted and paid over to said French spoken of in your answer to the 4th direct interrogatory?

Answer

Wesley Bevin and myself is all I recollect of being there.

4th Prop Int.

Did you take any part or assist in counting said money, and have you any ~~any~~ knowledge of the

88 real amount of money that said French received at that time, except from the declarations of said Pirw and French?

Ans. I took no part in counting the money. I have not the amount of it I got from them.

5th Corp. Ans. State if you know that said French had an order from Wiggins for school money from any other source than from the declarations of said French?

Ans. I had no knowledge from any other source.

6th Corp. Ans. State as near as you can recollect how many bags in all were taken by said French at the time referred to when he got said money?

Ans. to 6th Corp. There was more than two I don't know how many more.

7th Corp. Ans. State whether you assisted in carrying said bags containing the money above referred to or either of them from the Bank at Geneva when said French received the same, to the Buggy, or vehicle in which yourself and said French went to Geneva.

Ans. I carried one of the Bags to the carriage

8th Corp. Ans. State whether there were any marks on said

89 Bags or attached to the same. If so state particularly what the same was?

Answer There were tags attached to the bags, and figures upon the tags. My impression is they were paper tags about an inch and a half long I think they were attached to the bags with string.

9th Croq Int. State particularly what Characters, marks, figures or letters if any you saw upon said tags?

Ans I have no recollection of any thing but figures upon the tags.

10th Croq Int. Did you see any words or the name of any person or persons on said tags or either one of them. if so so state what word or words you saw or what name or names you saw upon said tags.

Ans. I have no recollection of seeing any words or names upon the tags.

11th Croq Int. State who handed said Bags from the carrying to said French at the time she carried them into the Banking house of J Mc Keirwin at St. Charles?

Ans. I handed them to him.

12th Q⁹⁰
Q⁹⁰

State whether or not if there had been any words or names upon the tags you would have been likely from the Examination you gave said Bag and the tags attached to them, to have seen such words or names?

Ans. I think I ~~would~~ have recollected it if there had been any words or names.

13th Q⁹¹ State if you know from any other source except the declarations of said French in what capacity he received said money or from what source he received it; if so state the same fully and at large.

Ans. from no other source except from French himself.

14th Q⁹² State if you know from what fund he the said French received said money. Except from his French's statement.

Ans. I know it from no other source except from him.

Direct examination resumed

20th Q⁹³

What was the business of Rulla French if any as connected with the said F. W. Kirwin at the time he went to Geneva with you to get the money above mentioned.

91
Ans. What was the business he was employed in
Keiron's Bank as Bookkeeper or clerk.

21st Int. Was said Keiron any other clerks or
Book Keeper? from Dec 1857 until his death
Employed in and about his said Banking
House except said French? if you state who?

Ans We had no other clerk

22nd Int. From your knowledge of gold and silver
what amount in your judgment was there of
gold put up by said Peiver for said French
and what amount of silver at the time spoken
of by you at Genoa State according to the best
of your judgment.

Ans. My impression is that there was about five
hundred dollars in gold? and five or six
hundred dollars in silver.

23rd Int. Was there any thing in particular which
called your attention to the tags or marks
upon them referred to by you in your Crap
Examination, If yes, state what it was?

Ans I don't recollect as there was.

24th Int.
objct to
by Dept.

92
State the Charact^r of the figures upon the tags
whether they were as a private mark or whether they
expressed the Value of the contents of each bag. State the
apparent purpose of such figures?

Ans.

I don't recollect what the object of the figures were.

25th Int.

Can you state the numbers corresponding to any
of the figures on said tags or any of them? If you state
such number

Ans.

I do not recollect I can not.

26th Int.

Might not the name of William B West have been
written upon said tags, or a part of them on the opposite
side of that upon which such figures were written?
and might not such fact escape your recollection
if not state your reasons fully why not.

Ans.

I have no recollection of seeing any name upon any
of the tags.

27th Int

Might not the name of William B. West have
been written upon said tags or a part of them and
still you not recollect it now. If not state your
reasons fully why not.?

Ans

His name might have been upon the tags but
I have no recollection of it.

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28th Int.
objected

In what capacity did you go to Geneva with Mr French for said money? as simply a friend or how otherwise?

Answer

I went down as a friend. He asked me to ride down with him.

29th Int.

Had you any interest whatever in such transaction except as a friend of Mr French which called your attention to the precise amount of money received, or the exact marks appended to the same? If you state what that interest was?

Ans

I had no interest whatever.

15th Exp Int.

Do you recollect about what time F. W. Keirwin went to Chicago the last time before his death? if so state when it was and who had charge of the Bank and transacted the business of the same after said Keirwin went to Chicago.

Ans

We went to Chicago about the first of April 1858. Rulla French had charge of the bank until about three days before his death. Dr Minard then took charge of it until his death.

16th Exp Int.

Did F. W. Keirwin have charge of or any thing to do with this Bank after he went to Chicago at the time above mentioned?

Ans⁹⁴ We did not see her in Chicago

17th Ques. How long did said French have charge of said Bank after Kirwin went into Chicago as above stated?

Ans. I think about two weeks.

18th Ques. How long did Ira Minard have charge of said Bank after said French left the same, and until said bank was closed.

Ans to 18th About three days.

19th Ques. How long was it before the death of said Kirwin that he said Kirwin became unable to attend to the business of his Bank. State fully and particularly all the circumstances in relation to that subject.

Ans to 19th Ques. It was five or six weeks he was unable to do business.

20th Ques. Do you know of any other person having access to the Books papers, and money of said Bank? and do you know of any other person or persons officiating in the capacity of Cashier said Kirwin's Bank except F. W. Kirwin, Rolla French & Ira Minard.

Ans I do not know of any other.

21st Crof. Int.

If there had been any words or names written upon the Bags tags attached to the Bags in which said French received the money spoken of ab. Gerson would you not have been as likely to have noticed and recollect it the same as you was to notice and recollect the figures on said tags?

Ans.

I think if there had been any word or name upon the tags I should have recollect it. I recollect the figures.

22nd Crof. Int.

State from your examinations of said tags whether the name of William B West was written upon any of the tags above referred to.

Ans.

I have no recollection of seeing this name on any of the tags.

Plaintiffs Counsel then objected to the entire Re Crof. Examination of each Interrogatory and Answer therein contained, for the reason it is not a Re Examination of any of the Subject matter called out in the direct examination of said witness

Direct Examination resumed

28th Int.
object.

Was not J. W. Keirwin in the habit of coming to his banking Office at short intervals

96 from the first of December 1857 until about the first of April 1858. if not state it. how late a period she came to the Bank.

Ans. We used to be at the Bank all the time until about the first of March 1858. and at short intervals during the Month of March and until she went to Chicago.

29th Int. At the time she went to Chicago in 1858 was his mental condition such as to clearly understand business matters. If not state what was his mental condition at that time.

Ans We seemed to understand clearly his business matters.

The witness here asked to be permitted to answer the direct interrogatories No 18 + 19 and to the 18th Interrogatory she answers. There was no arrangement between Scott and myself
In answer to 19th Interrogatory witness says: He told me that she was indebted to J^r Mc Kirwin: I sold him the certificate of deposit and took his note at sixty days there was no further arrangements between Scott + myself
To the two last Voluntary answers the counsel objected

31st Int. ⁹⁷

Q. 15

At the time you transferred the One hundred and four dollars certificate of said J. W. Keirwin to said C. G. Scott state all that was said and done by and between you definitely.

Ans.

We said we owed Keirwin over a hundred dollars I don't know the amount I think it was over a hundred dollars, and I sold him between a hundred and four and five dollars in a certificate of deposit in Keirwin Bank Scott gave me his note payable in sixty days.

31st Int.

Q. 16

at the time you made this transfer of the certificate of Deposit to C. G. Scott did he not state to you in substance that he owed the Estate of or Bank of said J. W. Keirwin and desired such certificate of deposit for a set off to such indebtedness If not for what purpose did he desire such certificate

Ans.

We told me he owed Keirwin Estate about a hundred dollars, and I sold him between a hundred and four or five dollars worth of certificate of deposit and took his note for it, payable in sixty days. I don't recollect his saying what he wanted it for at the time he gave me the note.

Cross Examination Resumed

Did you at the time you sold said certificate of Deposit to C. G. Scott make a full bona fide and unconditional sale and transfer

98 of the same, and have you now any interest, or ^{claim} demand in or to the same, or have you ever had since the sale to said Scott.

Ans

I did make a Bona fide sale; and have not now any claim or interest in the certificate nor never have had since the transfer

Direct Ex.

W. J. Gale.

State of Illinois }
Hann County } I A R McWayne a Justice of the
Peace in and for said County and State
aforesaid do hereby certify that the foregoing deposition was
taken by me at the time and place mentioned in the
Caption thereof that the said witness was first duly sworn
and that the said deposition was carefully read to the
witness and signed by him on the 14th day of Dec
1859.

Dated this 14th day of December 1859

A R. McWayne
J.P.

Filed Dec 14th 1859 }
P. W. Wright Clerk }

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And afterwards to wit on the 15th day of December A.D. 1859 the same being one of the days of the November Term of said Court A.D. 1859. the following among other proceedings was had and entered of Record in said Court to wit

Boards of Trustees of Township No. 20th North of Range Eight East of 3^d P.M.

Bill for Relief and Injunction

Mary Ann Kinnin and Emily Stevens Administrators of Estate of Francis M. Kinnin

This day comes the Defendants by Barry

their Solicitor and move the Court to suppress the deposition of Ira Howard on file herein after agreement of counsel the Court being fully advised sustains said motion as to a portion of the deposition and orders to be suppressed the following portions thereof viz the 9th Interrogatory on the part of the Complainants and the answer thereto - the answer to the 23rd duces interrogatory, and so much of the answer to the 33rd duces interrogatory as is included in brackets thus [] and marked suppressed on the Depositions.

And afterwards to wit on the 15th December A.D. 1859 the same being one of the days of the November Term of said Court A.D. 1859 the following among other

109 things proceedings were had and entered of Records in
said Court to wit

Boards of Trustees of
Township 46 N.R. 8 E. of 3^d R.M.
V.

Mary Ann Kerwin and
Henry Stevens Admin^{rs} of
the Estate of Francis M. Kerwin dec^d

Bill for Relief and Injunctions

This day comes the
parties in this cause
by their respective Solicitors and by their agreement this cause
is set for hearing before the Judge of this Court at his Chambers
on the 10th Monday ^{of January} next at 10 1/2 o'clock

And afterwards to wit on the 16th day of March A.D.
1860 the same being one of the days of the February Term A.D.
1860 of said Court the following among other proceedings was
had and entered of Record in said Court. to wit

Boards of Trustees of
Township No. 74th North
Range Eight East of the
3^d Principal Meridian
V.

Mary Ann Kerwin Admin^{rs}
and Henry Stevens admin^{rs} of
the Estate of Francis M. Kerwin dec^d

Bill for Injunctions and Relief

This day on motion
of complainants it

101 ordered by the Court that they have leave to make Augustus M
Herrington, Administrator of the Estate of Rolla French Jr.
party Defendant ^{to} of the Bill of Complaint herein.

Supplemental Bill

102 And afterwards to wit: on the 8th day of March AD 1860. ~~the following~~ a Supplemental Bill was filed in the Office of Clerk of said Circuit Court in the words and figures following to wit:

To the Hon Isaac G. Wilson Judge of the 13th Judicial Circuit in the State of Illinois and presiding Judge of the Kane County Circuit Court.

Your Orators "The Board of Trustees of Township Forty range Eight East of the third Principal Meridian" humbly complaining would show unto your Honor. That heretofore to wit. on or about the 30th day of April AD 1858 your Orators filed their original bill of complaint against Mary Ann Kirwin Executrix of the last will and testament of Francis M. Kirwin deceased in the Office of the Clerk of the said Kane County Circuit Court which said original bill is here referred to & made a part of your orators bill if necessary And by which is set forth in substance. That your Orators are a body corporate and politic, by the name and style above set forth, and that at a regular meeting of said "Body Corporate" duly held for the transaction of business. one Rella French was appointed "Township Treasurer" & that he held that Office until his death. all of which appears more fully from the records of said "Body Corporate" which are here expressly referred to and made a part of this Bill if necessary. That also said Township treasurer had received from time to time the funds belonging to said Corporation from the proper sources of ~~proof~~ ^{income} ~~income~~ ^{permitted} by law

103 and that at the time of his death the 17th day of April AD 1858. there was in his custody a large sum of money, to wit the sum of Three thousand dollars or thereabouts of said School funds as appears from the books & vouchers of said Corporation which are here again referred to and made a part of this bill if necessary. Said original also further sets forth that at the time said French was appointed such Township treasurer as aforesaid he was in the employ of one Francis M. Keirwin a Broker & dealer in Exchange & deposits in said Town of St Charles, County and State aforesaid as his principal Clerk & Book Keeper, and that said Keirwin at the time of such appointment or soon after was fully cognizant of the same and was also fully aware of the funds received by said French as such Treasurer and of the amount thereof. that said Keirwin on or about the 16th day of January AD 1858. it being the day said French was appointed township treasurer as aforesaid or but a short time thereafter became and was surety upon the Bond of said French to said Corporation for the security of said School funds. all of which appears from said Bonds and the same is made a part of this bill if necessary. Said original bill also sets forth that said French at the time of said French being appointed Township treasurer. as aforesaid he had no cash funds upon information & belief & did not have thereof until his death save and except his salary at the rate of some \$1000, which sum was scarcely sufficient for the support of his family and that said Keirwin

1024 will know the same. that the said School fund above referred to be the said French held in trust for the use of the Corporation aforesaid to the amount of three thousand dollars or thereabouts in cash as your Orators are informed and fully believe which said funds, the said French with the knowledge and approbation of said Kirwin deposited in the Office of said Kirwin on or about the — day of March AD 1858 nominally in his own ~~name~~ said French's name, but really for the benefit of said Corporation, and that said funds, or a large portion thereof (of the precise amount your Orators are not informed) are still held by said Kirwin or his legal representative in trust and of a right belonging to said Corporation. as your Orators are advised by Counsel and which they verily believe to be true, said Original bill also set forth that said French died intestate on or about the 17th day of April AD 1858. and so far as your Orators are informed he died intestate.

That said Kirwin died on or about the 15th day of April AD 1858 leaving a will ~~the 15th day of April AD 1858~~ leaving + that in compliance therewith Mary Ann Kirwin his wife has taken out letters as executrix but has filed no bonds as required by law as such executrix in said Estate, that she seeks to convert this trust funds above described and referred to, as assets belonging to said Estate of F. M. Kirwin deceased + neglects + refuses to set apart the same for the benefit of said Corporation contrary to equity + good conscience, that said Executrix has no property of her own and that there is great danger.

that said Trust fund will be lost, unless the said Executrix be enjoined from in any manner converting the same &c. Said original Bill also charges that said French died insolvent & wholly unable to pay his debts upon information & belief and that said Trust fund will be in danger of being wholly lost unless the relief above sought be granted by this Court &c. Said original bill also expressly charges that said Kirwin died seized and possessed of said fund in Trust only.

Said original bill asks that the said Mary Ann Kirwin Executrix as aforesaid and her confederates may respectively full true direct and perfect answers make according to their respective knowledge information and belief to all and singular the matters and charges aforesaid (Oath of the said defendants being sworn and each of them) and that as fully and particularly in every respect as if the same were here again repeated and they & each of them thereunto particularly interrogated. And especially that they may respectfully answer set forth and discover according to their best knowledge information and belief whether the said Trust Funds above referred to and set forth were received by said Francis W Kirwin in his lifetime from said French in Trust for the use of said corporation above mentioned. At what date said fund was received, and the full amount of the same, and whether or not after the time the said French was appointed. Township

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Treasurer as aforesaid the said French deposited any other and different monies except the said Trust funds herein referred to, with the said F. W. Keirwin in his life time and whether or not the said Keirwin in his life time, at the time when such deposit was made was not fully cognizant that such funds were the School funds of said corporation if not, what funds they were and from whom received.

The said Will prays that said trust fund may be set apart & paid over to good orators and not be converted as the assets of said Estate. And for such other and further relief as the nature of the case shall require as shall be agreeable to equity, it also prays for a writ of injunction &c & summons &c all of which more fully appears by said original bill which is here again referred to and made a part of this Supplemental Bill if necessary.

Your Orators would also further show unto your Honor that the said letters of Executrixship to said Mary Ann Keirwin were subsequently revoked by the County Court of Kane County and that one Henry Stearns took out letters of administration on the Estate of said F. W. Keirwin from the proper office and that your Orators filed their Supplemental bill making said Henry Stearns administrator as aforesaid party to said suit in the said Kane County Circuit Court on or about the 24th of May AD 1858. to which Supplemental Bill reference is hereby made & the same is made a part of this bill. That said Supplemental bill set forth in substance the matters of said original bill with the

107 additional charge that said Henry Stevens as administrator as aforesaid seeks to convert said Trust fund above set out & referred to as assets of the Estate of said Kimmick deceased which said charge is here again referred to and made a part of this bill if necessary.

And your Orators would further shew unto your Honor by way of Supplement. That subsequent to the filing of the said original bill in this case to wit. on the 1st day of May A.D. 1858 Augustus M. Werrington took out letters of administration from the proper Office upon the Estate of said Rolla French deceased. the said French having died intestate. as more fully appears by the records of the County Court of Kane County which are here referred to and made a part of this bill if necessary so far as they relate to the Estate of said French. And your Orators charge that by the means aforesaid the said A. M. Werrington has become the legal representative of the said French for the due settlement of the Estate of said French. And your Orators charge that they ought to have the same relief against the said A. M. Werrington as the personal representative of the said French & the same benefit of the said Suit and all the proceedings therein as he might have had against the said Rolla French if he had been made a party & appeared to your Orators said bill & was now living. To the end therefore that the said A. M. Werrington Administrator as aforesaid may

full true direct and perfect answers make according to the best of his Knowledge information and belief to all and singular the matters and charges aforesaid set forth in said Original bill (Oath being thereby expressly waived) and that as fully and particularly in every respect as if the same were there again repeated & here again especially interrogated and also full true and perfect answer make to this Supplemental bill and to all the charges therein set forth the same as if there again repeated and especially may he set forth and discover according to the best of his Knowledge information & belief whether the said Ralla French held intestate & if so whether the said Herrington has not taken out letters of Administration from the County Court of Noam County upon the Estate of the said French deceased and whether said Administrator has not entered upon his duties as such Administrator, and if so whether he has marshalled the assets of said Estate and whether there was funds belonging to said Estate which appertained to the School fund of the Complainants, if so how much, whether said Estate is solvent,

And that it may be declared by this honorable Court that your Orators are entitled to have the same relief against the said defendants as such personal representation of the said Ralla French and the same Benefic of the said original suit and of all proceedings therein as they might have had against the said Ralla French if he had been

made a party and had appeared to your Orators Original Bill and were now living & that it may be decreed accordingly and that your Orators may have such other & further relief in the premises as the circumstances of this case may require and to your Honor may seem meet. May it please your Honor to grant unto your Orators the writ of Subpoena issuing out of and under the Seal of this honorable Court to be directed to the said A. W. Herrington Administrator as aforesaid commanding him on or before the 3^d Monday in May next to be and appear before the Hann County Circuit Court sitting as a Court of Chancery at Geneva in the County of Hann and State of Illinois & there and there to answer said original bill & this Supplemental bill in the premises & further to stand to and abide by such order and decree therein as shall be agreeable to equity and good conscience And your Orators bill avers pray &c

D. L. Eastman

Solitor for Complats.

Filed March 8th 1860.
P. R. Wright Clerk

And afterwards to wit: on the 8th day of March 1860 an answer to Supplemental Bill was filed in books of Office of said Circuit Court, in the words and figures following to wit:

110 The separate answer of Augustus M Herrington administrator of the Estate of Rolla French late of Kane County, Illinois deceased, to the original and last Supplemental Bill of "The Board of Trustees of Township forty range Eight East of the third principal meridian" against Mary Ann Kirwin Executrix of the last will & testament of Francis M Kirwin deceased respondent in said original bill and against the said Herrington as Administrator of the Estate of Rolla French deceased in said Supplemental Bill

And the said Herrington now and at all times hereafter reserving all & all manner of exceptions to the many insufficiencies and imperfections of said Original & Supplemental bills and all manner of benefit thereof as to so much and such parts of said original & Supplemental bills as he deems necessary and proper for him to reply to the answering says,

That personally he does not know whether or not Rolla French was appointed Township Treasurer as charged in said original bill. yet on information & belief he believes he was that of his own knowledge he does not know that said French as said Township Treasurer had received from time to time the funds belonging to complainants or the School fund for said town forty &c. from proper sources provided by law. yet on information and belief he believes the same to be true. That of his own knowledge he does not know that on the 17th day of April 1858 at the time of said French's death that

111 he had in his custody a large sum of money to wit:
the sum of three thousand dollars or ~~otherwise~~ there
abouts of said School funds or any other sum.

Respondent states upon information and belief that
said French at the time of his death had deposited
to his credit in the Books of said F. W. Kirwin about
two thousand dollars but whether such deposits were
monies belonging to said School fund or to the funds
of Mr French the respondent is entirely ignorant
personally & therefore leaves complainants to their proofs.

Respondent neither admits nor denies that the said
French was in the employ of said Kirwin as
charged in said bill but leaves Complainants to his proof
as to the charge that said French had no considerable
cash funds of his own as charged in said bill
respondent is entirely ignorant of his own knowledge
therefore leaves Complainants to their proofs and
whether or not the said French had any income
save from his salary as charged in said original
bill respondent has no personal knowledge.

And as to the charge that said French with
the knowledge & approbation of said Kirwin
deposited the fund in the Office of said Kirwin as
is charged in said bill of complaint respondent
has no personal knowledge & therefore leaves complainants
to their proofs. respondent admits that said French
died intestate so far as is known to him on the
17th day of April A.D. 1858. Respondent also further

112 admits that said French died intestate and without means to pay his debts, as to the time or manner of the deposits being made or as to what particular fund such deposits particularly belonged or when or how the same were made if at all. respondent has no personal knowledge and no information except from the Books of said Kirwin. which show such deposits to have been made in the name of French only & so far as it appears from them such funds appear from said Books to the credit of said Rella French personally. hence respondent leaves complainants to their proofs as to such facts.

And respondent further answering admits that he took out letters of administration upon the Estate of said French as is charged in said bill and filed Bonds as required by law. that said French died intestate so far as respondent knows. that respondent has entered upon such administration and attempted to Marshall the Estate of said French. but has been wholly unable to find assets except as above stated save and except a small amount of household property or furniture & household goods and few articles of Jewelry & the like in all far less than the widow & family of said French are in law entitled to. that he left a child about five years of age and a widow. That no money or evidences of money of any kind belonging to the school fund

above mentioned except as above stated from the Books of said Kirwin has ever come to the hands of possession or Knowledge of Respondent. & from what investigation respondent has been able to give to the affairs of said Estate, he has no information or belief that at the time of said French's death as above stated, that said French had in his personal possession any monies or funds of the complainants and that no such funds found or monies has ever come into the hands or control of respondent, as such administrator or otherwise.

And respondent further answering says that what he has not admitted either of his own knowledge or upon information or belief so far as the same is pertinent in said original or Supplemental Bills to respondent he knows nothing of and therefore does not answer, but leaves the said complainants to their proofs and he asks to be dismissed with his reasonable costs & charges &c as to this Hon Court may seem just.

This respondent states that the Supplemental bill to which this answer is made was filed this Eighth day of May A.D. 1860. during the May Term A.D. 1860 I sign the answer with waiving the rights of the widow or child or interests of the Estate, but only for the purpose of aiding the complainant in getting a speedy termination of the Suit therein.

A. W. Herrington

114 And afterwards to wit: on the 8th day of March A.D. 1860 the Testimony taken on the trial of said cause was filed with the clerk of said court in words & figures following to wit:

Evidence of Ira Minard
Ira Minard Sworn -

Int. 1st. About when did Francis M. Kerwin commence banking business ⁱⁿ St Charles on his own account

Ans. I think in Jan. 1857

Int. 2^d. How long did he continue ⁱⁿ business

Ans. Until April 1858

Int 3^d. Please state who was book keeper & teller & cashier if he had any

ans. Mr French was the only one I knew of after Mr Lewis left

Int 4th. About when did Mr French commence such service and how long did he continue

Ans. I think in Jan. 1857 same positions continued to April 1858

Int 5 State whether you was familiar with the banking business of Mr Kerwin from Jan. 1857 to April 1858

Ans. I was as familiar as I should be with any man's business that I was not doing myself
Qut. 6th State whether or not you are acquainted with the Banking Business of Frank M. Kerwin from Jan'y 1857 to April '58 if you state what your means of acquaintance was state fully
Ans All the means I have of is my own business with him - was frequently then

Qut 7 State whether or not you had frequent ^{visits} ~~course~~ with said Kerwin from Jan'y 1857 to April 1858 relating to the banking business

Ans Our interviews was quite often he used to call upon me for advice in relation to his doing certain things

Qut 8. State whether or not he did not make an exhibit to you of his financial condition as such Banker if you state about when and whether or not from such statement you did not become familiar with his condition as such Banker - state fully & particularly frankly

^{ans} _{of} _{frankly} He frequently - several times ^{he} showed ^{me} his balance sheet & from that I could only infer what his condition was

Qut. 9 State whether or not said Kerwin detailed

116 to you in ^{the} full / 57 his financial condition
of your estate whether you became familiar
with his financial condition at that time

Ans. I presume that he did in summer or
fall he did make frequent statements
by showing me his balance books I think
in summer I did not become familiar only
from his balance book & his statements

Int. 10 State whether you become familiar with
his financial condition from his state-
ments of Balance Books

Ans. only what his Bank Books would
show & his statements

Int. 11 Did they purport to be full and complete

Ans. From the appearance I should ^{think} ~~think~~
that they were

Int. 12 About what time do you refer to in
your last answer state the month &
year

Ans. I do not know as I can state positively
he showed them to me several times & made
statements to me several times in 1857 &
1858

Int. 13 State as definitely as you can each
month when each statement was made

Ans. I could not state the month of any one

117 except one and that was when R. K. Swift failed & that was I think it was when in August or September 1857

Int. 14

State whether you learned from said Kirwin or from his statements whether there was deposited in the year 1857 the School fund of St Charles if you state who deposited the same

Ans. I think I did not in year 1857 I do not think he told me

Int. 15 State whether or not you had an interview with ^{said} Kirwin relating to the School fund of the town of St Charles for the year 1858 if you state what he said ^{or} touching the same being deposited with him for that year

Ans I did speak to him about it one day & he stated that Mr. Branch said that the School fund for 1858 was to be deposited there

Int. 16 Who was acting Township Treasurer at that time for the town of St Charles

Ans Mr. Rolla Branch

Int. 17 For how many years had he thus acted

Ans I think 1857 & 1858

Int: 18: State whether Mr. Kerwin afterwards said when the money had been deposited if at all
Ans I could not be positive

Int 19 State your best recollection
Ans " I have no recollection - but might & might not

Int. 20 If you know state when the School fund of the town of St-Charles was deposited for the year 1858
Ans " I have drawn money on Mr Druch's checks there

Int- 21 If you have any facts to give as to where the school fund of St-Charles was deposited for the year 1858 state them fully at large

Ans I have none only that I have drawn money there on Mr & have seen Mr Druch give other checks to teachers of different districts in Mr Kerwin's Bank

Int 22 To what fund did the money belong of which you drew

Ans " It belonged to district No 7 of the town of St-Charles

Int 23 Did you ever learn from Mr Kerwin or from Mr Druch in Mr Kerwin's presence as to whom the school fund of ~~the town of~~ ^{of the town of} St-Charles belonged to

119 St Charles in 1858 was deposited in the State where

Ans .. Mr Kerwin stated to me that it was to be deposited there ~~I do not~~ I do having any recollection of hearing them talk the matter over together.

Qut 24 Did you see any money paid over to Mr Druch ^{in the presence of Mr Kerwin} of the School fund of 1858 if you state what was done with the same

Ans .. I have seen Mr Marks collector paying to Mr Druch, what I supposed to be the township fund when in February or March Mr Druch told me so in the presence of Mr Kerwin I do not know what was done with the same

Qut 25 When did Mr Druch get such money

Ans .. He was counting it on the desk when I saw him

Qut 26 State whether Mr Druch was acting at that time as cashier or book keeper for Mr Kerwin

Ans .. He was acting as both he was Book keeper and cashier part of the time

Qut 27 What amount was then paid over

Ans 29 I think about Two Thousand Dollars
 Ques 28 What did Mr Druech do with each
 money if you know

Ans " I do not know Mr Druech & Mr. Kerwin
 now counting it on the desk, I left
 before they got through

Ques 29 Do you know of any one paying from
 Mr Kerwin's hands any of the school
 fund of the town of St Charles for June
 1858 if you state by whom & how
 much

Ans I do not I have received money
 then in checks from district No 7

Ques 30 If you have drawn School funds money
 for the town of St. Charles for the year 1858
 state from whom and who paid the same
 to you

Ans I have drawn money from Mr Kerwin for
 district No 7 for indebtedness and several
 times some of the time Mr Kerwin paid it
 and some of the times Mr Druech paid
 it on checks

Ques 31 State when as near as you can

Ans " I think in July, or March 1858 I cannot be
 positive

121
Int 32 Will you state about the amount you
draw out this several times
Ans " Probably between One & Two ^{Thousand} Hundred
Dollars could not state positively

Int 33 Do you know of other persons drawing
money on said School fund if so
state who and when and about how
much from said Kinins Bank

Ans 33 I cannot state

Int 34 Upon what account was this fund of
District No. 7 drawn

Ans 34 District No. 7 Drawn upon indebtedness
that I had against them

Int 35 By whose order
ans 35 order of the ^{directors} district

Int 36 Did you ever ~~hear~~ ^{learn} from Mr. Kerwin or
from Mr. French in Mr. Kerwin's presence
when the school fund of 1857 was deposited

Ans 36 I could not say that I did

Int 37 Do you know of your own knowledge
when the same was deposited

Ans. 37 I do not

Int 38 Do you know of any of the school fund of

122 1857 being drawn from Mr Kerwin's Bank
belonging to the town of St Charles if so state
by whom
Ans 38 I could not say that I do ~~not~~ could not say
but that ~~a~~ part I drew ^{of the fund} mes of that
year

Int 59 State whether or not over about the 14th
of September 1857 you drew money of
about \$136. from that bank belonging to said
school fund - State fully

Ans 59 I cannot state - have no recollection
might or might not

Cross Examination

Int 1 I wish you to state as near as you can
recollect the amount that you drew from
Mr Kerwin's Bank in July, or March 1858 of
money belonging to the school fund

Ans 1 I could not state without referring to
my books it was between one & two thousand
dollars

Evidence of John P. Lewis
J. P. Lewis Sworn

Int 1 Were you in the Banking business with C. M.
Kerwin prior to the year 1857

Ans 1 I was

123
Qnt 2 Was you familiar shown with Kerwin
preinary condition on or about Jan'y.
1857

Ans 2 I think I was

Qnt 3^d State the amount of his money means at
that time

Ans 3^d The amount he had invested in the
Bank was about \$700.

Qnt 4th Had he any other money means or capital
to your knowledge

Ans 4 He had none

Qnt 5 State what you means of knowledge was
as to his capital at that time

Ans 5 Well I had been connected with him in
business at that time and it was all
he had invested in business

Qnt 6 State whether or not any of the School fund
was paid passed over by Kerwin ^{to} the old
firm ^{to} Kerwin

Cross Examination

Qnt 1 Was you one of the partners of the firm of
Kerwin

Ans 1 It was

124
Int 2. How much money did you put into the firm when it started

Ans 2. I do not recollect the amount - amt. some when about \$2000.

Int

Int 3 How much money did you brother put into the firm when it started

Ans 3 I do not recollect may \$1200. or \$1500 at the time we commenced

Int 4. How long did you keep the money in that you put into the concern

Ans I kept it in until we dissolved

Int 5 You say that it was in the neighborhood of \$2000. Will you state the exact amount

Ans 5 I do not recollect

Int 6 State how you know how ^{what} Kerwin was worth when he went into the banking

Ans " I did not know at the time he went into the Bank.

Int 7 Do you know what Kerwin's property was worth at the time that Kerwin & Lewis dissolved partnership in the Banking business

125
ans I know very near what it was at the time he had invested in his business

Qut 8 Might he not have had other property that you know nothing about that was afterwards was brought into his business

ans 8 I think that he did not have

Qut 9 How do you know that he did not have

ans 9 I think he did not have for the reason that he agreed to invest now means that he did invest & if he had had he would likely to have invested it

Qut 10 That is all the reason you have for thinking he had no more property is it not

ans 10 I had been very intimate with him & I think he would have told me if he had any more property

Qut 11 Does every man that you are intimate with in the community tell you exactly how what their property is worth

ans 11 Every man that I form copartnerships in business with does or at least pretends that he does

Qut

126
Int. 12 Did Mr. Kermin ever tell you or pretend to tell you exactly what his property was worth or what property he had

Ans 12 He told me he had that Stock of goods & his House and lot & said that he could command other means

Int. 13 What is all you know in relation to his property is it not

Ans 13 I think that is all the property he had

Int. 14 How do you know that is all the property he had

Ans. 14 because I think if he had had other property he would have been likely to have told me he had

Int. 15 The reason why you think he had no other property was because he did not tell you about it - is it not?

Ans 15 Because he did not tell me of it & because I did not know of it & I think I should have known of it under the circumstances if he had had it

Int. 16 What further circumstances were there that rendered it necessary for you to know exactly what Kermin's property was worth

Ans 16 Because we were forming a partnership

127 and I think it was necessary to know what way man is worth that I form a copartnership with - I intend to

Qnt 17 Did Kerwin at the time he formed this copartnership tell you or pretend to tell you how much property he had or ~~how~~ ^{what} ~~much~~ it consisted in

ans 17 As I said before he told me he had that stock of Goods that House & lot & could command other means but failed to command them

Qnt 18

Qnt 18 How long was you in copartnership with him

ans 18 Four Months Sir

Qnt 19 How much Money did you draw out of the firm of Kerwin & Lewis on your own individual account at the time you dissolved partnership

Ans 19 I do not recollect

Qnt 20 Did you draw out all you had in the firm

Ans 20 I left some on deposit I drew what means I had in copartnership of Kerwin Lewis & Lewis

128
Qnt-21 How much did you draw from the
partnership

Ans 21 I drew what I had invested there

Qnt-22 Did you draw out \$5000. at ~~that~~ ^{the} time
the dissolution took place

Ans 22 I now claimed to have that amount
in there

Qnt: 23 Did you draw out \$500.

Ans 23 I did

Qnt-24 How much more

Ans 24 In cash & obligations I drew out
\$3500. more.

Qnt-25 Was that your own individual money
which you had put into the firm

Ans 25 It was in

Qnt 26 How much did your brother draw out at
the time of the dissolution of the partnership

Ans He drew out about the same amount

Qnt-27 And the amount which you put into
the partnership was about 2000. was it not

Ans 27 The cash I paid amounted to about 2000.

Qnt 28 What other property did you put into the copart.

Ans 28 I put in some notes and some time drafts

Int 29 Who were the notes against

Ans 29 Some of the notes were against Gerry Bank of New York of Gods State

Int 30 How many notes had you against - Barry & What amount

Ans 30 I had two notes I am not positive whether I had two or three I do not recollect the amount

Int. 30 State about the amount

Ans I do not recollect the amount

Int 31 Were they \$500. each

Ans 31 I do not know I think the notes were not the same amount each

Int 31 Were the notes of the amount of \$100 each less or more

Ans They were more

Int 32 How much more

Ans They were more I think the notes were for the amount of \$1000. or more I do not recollect the exact amount

Int. 33 How much less than \$1000. did they amount to

130
ans 33 They might amount to \$800.

Int 34 Who own the note made payable to
ans 34 myself

Int 35 Were the note paid while they were in
the Bank
ans 35 I think they own out am not positive

Int 36 What other notes did you put in the Bank
ans I had a note against Kerwin I do not
know whether I put that in the Bank or not
I know it was not paid after we
dissolved

Int 37 How much amount
ans I think it was between \$400. & \$500.

Int 38 Did you put any other notes in the Bank
besides Bary & Kerwin
ans 38 I do not recollect that I did I am
not positive on that point

Int 39 about how much more did you leave
a deposit there when you went out
of the Bank
ans 39 I do not recollect

Int 40 Was it ~~1000.~~ ^{one} \$1000.

QW¹³ 40 I think it was more than that

Int 41 How much more

Ans 41 as I said before I do not recollect the amt.

Int 42 Could you tell anything else.

Ans 42 I think I could

Int 43 How long did the money remain there after the dissolution of the copartnership before you drew it out

Ans 43 I do not recollect I drew it out at different times

Int 44 Did it remain there a year

Ans 44 I guess not

Int 45 Six months

Ans 45 I think not

Int 46 Three months

Ans 46 Well part of it might and it might not I don't think all of it did

Int 47 Who carried on the Banking Business ^{after} when you left

Ans 47 ^{Frank's} Mr. Kemmer

132
Qul 48 He gave a Bond to you and your Brother
in the sum of \$1000. to close up the business
did he not

Qul 49 Are you acquainted with these books
(exhibited) and if so were they the Partners
Books of Kerwin Lewis & Lewis & W. Kerwin
Ans 49 They are the Books used by Kerwin
Lewis & Lewis I supposed they were
used by Kerwin

It is admitted that the Books presented
are the Books of Kerwin Lewis & Lewis & also
of Kerwin

Qul 50 I will ask you to state the balance of
the School fund in the Bank of Lewis
Kerwin & Lewis at the time of the dissolu-
tion of the copartnership of Lewis Kerwin
& Lewis

Ans I think there was no school fund account

Qul 51 How much money had I ranch in the
Bank at the time of the dissolution of
Lewis Kerwin & Lewis.

Ans. 51 I think \$156.51

Direct Examination

Int. 1 Did you learn from Kerwin that he owed for a portion of the goods referred to ~~you~~ by you

Ans 1 I learned it after we commenced business together

Int. 2 State whether he ~~received~~ ^{raised} other available means as referred to by you

Ans 2 He did not while I was connected with him

Cross Examination

Int. 1 I think you stated yesterday that at this time of the dissolution of the copartnership that there was a sum deposited in the Bank about \$12,000. did you not

Ans I stated that I did not recollect the amount - but I thought that it was in the neighborhood of that

Int. 2 Was that amount left with Kerwin

Ans 2 All of the deposits of the old firm was passed over to Kerwin

Int. 3 What security did the old firm receive from Kerwin at the time of dissolution if any to indemnify the old firm for liability to the depositors

Ans They received an indemnifying Bond

134 signed by C.K. Parks & I think by Kamin also
for \$10,000.

Evidence of
David Higgins

Int. 1 State your name age & occupation since Jan. 1st 1857

Ans 1 David Higgins age 39 occupation
Clergyman & School Commissioner

Int 2 Who was the acting treasurer for the township of St Charles for the current year of 1856 & 1857 to April 1858

Ans 2 By the Bond I hold Rolla Trunch first Bond signed by 28 January 1856
Second Bond 16 January 1858

Int 3 Do you know Rolla Trunch's handwriting

Ans 3 I have seen him write once

Int 4 Is this his signature to the Bond dated January 1856

Ans 4 I should think it was from the
resemblance of his writing

Int 5 State if this is Rolla Trunch's writing signature to the Bond dated January 16th 1858

Ans 5 I should think it is

Int 6 State whether you have paid to Rolla Trunch as Township Treasurer of the

135 of the Township of St Charles for the year
from the 1st of January 1857 to 15th April
1858 as school commissioner of the
county of Kan. Missions any moneys belonging
to the ~~township~~ of said School fund of
Township if you state the dates and
the amounts of such payments as near as
you can

Ans

I paid Rolla Drunch 25 March 1858
by check on West & Moors Bank to be
paid in coin \$1192. 57 also same date
currency \$100.

Abuler Sworn - Now Town Treasurer of
St Charles at the present time Rolla
Drunch was my predecessor I have the
care & custody of the Books These are
the Books I presented (Page A.) This Page
is in the hand writing of Drunch (Page A
put in evidence) have seen him ^{write}
Know the hand writing of ~~Dr. M.~~ ^{Dr. M.} ~~Remin~~
also C. A. Brooks Papers Presented
Bond "B" the signatures proven I know
the hand writing of Red Persons Bond of
the year preceding "C" put in evidence
Subject to objection

136 Stevens sworn. I am administrator of
the estate of J. M. Kerwin
has been acting since 20th May 1858
The assets consisted of money, accounts, notes
personal property & Real estate (Henry ^{Stevens} ~~Stephens~~
subjected to as witness by deff^y consisted of
~~from~~ ^{from} Five to seven thousand dollars cash
715.45 beside little uncurrent \$8. There was
Real Estate to the amount of Fifty thousand
Dollars in St Charles on east side of
Port River St Charles There was in notes
not to exceed two hundred Dollars The
Balance was in accounts & personal property
The personal property was from \$800. to \$1000
consisting of Household & amatin Buggy
Hearnes Bards furniture Bow &c. accounts
run about \$200.00 there was old judgments
on record I think about \$500. I think
that includes all I saw Minard passed the
money into my hands it was in Gold
Silver & Bank notes I think there was
one bag Silver about full shot bag
containing from \$250. to \$300. Mostly in
American quarters there was another shot-
bag containing some gold and some
Silver the Silver was mostly of small
denominations from three to 10 cents Gold was
mostly foreign gold Gold amounted \$155.66

137 Change I do not remember I have the
 custody of the Books of the Banking House
 of D. W. Kerwin (presented the account of
 Polla Drunch from the 1st day of Jan'y. 1858
 to the close - commencing Jan'y. 6th 1858 Ledger
 "A" page 231. also 292 of which the following
 is a true copy)

		page	\$
1858 Jan. 6	To amt. Cash	215	10.81
" " 9	" " "	216	3.00
" " 19	" " "	219	8.50
" " 28	" " "	222	10.00
" Oct 18	" " "	275	25.00
" March 1	" " "	277	19.95
" " 3	" " "	"	38.00
" " 6	" " "	279	3.00
" " 10	" " "	"	176.00
" " 8	24 $\frac{90}{1008}$	"	32.90
" " 11	6. 18	281	21.00
" " 12	11 $\frac{05}{4}$	"	18.15
" " 17	11 $\frac{05}{4}$	"	3.00
" " 18	15 $\frac{56}{5}$	283	20.56
" " 19	" " "	"	3.00
" " 22	" " "	"	4.00
			<u>391.57</u>

1858

Amount brought forward

\$391.37

"	"	23	"	"	"	283	3.00
"	"	25	"	"	"	285	38.00
"	"	26	"	24.4	"	"	28.00
"	"	27	"	21	"	136.11.	108.00
"	"	29	"	"	"	"	5.00
"	"	30	"	5.22	50.54	82.80	1776.20
"	"	1	"	"	"	"	12.50
April	"	1	"	4,776.58	"	"	780.55
"	"	2	"	"	"	"	34.00
"	"	3	"	115.42	100	350	565.07
"	"	6	"	7.2	13.94	350	373.25
"	"	7	"	"	"	"	92.00
"	"	8	"	"	"	"	5.00
"	"	10	"	70.42	.5	291	75.477
							4345.175

1858

Jan.	19	By cash	account	219	16.00
"	28	"	"	222	50.00
Feb.	1	"	C.B.	266	159.30
"	8	"	M ₁	268	200.00
March	4	"	"	276	11.55
"	8	"	M ₁	278	1164.96
"	16	"	"	280	9.00
"	20	"	"	282	3000.00
"	23	"	"	"	44.00
"	25	"	"	284	1192.00
"	26	"	"	"	7.06
"	29	"	"	"	1186.98
					6040.80

139		Amount brought forward			6040.00
March	3	"	"	286	19.20
April	1	"	"	"	5.00
"	2	"	"	"	18.08
"	3	"	"	"	195.00
"	"	"	"	"	17.50
"	"	"	"	"	8.00
"	5	"	"	288	6.25
"	6	"	"	"	22.95
"	7	"	"	"	9.17
					<u>6341.20</u>
Cash drawn					<u>4345.17</u>
					1996.03

L M Adsett account was introduced on page 240 bal. shown of 991.44 that is not the true balance
 The Page of account with George Smith & Co amount to \$1033.50 was put in evidence on page 288 ledger A.

On part of Deference
 I know of no other account - The account of Drunch commenced with Kerwin Jan. 5th 1857 & closed up in April 1858 Kerwin had in

140 Vault on 6th Jan. 1858 \$ 6714.98 in cash

De A Whaler recalled

I am acquainted with French's handwriting (paper shows) this is French's handwriting (the paper was report of Mr. French showing Statement of Tax received by him for year 1857 marked Exhibit, 'D' admitted in evidence

Township Treasurers Book No. 1 offered in evidence from March 25th 1858 to April 5th 1858 page 62 for District No. 1.

also pages 58 & 59 District No. 2 all entries after Jan. 1st 1858 also page 63 after Jan. 1st 1858 for a/c District No. 3

also page 67 Jan. 1st 1858 District No. 4

also page 74 from Jan. 1st 1858 District No. 6 also page 68 from Jan. 1st 1858

page 75 continuation of same account for District No. 7 also page 71 from Jan. 1st 1858 for District No. 8 also page

72 from Jan. 1st 1858 for District No. 9 all of said a/c are in the handwriting of Rolla French

Copy of the above account are hereby returned marked Exhibit 'E'

The following checks of Rolla French on J. W. Kinn are introduced in evidence

141

objected to & overruled. Exhibit J.

Dis No	Check	dated	amt.	\$
6	Check	March 5 th	1858	58.00
"	"	2	"	17.75
"	"	6	" 27	24.00
"	"	7	" "	156.00
"	"	8	" "	21.00
"	"	"	29	743.89
"	"	"	" "	694.80
"	"	"	" "	70.00
"	"	"	30	132.00
"	"	"	" "	101.07
"	"	"	" "	22.50
"	"	"	" "	5.50
"	"	"	" "	1.50
"	"	"	31	12.50
"	"	April 1	"	976.33
"	"	"	2	34.50
"	"	"	3	115.09
"	"	"	"	550.00
"	"	"	"	100.00
				<u>3596.15</u>

			amt. but find.	5396.10
Dis.	¹⁴² No 7	Check dated	April 6 th 1858	amt. \$7.11
"	"	"	"	2.15
"	"	"	"	13.99
"	"	"	"	350.00
"	"	"	"	92.00
No	" 7	"	"	70.47
				5931.85

Admitted that the above checks were in the possession of Mr. J. Kerwin at the time of his decease

Stephen March Sworn

Paper presented "G" Exhibit
 Sworn outwits It is an order by School directors of district No. 8 to Stephen March dated July 19th 1858 for \$87.52 I paid my taxes to Mr Marks collector I think I presented it as soon as I got it

J. H. Bowman Sworn

Order Presented drawn by School Directors of District No. 8 for \$39.88 to Bowman & Lloyd I let Mr. Marks have it in paying our taxes for 1859 I paid it to the collector about 1st March 1858 Said order marked Exhibit 78.

143 Henry Stevens

The following is a list of the depositors as shown by the Books of F. W. Merrin for Jan. 1st 1858 to the close
B. B. Paine W. D. Barry Ira Minard
John Stone Patrick O. Dwire W. G. Conklin
Otho Red Dumm Capt. ap E. H. Chapman
Rolla Drunch Minard & Osgood C. A.
Brooks James P. Durrived John D. Dues
Red Derson Edward Haid J. D. Easter
Saul. B. D'ant Geo. Derson D. A. Whaler
R. J. Hains A. H. Barry Sargent Collins & C.
E. K. Parks G. D. Hyde Pete Garthur
Benjamin Dulle Mrs. W. McCarty B
Ellis W. G. Walker W. C. Edmunds
H. A. Dersons A. J. Farnest. Jan Vorst

A. W. Merrington

It is agreed that A. W. Merrington was administrator of Rolla A Drunchs Estate was appointed in May 1858 that he has marshalled his assets of any description belonging to the estate of Drunch.

Henry Stevens

It is admitted that during the winter of 1858 D. W. Merrin had on hand from Jan. 1st 6714.98 and from that to the time of his death drawn down to 715.45-

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Exhibit C.

Refunds to in the witness of O.A. Wheeler
District No. 1

1858	March 23 To cash received from W.P. West Deat. B.P. Day	44.79
	29 " " " " Down Collector for Day 1857	81.80
	April 5 " amt distributed by Trustees this date	13.26
	Cor	114252
	March 25 by Down Treasurer amt 247.8 on 447.9	.89
	April 5 " " " " " " 818.2	1.64
	April 5 " amt paid G.P. Jackson for Deacons	15.96
		16.49

1858

District No. 2

March 29	To amt. received for collector for Day 1857	89.86
April 5	" " distributed by Trustees this date	22.18
	Cor	

July 27	By Paid your order to M. Switzer	17.75
March 29	" " " " E.W. Spring Deacon	70.00
"	" " Premiums commission 2%	89.86
		1.75

District - No. 3

1858	March 29 To amt received for collector Day 1857	105.07
	" " distributed by Trustees this date	85.28
	Cor	
March 29	By Treasurer Commission on 105.07 2%	2.10
	Cash paid Geo. R. Benedict Deacons	
	" amt distributed by Trustees this date	100.00

1858

District No. 4

March 29	To amt recd from collector for Day 1857	138.17
"	" Cor	
"	" By Treasurer com. on 138.17 2%	2.76

1858¹⁴⁵

District No 6

March 29	To amt. of funds rec ^d from collector	187.65
April 5	" " distributed by trustees this date	81.65

1858 Cr

March 29	By Treasurer com ^o on 187.65 2%	\$3.75
"	" " Cash p ^a you order J. D. Spray	24.00
	" " " " " " " " " " " "	D. A. Rawson 132.00

1858

District No 7

March 29	To amt received from collector Jan 7, 1857	
	as follows whole amt. collected	\$4040.92
"	amt. Deacons proportion 1/9 of the amt	\$577.2
"	due fr general district's purposes	3463.65
"	amt rec ^d from deacons proceeds of bonds sold	190.00
"	" distributed by trustees this date	549.20

1858 Cr

Jan 27	By cash paid Eliza Permuter	12.00
March 25	" " " Maria Ellis	38.00
" 27	" " " Lucy W. Johnson	136.00
" 29	" " " Treasurer Percentage 2% of 4040.92	80.82
"	" " order Paid Henry Mann	487.82
"	" " " " " " " " " "	A. B. Dewolf 42.67
"	" Bal acct; from deacons fund	2942.19
"	" Order P ^a Ira Munnard	99.24
"	" Cash " " " " " "	1293.30
"	" " " " " " " " " "	48.15
April 11	" " " Susan Adams Deacon	120.00
	" " " " " " " " " "	R. N. Warren 142.50
	" " " " " " " " " "	Mann Ellis 43.83

146

"	"	"	Marion Ellis	20.00
"	"	"	John G Adams	450.00
"	"	"	Marion Ellis	18.17
"	"	"	"	16.13
"	"	"	J. J. Randall	1.50
"	3	"	Coonis & Dyer	37.50
"	"	"	Butler & Reed	41.25
"	10	"	S. B. Flint	36.72
"	"	"	J. G. Mudd	68.47
"	"	"	Bowman & Lloyd	5.41
"	3	"	Butler, Derson & Co	.70
"	1	"	Geo. Derson	1.00

District No 8

1858

March 29	do.	amt. recd from collectrs for 1857		1020.29
April 5	"	distributed this date by district		551.66

do

March 29	By	Derson Co. on 1020.29 2 1/2%		20.40
"	"	cash paid by order John Clever		21.00
"	"	"	J. S. VanKatten	7.00
"	"	"	Bowman & Lloyd	39.88
"	"	"	Stephen March	87.52
"	30	"	G. S. D. Savage	.84
"	"	"	"	100.17
"	"	"	O. M. Butler	8.71
"	"	"	Butler, Derson & Co	1.50
"	"	"	Lewis & Hallack	5.50
"	31	"	S. B. Patrick	12.50

April 13	By cash p ^o you order	Mrs Woodwood	150.00
"	"	Hellen M. Bell	200.00
" 5	"	E. J. Pickett	350.00
"	"	Elen M. Payne	92.00
1858	District No 9		
March 29	Do cash rec ^d from collector for tax 1857		181.51
April 5	" " debited his acct by Trustees		25.42
611			
March 29	By Treasur Com ^t on 181.51 2/22		12.62
"	" " Cash p ^o you order S. S. Purdy		62.20
"	"	Rud. Dixon	50.00
"	"	Parker Carbo order to John Mearns	4.50
"	"	Mearns order & you accept ^d	15.00
"	"	you order to Butler & Hunt	13.79

Exhibit of page "A" of records of School Trustees put in evidence & referred to in evidence of D. A. Wheeler

Organization of board of Trustees
 January 16th 1858
 Present John J Randall Henry Mearns
 John J Randall S. Howard
 On motion of Henry Mearns
 John J Randall was chosen ^{appointed} President
 of the Board of Trustees for the ^{coming} year
 On motion of Seonaid Howard Pulla
 Spruch was appointed Township Treasurer

148 for enclosing two years

On Motion of L. Howard the Board Bond
of said Rolla Grunch as Township Treasurer
for the sum of one thousand Dollars
Signed By Rolla Grunch Francis W.
Kurwin & Charles A. Bivot was accepted
and ordered placed in the hands of
the president to be forwarded to the county
School Commissioners as provided by
Law

On Motion adjourned until the first
Monday of April next

John J. Randall
President

Attestd by
Rolla Grunch }
Clerk }

State of Illinois }
Kaw County }
I Charles B. Mills
Master in Chancery of the
Kaw County Circuit Court do hereby
certify that all the foregoing testimony
was taken by me on the hearing of the
above entitled cause while on trial before
the Hon. Isaac G. Wilson & by order of the
Court

Charles B. Mills
Master in Chancery

John Marks Sworn on the part of complt.

Order of district No. 9 for \$60.20 P. S. Purly on Town ship Swann of St Charles presented I took this order from Purly and paid it to Mr Druech as cash

Another ~~order~~ ^{copy} of \$15.00 same district from Kerwin ~~another order of \$15.00~~ ^{same} Mr. Mack paid me an order of \$8.00 from dist. dist. No. 8 I let Mr Druech have them as money - same as to Mr Bowman But I dont recollect taking the orders I was in the habit of receiving checks on Kerwin ^{Baus} back for taxes

The complainant proposed to show that the statements in the deposition of Marks as to the payment to & receipt of money by Druech are not in accordance with the fact in this case To wit: That in cases where the money was collected through school days it would be footed up and a receipt given as though it was all paid at once - overruled & exceptin by complainant - Kerwin was present at times when I paid over money to Druech

Affirmant
X d

I remember that I paid money to Druech previous to 1st Jan'y.

150

I paid Truck at several times before the 8th of March 1858 & on that day I ~~recovered~~ ^{settled} it up and it amounted to 1160.96 I might have done so in other cases I do not recollect any instance

Copy of Orders of District drawn on Rolla Truck

Exhibit "I"

Dist	Date	Payee	Amount
	March 29 th 1858	E. M. Spang	\$ 70.00
	" 27	W. Switzer	17.98
3	April 2	Geo. R. Buedet	100.00
" 1	" 6	J. A. Pawlitz, Doctor	13.96
" "	March 24	Your order	37.08
" 6	" 19	J. A. Pawson	132.00
" 7	" 2	Lucy M. Johnson	136.00
" "	" 25	Mamie Allis	38.00
" "	Jan. 27	Eliza Parmelle	12.00
" "	March 30	John B Adams	450.00
" "	" 31	Parmelia W. ^{Mamie} Haynes	142.50
" "	" 30	Mr Allis	20.00
" "	April 1	" "	43.83
" "	March 30	Susan Adams	120.00
" "	April 1	Mr Allis	16.13
" "	" "	" do	18.17
" "	" 3	S. B. Flint	36.32
" "	" "	Putler Durson & Co	20
" "	" "	Geo Durson	1.00

Bowman & Lloyd

Bowman & Lloyd 5.41

Loomis & Dwyer 39.80

Butler & Reed 41.20

J. H. Knud 68.40

Sept 24th 1857 Lea Winand 5 48.18

1298.30
2899.52

Wm. G. Conklin 99.24

Ella M. Bell 200.00

Miss Woodward 150.00

E. J. Pickett 350.00

G. S. Savage 1.84

" " 100.19

S. B. Patrick 13.50

March 25 J. S. Van Patten & Co 7.00

April 2^d Ella M. Wray 92.00

March 26 John Olver 21.00

July 19 Bowman & Lloyd 39.88

" " Shpku March 87.52

March 25 Lewis & Hallock 5.50

April 6 Wm. Dummer 2.15

A. J. Kinross 15.00

R. French 4.50

Butler & Hunt 13.79

March 6 S. L. Purdy 62.20

" " Red Wason 50.00

4210.81

152 Henry Stevens ^{Deference} Spoon

On the 6th day of Jan 1858 there was a balance on the Banking Books as appears from the daily Bank balance Book of 25.61 against Pollard & Drunch

On the 7th Jan. 1858 there was a balance against Mr. Drunch of \$36.42

On the 9th Jan 1858 there was a balance against Mr Drunch of \$39.42

and on the 12/58 a balance of \$39.42

against Mr. Drunch

On the 25th of Jan. /58 there was a balance \$1.72 against Mr. Drunch

Mr. ^{Mr.} J. Kerwin	Head of Money in the vault	
on the 6 th Jan. 1858		6714.98
" " 7 th " "		7515.89
" " 8 " "		7663.11
" " 11 " "		9805.80

There was due from Kerwin to Depositor on the 14th day of April 1858 4500.00 except Drunch account including his 6500. about there is no account on the Bank. Book of Mr. ^{Mr.} J. Kerwin of Pollard & Drunch as Treasurer having an account with the Bank

153

Rolla Church a/c at Bank stood
on Feb. 23^d, 1858 342,58 in his favor
" March 11 " 1726,44 " " "
" " 30 " 3620,89 " " "

Schedule Marked 10 dated 2^d April/58
The order at bottom put in evidence

The foregoing testimony was
taken by me on the hearing of the above
entitled cause while on trial before
the Hon Isaac G. Hilson and by order
of said Judge

Chas N. Wells
Master in Chancery
Kau Co, Civ, Court

Exhibits 11

St. Charles 12am 27 July 27 1858

The Treasurer of Township No. 40 range No. 8 in Kane County will pay to Martin Smitzer or bearer 17 dollars & 75 cents on his contract for wood for school House by order of the Board of Trustees Directors in said Township

for account of } district No. 3 }
John W. Alexander
Nelson Waite

No. 7

Orders from district No. 7 in A.D. 1858
\$43.83/100 Treasurer of the town of St. Charles pay to Miss Marriam Ellis or order Datzy three 83/100 Dollars and charge to school district No. 7 on account of Teachers wages

O. M. Butler } Directors
Ebenzer Need

St. Charles April 14 1858

No. 7

\$136.00 Treasurer of the town of St. Charles pay to Miss Nancy M. Johnson or order One Hundred and Thirty Six Dollars and charge to School district No. 7 on account of Teachers wages the above amount

155 being in full for her wages to date
St. Charles March 27th 1858 } Ebenezer Weed } District
O. W. Butler }

No. 7
\$38.00 Treasurer of the town of St. Charles
pay to Mrs. Marion Ellis or order Thirty
Eight Dollars and charge to School
District No. 7 on account of Teachers
wages } Ebenezer Weed } District
St. Charles } O. W. Butler }
25th March 1858 }

(No. 7)
\$30.00
Treasurer of the Town of St. Charles pay
to Mrs. Marion Ellis or order Twenty
Dollars and charge to School district
No. 7 on account of Teachers wages
St. Charles 30th } O. W. Butler } District
March 1858 } Ebenezer Weed }

(No. 7)
\$45.00 Treasurer of the town of St. Charles
pay to John Adams or order Fifty Five
Dollars and charge to school district
No. 7 on account of Teachers wages
St. Charles } Ebenezer Weed } District
4th Oct. 1854 } O. W. Butler }

No 7

\$1.50 Treasurer of Township No 40 north Range No 8 East of the 3^d P.M. in Kane county Illinois will pay to John J Randall or order On 50/100 Dollars out of any funds in your hands belonging to school district No 7 in said town not otherwise appropriated for account of bill credited to said Randall Sep 20th 1856 and charge same to district

St Charles } A. B. Dewolf } Directors
Oct. 1st 1858 } W. B. Corklin }

No 7

\$90.00 Treasurer of the town of St Charles pay Butler Denson 90 seventy cents & charge school district No 7 on account of General fund

St Charles April } Ebenezer Hedges } Directors
3^d 1858 } O. M. Butler }

Endorsed Butler Denson & Co

No 7

\$48.15 This is to certify that there is due to Ira Minard from School district No 7 town in the town of St Charles the sum of Forty Eight & 15/100 Dollars for account of bill of Kent Greenwood & c allowed by the Board

157

of directors of said town school District
No 7 Sept 20 1856 for his bill rendered
at that date and the township Treasurer
of said Township is hereby requested to
pay the above amount out of any funds
belonging to said district not otherwise
appropriated

Saint Charles
Sept 24th 1857

A. B. Dewolf } Directors
W. G. Conklin } District No 7
A. Hayden }

No 7

Township Treasurer of Township No 4,
North Range no Eight East of third Principal
Meridian in Kane county Illinois will
please pay to William G. Conklin or order
the sum of Ninety Seven 24/100 Dollars
(97 24/100) Dols) out of any funds in your hands
belonging to district No 7 in said town
not otherwise appropriated on account
of items credited to said Conklin
Sep 20th 1856 and charge same to school
district No 7 aforesaid

Saint Charles Oct.
17th 1857

A. B. Dewolf } Directors
W. G. Conklin } District No 7

Endorsed W. G. Conklin

158 Treasurer of the Town of St Charles No 1

Sir Please Pay to Mr J. P. Pier Thirty one Dollars & sixty seven cents the amount due me as per schedule of school taught in district No 7 the past winter

Respectfully Yours

Wazoo March 21st 1857 } E. C. Guild

41.25

No 7

Treasurer of the Town of St Charles pay Butler & Weed or order Thirty one & 25/100 Dollars and charge School district No 7 on account of general fund St. Charles April 3rd 1858

Ebenzer Weed } Directors
O W Butler }

No 7

37.50 Treasurer of the town of St Charles pay Loomis & Tyler or order Thirty seven & 1/2 Dollars and charge School District No 7 on account of general fund St Charles April 5th 1858

Ebenzer Weed } Directors
O W Butler }

No 7

Treasurer of the town of St Charles pay
Bowman & Lloyd or order Five 4/100 Dollars
and charge School district No 7
on account of general fund

St Charles April

Edmtyer Mead } Directors

3^d 1858

C. W. Butler }

No 7

\$1295.³⁰/₁₀₀ This is to certify that there is due to
Era Minard from School district No 7
in the town of Saint Charles the sum of
twelve hundred and ninety three & 30/100
Dollars for acct. of amount of items allowed
said Era Minard for advances made
by him in construction of the School
House in said district and audited &
allowed at this date and the township
Treasurer is hereby authorized to pay the
above amount out of any fund belonging
to said district coming into his hands
from the tax levied and estimated by the
direction of said district for the year A.D. 1857

Saint Charles Apr.

24 1857

A. B. Dewolf } Directors

W. G. Conklin } of School

A. Kay den } District or
town

Sept 1857

160/200

(No. 7)

Treasurer of the Town of St. Charles pay to
Miss Eliza Parmenter or order Twelve Dollars
and charge to School district No. 7
on account of teachers wages
St. Charles Jan E. Wood } Directors
27 1858 O. W. Butler }

142 50

(No. 7)

Treasurer of the Town of St. Charles pay
to Mrs Parmenter N. Warren or order one
Hundred & forty two & 50/100 Dollars &
charge to School District No. 7 on
account of teachers wages
St. Charles March Ebenezer Wood } Directors
31st 1858 O. W. Butler }

136.32

(No. 7)

Treasurer of the town of St. Charles pay S.
B. Hunt or order Thirty Six & 32/100 Dollars
and charge School district No. 7 on
account of general fund
St. Charles April Ebenezer Wood } Directors
3rd 1858 O. W. Butler }
A. Hadam

118.14

(No. 7)

Treasurer of the town of St. Charles pay to
Marion Ellis or order Eighteen 17/100

161 Dollars and charge to school district
No. 1 on account of Teachers wages
St Charles April
1st 1838
O. M. Butler, Directors
Ebinger Hud

16.13 No. 7
Treasurer of the town of St Charles pay
Miss Marion Ellis or order Sixteen 13/100
Dollars and charge to school No. 7 on
account of Teachers wages
St Charles April
1st 1838
Ebinger Hud
O. M. Butler, Directors

120.00 No. 7
Treasurer of the town of St Charles pay
Miss Susan Adams or order one hundred
and twenty Dollars & charge to school
district No. 7 on account of Teachers
wages
St Charles
March 31st 1838
Ebinger Hud
O. M. Butler, Directors

88.47 No. 7
Treasurer of the town of St Charles pay
J. V. Kind or order Sixty Eight & 47/100 Dollars
and charge School district No. 7 on
account of General fund
St Charles April 3rd 1838
Ebinger Hud
O. M. Butler, Directors

\$487.⁸²

No 9

This is a certificate that there will be due to the Board of Directors of the School district No. 40 north Range East of the Precinct of Medicine in Ham county the sum of Four Hundred & Eighty two Dollars and eighty two cents which sum we desire to be paid said Minimum or order at the time and in the manner aforesaid for the following purpose to wit:

For balance due from the contract with the school directors for the carpenter & joiner work on the school house in said district made for contract date April 1st 1858 Four Hundred & Eighty Dollars for extra work in furnishing & drawing plans and specifications for the full completion of the work the sum of Forty Seven & 82/100 Dollars and we hereby request the President of the Board of Township Trustees to order the above amount in the usual manner at the time the same shall fall due

St Charles April } A. B. Dewolf } District of
 7/1/57 } W. G. Conkle } school dis.
 No 40

The Treasurer of School paid for Township No 40 Range Eight East in Ham county and pay D. B. Patrick Director 500⁰⁰ Dollars as being for work done on school house in Dist No 8
 W. M. & W. H. Hayes school directors of dist No 8
 J. B. Savage

No 8

St Charles March 26th 1838
 The Treasurer of the School fund for
 Township No 40 North Range & East pay
 John Oliver Deputy one Dollar it being
 for labor done by him in making Book
 case for library in Dist. No 8

A. R. McWayne } School Director
 Stephen March } for Dist. No 8

117

No 7

Treasurer of the town of St Charles pay
 George Emerson one Dollar and charge
 School district No 7 on account of
 quack fund

St Charles April 3^d 1838

Ebenzer Hud } Directors
 O M Buller }

No 8

The Treasurer of School fund for Township
 No 40th Range No Eight & East in Kan
 county will pay to Lewis & Hallack Five
 Dollars it being for money expended
 by them for building fires & sweeping in
 School House in Dist. No 8

St Charles March

25th 1838

A. R. McWayne } School
 G. S. Savage } Director in
 dist. No 8

No 8

The Treasurer of School fund of Township
No: Doby (#0) Range (8) east in Kane county
will pay Butler & Person & Co own 50/100 Dollars
for Rooms & furnished for school district
No. 8

A. R. McWayne } Schools directors
G. S. D. Savage } of School
dist. No 8

No 8

St Charles

Treasurer of Schools of the town of St. Charles
Please pay C. M. Butler Eight Dollars &
Twenty cents and charge to school district
Number Eight it buy for coal furnished
paid district

A. R. McWayne } Directors
Stephen March }

No 8

Polla Trunch Ery }
Treasurer of St. Charles }

Please pay Mrs H M

Bill a duly qualified teacher thirty two
Dollars the sum due her as wages for
teaching in school dist: No 8 in the town
of St. Charles from Sept 7th to Oct. 1st 1857
St. Charles Oct. 2 1857

M Dal Core } Directors
Elisha Truman }

District No 8

St Charles March 25th 1858

The Treasurer of School fund for Township Number Forty (40) North Range Eight east in Kaw county pay G. S. Savage One Hundred 11/100 Dollars it being for money expended by him for library for School district No 8

A. R. McWayne School Director
G. S. Savage of District 8

(No 8)

The Treasurer of School fund in Township No 40 Range 8 east in the county of Kaw will pay to G. S. Cant Patten the sum of 100 Dollars it being for money expended by them in payment for sawing wood for district No 8

St Charles March 25th 1858

A. R. McWayne School Director
G. S. Savage of District 8

was left out

No 8

Treasurer of School fund for Township No Forty Range 8 east in Kaw county pay G. S. Savage Eighty Four cents it being for money expended by him for freight to for school district No 8

A. R. McWayne Director of School
G. S. Savage of Dist No 8

166 State of Illinois No. 8
Kane County

We the undersigned School directors in district No. 8 Township No. 40 north of Range No. 8 east of the third Principal Meridian do hereby certify that there is now due to Miss Ellen W. Wayne as assistant teacher in said district for the five months ending April 1st 1858 the sum of Ninety Two Dollars and that the said Ellen W. Wayne has a legal certificate of good moral character and of qualifications to teach a common School
Witness our hands this
2^d day of April 1858

A. R. W. Wayne
G. S. D. Savage

State of Illinois No. 8
Kane County

We the undersigned School directors in district No. 8 Township No. 40 north of Range No. 8 east of the third Principal Meridian do hereby certify that there is now due to Miss Hellen M. Bell as assistant teacher in said district for the six months ending April 1st 1858 the sum of Two Hundred Dollars and that said Hellen M. Bell has a legal certificate of good moral character and of qualification to teach a common school
Witness our hands this 2^d
day of April 1858

A. R. W. Wayne
G. S. D. Savage

167 Received from Rolla French Township
Treasurer for Township No. 40 North Range
No. Eight east in Kane county Ills. the
sum of Two + fifty + Hundred $57/100$ Dollars
in full for amount distributed by Township
Trustees at their semi annual meeting
April 5th 1858 to School dist. No. 6 of the
Town of Elgin for the schooling of children
Wm. Duman The whole amount due said
Teacher is $2^{50/100}$ amt. distributed is
 $2^{15/100}$ leaving a bal. of 35^{cts}

St Charles April 6th 1858

William Duman

for the Teacher M. F. Ireland

$15^{00/100}$ The Township Treasurer of Township
No. 40 North Range 8 east of in Kane
Co will pay yourself fifteen Dollars
per acct. of amount of A. C. Kinnear's
order on us accepted which you allowed
to John Marks in settlement with him
for funds due to district No. 9 in said
Town and charge said amount to
district No. 9 aforesaid

Edward Baker } Directors
John C. Nelson } District No. 9

168
4
Downship Treasurer of Downship No 40
Range 8 East in Kaw county Ill will
pay yourself four & 50/100 Dollars out of
the funds belonging to district No 9 in
said Downship for account of amt of
allowed by you to John Marks Collector
in settlement with him for said district
and charge to account of same

Edward Baker } Director of
John C. Wilson } Dist. No 9

Treasurer of Schools of town of St. Charles
Please pay Batten & Hunt or bearer
thirteen and 79/100 Dollars and charge
to School district No 9 in being
for coal furnished said District

St. Charles Marks } Edward Baker } Directors
6th 1858 } John C. Wilson }

Downship Treasurer of Downship No 40
North Range eight east in Kaw county
Illinois will pay to L. S. Parley or
bearer the sum of Sixty two & 20/100 Dollars
out of any funds in your hands
belonging to School district No 9 in
said Town for account of wages due him
as Teacher in said district - and charge
the same to account of said district

Edward Baker } Director
John C. Wilson } of Dist.
No 9

169 \$50.00

St Charles 6th March 1858

The Township Treasurer of Township No. 40 Range 8 Erie Kans County Illinois will pay Rud. Person or order the sum of Fifty dollars out of any funds in your hands belonging to district No. 9 in said Township for account of money hired to pay teachers wages in said district and charge same to account of said School district

Edward Baker }
John C. Wilson } School
Directors }
Dist. No. 9

State of Illinois } No. 1
Kans County }
We the undersigned directors of district No. 9 in Township number Forty Range Eight in the county aforesaid certify that we have examined the foregoing schedule and find the same to be correct and that the school was conducted according to law that there is now due paid L. A. Brewster teacher the sum of Thirty Seven Dollars and Eight cents and that the said teacher has a legal certificate of good moral character and of qualifications to teach a common school This March 24th 1858

C. B. Ducking }
Luther Perry } Directors

170

(No 8)

State of Illinois
Kane County

In the undersigned School
director of in district No 8
Township 40 north north range 8 east
of the 3^d Principal Meridian in the county
aforesaid certify that we have examined
the foregoing Schedule and find the same
to be correct and that the School was
conducted according to law there is now
due the said Board of Woodward the sum
of one Hundred Fifty Dollars and that
said teacher has a legal certificate
of good Moral Character and of
good qualifications to teach a com-
mon school

Witness our hand this 2^d day of April
A.D. 1858

S. Marsh
A. P. M. Payne

(No 9)

State of Illinois
Kane County

In the undersigned
School director of in district
No 9 Township 40 north Range Eight
of the 3^d principal Meridian in the
County aforesaid certify that we have
examined the foregoing Schedule and
find the same to be correct and that

171 the school was conducted according to law There is now due the said teacher the sum of 62 Dollars and twenty cents and that the said teacher has a legal certificate of good moral character and of good qualifications to teach a common school

Witness our hands this 6 day
of March A.D. 1858

John C. Wilson
Edward Parker

State of Illinois
Kane County } District No 3

We the undersigned
School directors in district No 3 Township
40 north Range 8 east of the 3^d Principal
Meridian in the county aforesaid certify
that we have examined the foregoing
Schedule and find the same to be
correct and that the school was con-
ducted according to law There is now
due said George R. Benedict the sum
of 100.00 Dollars and that said
teacher has a legal certificate of
good moral character and of
good qualifications to teach a common school
Witness our hands this 2^d day
of April A.D. 1858 } James Burr
Parker Person

172
State of Illinois
Kane County

No. 2

We the undersigned directors
of School district No. 2 Town
Forty range 8 east in the county aforesaid
do hereby certify that we have examined
the foregoing or within Schedule and
find the same to be correct and that
the school was conducted according
to law that there is now due the said
E. W. Spang teacher as per contract the
sum of Seventy Dollars and that the
said teacher has a legal certificate of
good moral character and the qualifi-
cations to teach a common school
Witness our hands this 27th
day of March A.D. 1858

John W. Alexander
Nelson Waite } Directors
Martin Spritzer }

Township Treasurer of Township No. 40 North Range No. 8 east of the
third principal Meridian will pay to A. B. Dewolf a order the sum of
Forty five ⁶⁷/₁₀₀ dollars 45 ⁶⁷/₁₀₀ out of any funds in your hands
not otherwise appropriated belonging to district No. 2 Town
in said town for account of terms audited to said
Dewolf do wit: 20 1856 and charge same to acct of
School district No. 2 Town aforesaid

St Charles Oct 14 1857

A. B. Dewolf } Directors of
W. G. Conklin } said District

173

District No. 9

State of Illinois }
 Kan. County } We the School directors
 in District No. 9 Township
 40 north range & east of the 3^d Principal
 Meridian in the county aforesaid
 Certify that we have examined the
 foregoing Schedule and find the same
 to be correct and that the School was
 conducted according to law There is
 now due the said teacher the sum of
 Nigntum Dollars and that said teacher
 has a legal certificate of good Moral
 Character and of good qualifications
 to teach a common School
 Witness our hands this 4th day of Dec. A.D. 1857 }
 John C. Wilson }
 Edward Baker } *Directors*

State of Illinois }
 Kan. County } We the undersigned school directors in district
 No. 9 Township 40 north Range & east of the
 third Principal Meridian in the county aforesaid certify
 that we have examined the foregoing Schedule and find
 the same to be correct and that the school was conducted accor-
 ding to law There is now due the said teacher the sum of 450^{Dollars}
 and that said Teacher has a legal certificate of good Moral
 Character and of good qualifications to keep teach a common^{School}
 Witness our hands this 30th day of }
 March A.D. 1858 } O. W. Buller }
 Chamber Head } *Directors*

174 State of Illinois
Kane County }

N^o 8

We the undersigned School directors
in district N^o 8 Township 40 north Range 8 east of
the 3^d principal Meridian in the County of aforesaid
certify that we have examined the foregoing School
rule and find the same to be correct and that the
school was conducted according to law

There is now due the said Edwin G. Pickett
the sum of Three Hundred & Fifty Dollars and
cents and that said Teacher has a legal
certificate of good moral character & of
good qualifications to teach a common school

Witness our hands this } J. R. M. Wayne
day of April A.D. 1858 } G. S. J. Sarago

State of Illinois
Kane County }

We the undersigned School
directors of in District N^o 6 Township 40 north
Range 4 of the 3^d Principal Meridian in the County
aforesaid certify that we have examined the foregoing
Schedule and find the same to be correct and that
the school was conducted according to law There
is now due the said J. R. Rawson the sum of 132
dollars and - cents and that said Teacher has
a legal certificate of good moral character and
of good qualifications to teach a common
school

Witness our hands this }
14 day of March A.D. 1855 }

J. D. Spruy
C. King
C. Heald

175 And afterwards do mit on the 8th day of
March A.D. 1866 the following among other
proceedings was had and entered of record
in said court (The same being one of the days
of the said February Term of said Court)

The Board of Trustees of Town Lots
Range Eight East of the Third Principal Meridian

or

Mary Ann Kurmin executrix of the last will
of Francis W. Kurmin deceased Henry
Strong administrator of the estate of
Francis W. Kurmin deceased and
Augustus W. Strumpton administrator
of the estate of Polia (Wash)
deceased

This cause coming
having been brought
on for final hearing upon the original and
supplemental bills the answers replication &
proofs filed and taken in the case and
after full arguments by D. L. Eastman
counsel for complainants & W. D. Barry Esq
counsel for defendants and the court having
duly considered the pleadings proofs and
arguments in the case And it appearing
to the satisfaction of the court
among other things that at the time of
Francis W. Kurmin's death as set forth

176 in the pleadings in the case do wit. the
15th day of April A.D. 1858 There was in his
vault in Specie a bag of or containing Specie
or silver amounting in the aggregate to
two Hundred Seventy five Dollars which
bag of Money was taken then deposited
by said Rolla Spruch as Township Treas-
urer of Town forty Range Eight east of the
third principal Meridian and was a part
of the School fund belonging to the various
School districts of said Township and
that said bag of Money was taken charge
of by said defendant Henry Stevens as
administrator of the estate of Henry said
Francis W. Kerwin deceased on about
the 10th day of May A.D. 1858 It is therefor
ordained adjudged and decreed by this court
that said Henry Stevens administrator of
the estate of said Francis W. Kerwin deceased
pay and deliver over to the said complain-
ants or to their solicitor the said bag
or by him received as aforesaid containing
the said sum of Two Hundred & Seventy
five Dollars in Silver or its full equivalent
do wit a sum of equal ⁱⁿ value to the said
sum of Two Hundred and Seventy five
Dollars in Silver within ten days from the
date hereof and to take the receipt of said

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Complainants or their Solicitor therefor which said receipt shall be a voucher to said estate for the payment of said sum not only as against the said complainants and their successors but also as against the estate and legal representatives of the said Rolla Brunch deceased and upon the same being filed & spread upon the records of this court the said complainants and the legal representatives of the said Rolla Brunch and each of them shall be forever barred from in any manner recovering said specific sum of Two Hundred & Seventy five dollars and interest as above ^{mentioned} from the estate of said J. W. Kerwin deceased and the said complainants shall also be barred from ever having and maintaining any action against the estate of said Brunch & his heirs for said specific sum of Two Hundred & Seventy five Dollars so found in the vault of said Kerwin as aforesaid from and after the filing & recording said receipt as aforesaid and it is also further ordered and decreed by this court that nothing in this decree or the proceedings herein shall in any way effect invalidate or bar any

178 proceedings action or causes of actions
within law or equity. which the said
complainants may have against the
estate of the said Francis M Kerwin
or as against the estate of the said
Rolla Church Saw and except as to
said specific sum of Two Hundred &
Seventy five Dollars as above specifically
described decreed to be paid by the
said Henry Stovns to said complainants or
their solicitor in ~~Mary~~ ^{Massachusetts}

It is also further adjudged and decreed
by this court that the Masters fees of in
this cause be paid by the said defendant
Henry Stovns Administrator of the said
Kerwin deceased in the due course of
administration upon said Kerwin's estate
It is also further ordered adjudged &
decreed by this court that each party
pay his own cost. It is also ~~not~~ ordered
adjudged & decreed by this court that no
costs are to be taxed against the admin-
istrator of the estate of the said Rolla
Church nor as against the said complain-
ants They being School Commissioners
Trustees and by law exempt from all
costs in the prosecution of suits in their official
Capacity as in this case

Spaced G. Wilson

Exhibit "B"

179

State of Illinois }
 Kane County } Know all men by these presents that we
 Rolla French, Francis M. Kerwin and
 Charles A Brooks are held and firmly bound jointly
 & severally unto the Board of Trustees of Township N^o
 40 North Range N^o 8 East of the 3^d Principal Meridian in
 the County aforesaid in the special sum of Ten thousand
 Dollars, for the payment of which we bind ourselves
 our heirs, executors & administrators,
 firmly by these presents: In witness whereof we have
 hereunto set our hands and seals this 16th day of
 January AD 1858:

The condition of the above obligation is such:
 That if the above bounden, Rolla French, Township
 Treasurer of Township N^o 40 North Range N^o 8 in the
 County aforesaid shall faithfully discharge all the
 duties of said Office according to law which now are
 or may hereafter be in force, and shall deliver to his
 successor in Office all moneys, books and papers,
 securities and property in his hands, as said
 Treasurer, then this obligation to be void, otherwise
 to remain in full force and virtue:

Approved and accepted
 John J. Raudall
 Henry McInnis
 Leonard Howard

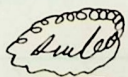
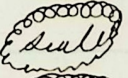
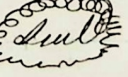



Rolla French
 F. M. Kerwin
 C. A. Brooks
 Trustees. 



Exhibit "C."

State of Illinois }
 Kane County }
 Know all Men by these presents
 that we Rolla French, Reed
 Ferson, and Abiel B. DeWolf are held and firmly
 bound jointly and severally unto the Board of Township
 Trustees of Township No forty (40) Range Eight (8) in
 said County in the special sum of Ten Thousand dollars
 for the payment of which we bind ourselves our heirs
 Executors and administrators firmly by these presents.

In witness whereof we have hereunto set our
 hands and seals this Twenty eighth day of January
 A.D. 1856.

The condition of the above obligation is such
 that the above bounden Rolla French Township
 Treasurer of Township (40) forty Range (8) Eight in the
 County aforesaid shall faithfully discharge all the
 duties of said Office according to the laws which now
 are or may hereafter be in force and shall deliver to his
 Successor in office all Monies, Books, papers, Securities and
 property in his hands as such Township Treasurer that
 the obligation to be void, otherwise to remain in full force
 and virtue.

Rolla French 
 Reed Ferson 
 Abiel B. DeWolf 

Approved & accepted
 Lemuel Howard }
 Henry Minniss } Directors of
 John J. Randall } Education

Exhibit "D"

181

Continued Statement of division of School District Money

folio of		District No 6		District No 7		folio of		District No 7			
Collector's Book		Amt. Paid		Delinquent		Collector's Book		Amt. Paid		Delinquent	
Page	20	6	55	12		Page	9	6	54	3	17
"	21	12	01	8	45	"	10	65	11	14	13
"	22	57	90	2	81	"	11	41	35	7	35
"	23	43	51	4	93	"	12	20	41	18	04
"	24	10	87	-	-	"	13	8	71		
"	29	20	61	3	23	"	17	1	04		
"	30	37	42	4	93	"	18	37	18	0	07
Page 31 of Lats		2	62			"	19	96	03	1	61
No Taxes assessed on Personal Prop.		191	48	24	47	"	20	36	72		35
						"	21	37	30	1	39
Amt of district No 7	Forw'd up					"	24	16	01		
Journal		1938	51	137	45	"	25	98	38		
Page	24	86	07	10	14	"	29	76	64	8	57
"	25	70	50	3	50	Lats Page 1		265	11		
"	26	71	02	9	27	"	2	314	47	10	50
"	27	59	49			"	3	172	71	3	50
"	28	37	69			"	4	143	49	45	50
"	29	42	02			"	5	132	30	7	00
"	30	50	23	6	12	"	6	120	74	1	40
"	31	328	11	9	63	"	7	14	16		
"	32	55	28			"	20	16	44		
Personal Prop.		1384	46			"	31	38	09	6	12
		4123	38	176	81	"	22	75	85	8	75
						"	23	103	73		
						Forw'd	1938	51	137	45	

182
Statement of division of School District Taxes for 1857

Page of		District No 1		District No 2	
Collectors Book		amt. coll'd	Delinquent	folio of coll. Book	Delinquent
Page	1	\$ 22. 47	\$ 5. 24	Page 1	09 7 45
"	2	1 16		" 2	34 42 5 86
"	6	3 20	8 32	" 3	9 24
"	7	11 17	1 58	" 4	5 61
"	8	18 71	1 57	" 5	26 98 20
"	9	21 03	28	" 6	1 38 20 29
Per. Property		5 75	Per Prop	11 93	
		\$ 83. 49	\$ 16. 99	\$ 89 65	\$ 15. 80

Page of		District No 3		District No 4		
Coll ^r Book		amt. coll'd	Delinquent	Page of coll. Book	amt Paid	Delinquent
Page	3	21 75		Page 12	10 03	
"	4	31 57		" 13	21 36	1 76
"	13	2 20		" 14	21 26	
"	14	14 33		" 16	36 96	3 16
"	15	14 27	16	" 17	20 82	
Per. Prop.		23 50		" 19	6 22	
				" 20	2 71	
				Per. Prop	21. 63	
		\$ 80. 72	\$ 16	\$ 140 99	\$ 4 92	

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Statement of division of District School Taxes

District No 8

District No 9

Page of Coll. Book		Amt. Coll ^d		Delinquent		Page of Coll. Book		Amt Paid		Delinquent	
Page	17	11	69	1	47	Page	15	7	12		
"	20		31			"	16	7	97		
"	24	2	33	3	12	"	26	24	38		
"	25	64	32	1	35	27	48	71		04	
"	"	10	80		28	28	21	56			
"	26	13	97	4	38	Per. Prop.	24	35			
"	28	64	54				133	99		04	
"	29	23	23								
Later Pay	7	54	35								
	8	62	65	3	00						
	9	60	90	8	75						
	10	41	09	5	00						
	11	56	19	8	43						
	12	41	27	6	55						
	13	44 53									
	14	41	71	4	37						
	15	36	19	1	25						
	16	50	46		37						
	17	48	27								
	18	28	47								
	19	9	00								
	20	5	60								
Per Prop.		269	244								
		1041	11	47	74						

Recapitulation

Amt. Collected for Dist No 1	\$ 83	47		
Collectors fee centage out 2%	1	69		81 82
Amt. Collected for District No 2	89	65		
Collectors fee centage out 2%	1	79		87 86
Amt Collected on District No 3	107	62		
Collectors fee centage out 3%	2	15		105 47
Amt Collected on District No 4	140	99		
Collectors fee centage 2%	2	82		138 17
Amt. Collected for District No 6	191	48		
Collectors fee centage out. 2%	3	83		187 65
Amt. Collected for Dist No 7	4123	38		
Collectors fee centage 2%	82	46		4040 92
Amt. Collected for Dist No 8	1041	11		
Collectors fee centage 2%	20.	82		1020 29
Amt. Collected for Dist No 9	133	99		
Collectors fee centage 3%	2	68		131 31
Total Net proceeds recd from collectors				\$5793.49
Total Amt. Tax. collected as above detailed	5911	71		
Collectors Commissions above detailed	118	22		
				\$5793 49
Total delinquents on School Tax for the year 1857 is				\$ 334 15

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Exhibit 'G.'

(No 8)

St Charles Feb'y 19th 1858
Rolla French Treasurer of the St Charles Township School
fund please pay Stephen March Eighty seven
dollars and fifty two cents out of money in your
hands belonging to Schools district Number Eight it
being for Coal &c furnished by said March for
said district

A R McWayne } Directors of
G. S. F. Savage } Schools in district
J March } No 8.

Exhibit 'H' :

(No 8) :

R St Charles Feb'y 19th 1858
Rolla French Treasurer of the St Charles Township
School fund please pay Bowman & Lloyd thirty nine
dollars and Eighty eight cents out of money in your
hands belonging to School district No 8 in said Town
it being for Stoves &c furnished by said Bowman
& Lloyd for said district

A R. McWayne } Directors of
G. S. F. Savage } Schools District
J March } No 8.

State of Illinois }
 Kane County } I Paul R. Wright Clerk
 of the circuit court of said
 county do hereby certify that the foregoing
 is a true and complete transcript from
 the records and files of said court in my
 office in a certain suit between The board
 of Trustees of Town Doty Range Eight east
 of the third Principal Meridian Plaintiffs
 and Mary Ann Kerwin executrix of
 the last will of Francis W Kerwin deceased
 Henry Stearns administrator of the estate of
 Francis W Kerwin deceased & Augustus
 W. Herrington administrator of the estate
 of Wella Church deceased defendants
 of the following papers The original Bill and
 two Supplemental Bills two writs of Exjunction
 and the officers return thereon two writs of
~~two writs~~
 summons with the officers return thereon
 the several answers of Mary Ann Kerwin Henry
 Stearns & A. W. Herrington: two Replications
 the depositions of Dr. Minard W. J. Gale
 Et. al. The evidence & exhibits A. B. C. D. E.
 F. G. H. I. two decrees and all the orders
 of said court entered of record in this
 suit

Witness my hand and the

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Seal of said court at
Garrison in said County this
27th day of March A.D. 1860
P. R. Knight
Clerk.

In Supreme Court
April Term 1860.

School Trustees of T. 40. R. 8. &c

Plaintiffs in error

Mary Ann Kerwin & c. et al

Defendants in error

} Error to Plum Co,

Assignment of errors

- 1 The Court erred in suppressing portions of the deposition of Du Minard.
- 2 In not decreeing to the complainants, the money, or fund of \$1996.03. Balance as shown by Kerwin's books in evidence, deposited to French's credit nominally, but really belonging to complainants as charged in bill.
- 3 In not decreeing that the full amount of funds, as shown by the proof, belonging to the estate of Kerwin, as a banking fund, should be set apart, to be applied in payment ^{or part payment} of the amount equitably due complainants.
- 4 In not decreeing the defendant Henry Stevens Adm^r of Kerwin estate to pay the costs,
- 5 In decreeing the complainants to pay costs
- 6 In not decreeing the full relief prayed for in the bill
to S. Eastman & Botsford
for L. Beveridge
attys for Pltffs in error

129

Supreme Court
School Trustees of 1840 &c
vs
Mary Ann Benson ex &c
et al

Ermas

Filed ⁵ Apr 17, 1860

L. Deland
Clerk

Eustace Botsford
Inol's ex &c
per Pettipiece

Supreme Court of the State
Term 1860

Board of Justices of Township forty Range
Eight East of the third principle Meridian

Mary Ann Kenwin Executrix of the last
will & testament of Francis M Kenwin deceased
Henry Stevens administrator of the estate of
Francis M Kenwin Deceased & Augustus
McKerrington Administrator of the estate
of Rolla French Deceased,

And the said Mary Ann Kenwin
Executrix of the last will & testament of
Francis M Kenwin Deceased & Henry
Stevens Administrator of Estate of Francis
McKenwin Deceased Respondents

By W D Barry their Attorney Come
and say there is no error either in
the Record and proceedings of said
or in giving the judgments of said
And therefore they pray that the said
Judgments may be affirmed

By W D Barry
their Atty

Filed Apr 24, 1860
L. DeSaut
Clerk

129

Board of Trustees
of Town of City R. & C.

Mary Ann Plummer

Filed April 3^d 1860

L. Deland

Clerk

Due 1/2 1/100