

12429

No. _____

Supreme Court of Illinois

Bronly, et al

vs.

Sabin, et al

71641  7

Vol. 1st

United States of America }
State of Illinois County of Cook ss. } Please before the
Honorable George Manierre Judge
of the Seventh Judicial Circuit of the
State of Illinois, and Sole Presiding
Judge of the Circuit Court of Cook Coun-
ty, in the State aforesaid at a vacation
term thereof begun and held at the
Court House in the City of Chicago in
Said County, on the first Monday
(being the first day) of March in
the year of our Lord one thousand
eight hundred and fifty eight and of
the Independence of the Said United
States the eighty Second in pursuance
of the order of this Court heretofore
made and entered of Record

Present Honorable George Manierre
Judge of the 7th Judicial Circuit
of the State of Illinois
Charles Haven States Attorney
John L. Wilson Sheriff of Cook County

Attest

W^m L. Church
CK

Be it remembered that heretofore
to wit; on the Second day of February
in the year of our Lord one thousand eight
hundred & fifty eight Neillio Salin Henry
Clawson Lewis Stott Leander Goss
& Willard Stephens filed in the Office of
the Clerk of the Circuit Court in & for
the County of Cook in the State a-
foresaid their certain Bill of Complaint
which is in the words & figures
following to wit;

3
Cook County Circuit Court
In Chancery Sitting
To the Honorable George Mac-
murre Judge of the Cook
County Circuit Court-

Complaining Sheweth unto your Honor
your orators Morris Salin Henry Clawson
Lewis Stahl of the town of Barrington
in the County of Cook and State of
Illinois and Lander Gaps and Wil-
lard Stephens of the town of Cuba
and County of Lake and State of
Illinois aforesaid that your
orators now are and for more than two years
last past have been residents of the County
of Cook and County of Lake in the State
of Illinois and that your orators now are
and for several years last past have been
residents and Tax payers in the School
District known as part School District
number one (1) in Township number
forty two (42) and part School District
number one (1) in Township number
forty three (43) North of Range number
nine (9) ^{or} east in the aforesaid Counties
of Cook and Lake and that said District
is composed and made up of lands

✓ 17th Line
1st Argument.

lying and being in two Towns "to wit" the Town of Barrington in the County of Cook aforesaid and the town of Cuba in the County of Lake in the State aforesaid - That the line which divides the two towns aforesaid commonly called the town line and the line which divides the two Counties aforesaid and commonly called the county line is one and the same line running through the District aforesaid and that said line dividing the said District aforesaid make said District also ^{be} a part in the County of Cook and the other part in the County of Lake aforesaid. That the house called the School house of said District is located & situated in the Town of Barrington and in the County of Cook aforesaid and that in the opinion & belief of your Orator the part of said District lying and being in the County of Cook is the greater of the two parts of said District.

And your Orators further shew unto your Honor that some time in the Spring of 1806 a number of persons, but as your Orators are informed and believe but a small number of the voters in said District and a number much less than a majority of

33 line
2^d audit

5 Said voters and tax payers in said District met and pretended to hold a School Meeting that at said meeting there was no record kept of the proceedings and from that time to the present there has been no district record kept of the proceedings in said District and your Orationers on information and belief allege that there was no legal notice given of the holding of the aforesaid meeting and that said meeting was informally and illegally held ¹³ and that at said meeting there was some kind of a vote taken and that three persons to wit Philatus Beverly, Nathaniel Squares and John Ralph who attended said meeting have since that time claimed to act as the directors of said School District in and for said District that soon after the pretended election as aforesaid, the aforesaid ^{persons} pretended claiming to act as the directors in and for said District gave up the land on which the School House of said District then stood to a pretended owner of said Land which Lot or site of said School House your Orationers ^{understood} are ~~informed~~ and believe had

50th Line
5th and 6th

6 previously been either bought by said District or donated to said District by the previous owner of said land, and that said pretended Directors sold the School house then belonging to said District, for about the sum of \$80, as your Orators are informed and believe and that almost immediately thereafter the said pretended Directors bought as your Orators are informed and believe another site for a School house of one Warren Hough the Brother in law of one of said pretended Directors taking the said of said land in their own name and have agreed as such Directors to pay him therefor the sum of one hundred & twenty dollars when at the same time said pretended Directors could have had a site for said School House donated to said District, or could have bot one equally valuable and convenient for the said District for the sum of twenty five dollars and that during the year 1856 said pretended Directors proceeded to build on the same a School House for School purposes for said District and that in the construction of the same that one

7 of said pretended Directors "torrit" Phil-
two Beverly furnished the Stone under-
pinning and laid the same for said house
and also built the fence around said
house after the same was built and
that one of the other of the pretended
Directors torrit Nathan Squares is a
Merchant & doing business very near
where said School house is built and
that he furnished the hardware trimmings
the nails paint and many other things
for the erection and finishing off of
said house and that he said Squares
as your Orators are informed & believe
made contracts with the Mechanics who
worked upon said house to take the pay
for their labor on goods out of his
said Squares store with the intention
& purpose in the opinion and belief of
your Orators, of turning off his goods at
a large price and then collecting the
pay therefor out of the property of
said District and paying a larger
price to said Workmen, by agreeing
with them to take goods as afore-
said than if he had agreed to pay
said Workmen cash for their
work and by such means making
said house cost said District much

more than it would do were the workmen paid cash for their labor and making his profit much greater on his goods sold as aforesaid than if he had sold the same in the usual way

And your Orators further shew unto your Honor that during the last year that said Squares had ^{as} your orators are informed & believe contracted for fuel for the use of said School kept in the house & District aforesaid and paid for the same in goods out of ^{his} ~~the~~ store, at the rate of three or three & a half dollars a cord and sold the same or charged said District for the same wood at the rate of five dollars a cord and a part of the amount of the indebtedness of said District which is included in the present assessment and is now in the town collectors hands for collection and if collected to go to said Squares in payment for wood furnished said District as aforesaid and at the prices aforesaid

And your Orators would further shew unto your Honor that for several years previous to the building of the house aforesaid

9 that the aforesaid Beverly with some few other persons living in that vicinity were desirous to have a house erected for the double purpose of a church and a school house. But before the aforesaid house was erected said persons were unable to carry out or effect said ^{project} purpose.

And your Covertors could further show unto your Honor that the building erected as aforesaid is about 28 by 30 feet and two stories high & finished below and above in the following manner. the lower part of said house has three aisles & four rows of seats. running lengthwise of said building and a platform desk of ^{or} preaching stand at one end of said building that the middle of said aisles is the widest of the three and is about ~~not~~ to exceed three feet in width and the other two are less than that width. and that all of said seats in said room are made the usual height for the accommodation of grown persons and none of them for the accommodation of children. all of said seats being of the same height. which arrangement is ^{is} ~~is~~ ^{not} ~~not~~ ^{convenient} ~~convenient~~ for a church and not convenient for or at all accommodating to the uses & convenience of a school

Room and the upper room of said house is furnished and seated by having one seat on two ^{benches} ~~seats~~ of said room and a table of the usual height and about three feet high in front of the same extending lengthwise of said room and the said seats are made to correspond as to height with said table, and a few moveable seats at the end of said room made for grown persons and not seated to the accommodation of children, all of said seats in both rooms are of about the same height and suitable for grown persons and not for children.

And your Orators further Shew unto your Honor that one of the aforesaid pretended Directors, to wit Philatus Beverly claims to be a preacher by profession and that said Squares is an active member of the religious Society to ^{whom} ~~which~~ the said Beverly preaches and that the other pretended Director John Ralph has but very little to do with the business of the School District aforesaid, that the first two aforesaid have assumed to do and have done all or nearly all of the aforesaid business and your Orators believe without

Consulting or Counseling with the
Said Ralph in reference thereto and that
the said two pretending acting direc-
tors have done the business of the
aforesaid District in their own
way and without reference to the
wishes of the inhabitants of said
District or a majority of them
or the wishes of the Said Ralph ~~and~~
Said defendant

And your Orators further shew
unto your Honor that they your
Orators, ~~as~~ ^{as} inhabitants & taxpayers of
said district have been unable to find
out from the aforesaid pretended Direc-
tors how the business of the aforesaid
District has been transacted and now
stand, that during the two years last
past there has ^{not} been kept any record of the
doings of the said district to the knowl-
edge of your Orator and that your
Orators have not been able to find
out anything respecting said business
from said pretended Directors or either
of them, as the aforesaid two directors
who have done the business refuse
to inform them relative to said business
or how the accounts of said district
stand and that during the two years

12 last aforesaid there has been no regular meeting called in said district at which any business of any kind was done. that a short time before the last annual meeting should have been held that said Squares as your Orators are informed and believe requested Mr David Briggs of said District to write & put up the several notices for calling such meeting and that said Squares gave said Briggs the date to put in said notices the time for the meeting but that said date put in said notices was one week too late or after said annual meeting should have been held and that when said meeting assembled it was stated in substance in said meeting by said pretended directors, or some of their friends that the time had passed for electing new directors and that the old ones would have to hold over and that no business whatever was done at said meeting and your Orators believe that said wrong date was given by said Squares to said Briggs as aforesaid with the purpose and intent of not having said meeting called in time and for the purpose of holding over in office for another year that he said Squares

13 might have charge as aforesaid of the business of said District for another year and make money out of the same as aforesaid and that there has been during the two years last past no meeting of ^{said District} ~~any~~ kind or consultation of any kind ~~or~~ only as aforesaid. And your orators further shew unto your Honor that said house built as aforesaid by said pretended directors will cost, in the opinion of your Orators, in the manner in which it is completed from fifteen to twenty five hundred Dollars and that a house suitable and amply sufficient and more convenient for all school purposes than the present house, could have been built for from the sum of seven to nine hundred Dollars and your Orators believe that if said pretended directors had not intended the aforesaid building for other purposes than for a school house and for school purpose they would have built a house not to exceed in expense in its construction nine hundred Dollars

And your Orators would further shew unto your Honor that since the completion of the aforesaid house and up to the

present time said house has been used on an average twice on each Sabbath for religious services and that said Beverly has preached in the same a part of the time and that said house or the lower room thereof has been used during the present Winter, on an average four nights in each and every week for other purposes not connected with the District School and that during the aforesaid services on the Sabbath and during all the evenings aforesaid the fuel provided by said pretended directors for School purposes has been and with the consent of said pretended Directors and free of any charge, and that said pretended Directors are now attempting to collect the expense for the same by a tax levied on the property of said District

And your Coators further show unto your Honor, that the upper part of said building furnished & seated as aforesaid now is and for several months past has been occupied under the direction of said pretended Directors by a secret society or organization known as the "Good Templars" and has not been used during any of the

time last aforesaid for any School purpose whatever—

And your Orators further shew unto your Honor, that said pretended Directors claim that said District is and has been for some time largely in debt on account of the aforesaid improvement, made as aforesaid and that on or about the 20th day of June last said pretended Directors did make or caused to be made two directors Certificate and served the same, one of which was sent by them to the County Clerk of Cook County, and the other to the Clerk of Lake County in which they certify among other things ^{that} that they had estimated & required a ^{tax} of two ^{dollars on the} hundred, to be levied on all the taxable property of said District, to pay the indebtedness of said District a copy of which said Certificate, sent to said Clerk of Cook County as aforesaid is hereto annexed & marked "Schedule A" which your Orators pray may be taken as a part of this Bill of Complaint, and that the aforesaid Clerks respectively did issue to the collectors of the aforesaid several Towns Collectors Books in accordance with said Certificates respectively and that said Defendant George

J. Waterman is the said Collector of the Town of Barrington aforesaid and the said Defendant John Jackson the said Collector for the town of Cuba, as aforesaid, and that said several Collectors are now urging your Orators to pay the aforesaid tax and threatening to take your Orators property and sell the same to pay said tax and will do so without said Collectors respectively are restrained and enjoined by this Honorable Court from so doing 4th and 5th

Line 356

And your Orators further show unto your Honor the aforesaid indebtedness of said district referred to in the aforesaid Certificate has been made as aforesaid by said pretended directors, and that said indebtedness is much larger than it should be in the opinion of your Orators, from the fact that said house has been built larger than necessary for school purposes and built as aforesaid more with reference to church purposes than for school purposes and costing at least \$1000. more than is required for school purposes and that said Directors in furnishing labor and materials and paying workmen in goods and the making a greater charge

17
against the said district than the same
was worth and that by buying wood
at a low price and selling the same to
said District, or charging said District
five Dollars a cord for the same, when
the market price did not exceed three
Dollars & fifty cents a chord, that this
conduct and these acts have increased
the indebtedness of said district to a
great extent, and that the said pretended
Directors, claim that a greater ~~part~~
or a portion of said money to be collected
by said tax is to go to and be paid to
them, for services and materials furnished
as aforesaid for said building and for
said ~~fuel~~ ^{fuel} furnished as aforesaid
and your Orators insist that the expend-
ing of at least a thousand Dollars
more than what was necessary in erect-
ing the building aforesaid and the
making of a profit by the afore-
said traffic with said district by the
pretended Directors and in the manner
aforesaid is a great fraud upon your
Orators and on the rights of your
Orators, and on said district, on the part
of said pretended Directors

And your Orators further show unto your
Honor that the certificate made out by said

Lin 381
5th and 5^c

pretended Directors as aforesaid is illegal and not authorized by law, that no vote of the tax payers of said district or any of them had been taken authorizing said directors to levy a tax for the payment of any indebtedness on said district and that without such vote said pretended directors had no right to levy any such tax to be levied and that the said County Clerks of the respective Counties aforesaid had no right under such certificates to issue tax Books to the aforesaid Collectors, and that therefore said assessment and tax which said Collectors are now attempting to collect of your Orators and out of the property of said district is void and that your Orators and said district should not be compelled to pay the same.

And your Orators further show unto your Honor that this Bill ^{of complaint} is filed on the part of your Orators and on the part of a majority of the tax payers of said district, many of whose names are not mentioned in said Bill because said names are so numerous and that the names of more than one complaint is used in this Bill for the purpose of preventing a multiplicity of suits and

19
Your Orators desire that the validity of the whole of the aforesaid Tax may be determined by this Suit. And that the necessity of bringing any other Suit relative thereto may be obviated.

But more so it is that the said Defendants Philatus Beverly and Nathan squares particularly are combining together and with the other Defendants to enforce upon and compel Your Orators and said District, to pay the aforesaid illegal tax and to appropriate a large portion thereof to their own use when collected as profits made out of said district as aforesaid, and in the fraudulent manner aforesaid.

Whereas Your Orators expressly charge the truth and facts to be in the belief of your Orators that the said pretended meeting called as aforesaid at which the aforesaid defendants pretend to have been elected as directors of said School district as aforesaid ^{was} and not a regularly & legally constituted meeting and that said Defendants claiming to be elected at said meeting, were not legally elected and are therefore not legally constituted directors of said District and their acts as such directors are not binding on said district or your Orators. And that by a trick

line 418
6th Ans^r

and fraud upon said district in the part of said defendant Squares in calling the subsequent meeting aforesaid at a wrong time they the said pretended Directors have continued themselves in their pretended official office as directors of said District longer than they would have been continued had it not been for the fraud in calling said last meeting as aforesaid

That said Directors have built a house ostensibly for a church and for other purposes under the pretext of building the same for a School house and that by the construction of said building they have made the convenience for a School purposes a secondary object and not the primary one in the erection of said building and are attempting to compel said District, to pay for the same and that the title of said land on which said building is located, is in the said Directors and not in the Town trustees or district as it should be, and that said pretended Directors are attempting to compel said district by the enforcement & collection of the aforesaid Tax, to pay for land when the legal title of said land is in the said

Defendants and not in the said District

That said Defendants or some of them have expended at least a thousand dollars in said building more than was necessary for school purposes, for the purposes of a church and are now seeking to collect that amount out of the property of said District fraudulently and under the pretext of collecting said amount for school purposes. That said Defendants Boverly and Squares have been Speculating out of said district or attempting to do so and while pretending to act for said district as aforesaid and seeking to recover their profits by taking the money now to be collected by virtue of the assessment now in the hands of the Collectors, aforesaid and that said directors are trafficking in the property which they claim belongs to said district, by leasing a part of said Building to Secret Organizations as aforesaid and by allowing other associations to use the fuel and other property belong to said District, which said Defendants now seek by the enforcement of the aforesaid tax to compel said district to pay for

Line 467
7th Aug 55

That said pretended Directors have no right to compel or levy a tax upon said district, for the payment of debts against said district without a vote taken, by the tax payers or some of them in said district and that no such vote was taken in said district and that therefore the aforesaid assessment is void and not binding upon your Orators, and that the directors of schools have no right, to run any district in debt for any purpose for more than the per cent in the assessors valuation of the property in any district, and not on a district in debt at all for any purpose without the sanction of a vote of said district, both of which the aforesaid pretended directors have done & are now seeking to collect a part of said indebtedness made as aforesaid by the enforcement of the said tax as aforesaid & that therefore said tax levied as aforesaid is void and not binding upon your Orators and said district.

And that said pretended directors or the acting members thereof, in claiming to act for said district have done and conducted said business in a manner which would ~~constitute~~ constitute ^{constitute} most to their

the said pretended Directors interest and that they have made or are now intending to make a large profit to themselves by the collection of the aforesaid tax and have been entirely regardless of the interest and rights of the district aforesaid

In tender consideration whereof and forasmuch as your Orators are remediless in the premises at and by the strict rules of the Common Law and are only relievable in a Court of Equity where matters of this nature are properly cognizable & relievable

To the end therefore that the said Philletus Beverly Nathan Squares John Ralph George T. Waterman and John Jackson and their confederates may respectively full true direct & perfect answers make upon their respective Corporal Oaths according to the best of their knowledge information and belief to all and singular the matters & charges aforesaid and that as fully & particularly in every respect as if the same were here again repeated and they thereunto particularly interrogated and that the said Philletus Beverly Nathan Squares John Ralph George T. Waterman and John Jackson their Counsellors Attorneys

Solicitors or Agents may be restrained
 by an injunction issuing out of
 this Court from proceeding further
 in the collection of the School tax
 aforesaid assessed & levied as afore-
 said and for the purposes aforesaid
 or from taking any further steps or
 proceedings whatever towards the
 collection of the same and that the
 said pretended Directors Beverly
 Squires and Ralph render a full true
 and perfect account in items to this Hon-
 orable Court of all moneys and property of
 every description and the value thereof
 received by them from said district by
 the collection of taxes, or otherwise since
 their pretended election as directors as
 aforesaid in, ^{what} manner and to whom and
 for what purpose the same has been
 expended by them for what purpose
 and the amount paid to each and that
 they render a full true and perfect ac-
 count of all their dealings actings doings
 and business transactions with said
 School district, or with any person or
 persons for or on behalf of said School
 district rendering a full true and
 perfect account in items with each
 and every person with whom they

have dealt on behalf of said School
 district to this Honorable Court and
 that they render a full true and perfect
 account in items of the claim or claims
 of the said pretended directors or either
 of them against said School district
 to this Court and that they render a
 full true & perfect account in items of
 all ^{the} debts and liabilities of the said
 School district of every description
 and to whom and for what purposes
 said debts are due from said School
 district and when & by whom the said
 debts were contracted and that this
 Honorable Court may determine from
 the rendition of the account or ac-
 counts as aforesaid what portion
 of said indebtedness is of any which
 said Defendants claim is against
 said School district and reject all such
 claims against said district, as may be
 deemed by this Honorable Court as illegal
 and inequitable and make a decree ac-
 cordingly and that your Orators may
 have such other and further relief as the
 nature of this case shall require and
 as shall be agreeable to equity.

+ May it please your Honor to grant unto
 your Orators the peoples writ of injunction

issuing out of & under the seal of this
 Honorable Court directed to the said
 Philetus Beverly Nathan Squires John
 Ralph George V. Waterman and John
 Jackson their Connecutors Attorneys
 Solicitors and agents commanding
 them and each of them absolutely
 to desist and refrain from proceeding
 further in the ~~collection~~ of the school
 tax aforesaid assessed and levied as
 aforesaid and for the purposes aforesaid
 or from taking any further steps or
 proceedings whatever toward the collec-
 tion of the same

May it please your Honor to grant unto
 your Orators the writ of Summons is-
 suing out of and under the seal of this
 Honorable Court to be directed to the
 said Philetus Beverly Nathan Squires
 John Ralph George V. Waterman & John
 Jackson commanding them & each
 of them by a certain day therein
 mentioned to be and appear before
 this Honorable Court and then & there
 to answer the premises and further
 to stand to and abide such order and
 decree therein as shall be agreeable
 to equity and good conscience
 and your Orators will ever pray &c

Hollis Sabin
 Henry Clawson
 Lewis Stott
 Leander Goss
 Willard Stevens

State of Illinois &
 Cook County 3d On this first day of
 February 1858 before me appeared per-
 sonally the above named Hollis Sabin
 Henry Clawson, Lewis Stott, Leander
 Goss, and Willard Stevens and made
 oath that they have heard read the
 above bill subscribed by them and
 know the contents thereof and that
 the same ~~are~~ ^{is} true of their own knowledge
 except as to the matters which are
 therein stated to be on their infor-
 mation or belief and as to these mat-
 ters they believe it to be true

L. J. D.
 L. J. D.
 L. J. D.

J. F. Nicholes
 Notary Public

Let the writ of injunction issue in
 conformity with the prayer in the
 foregoing bill of complaint the com-
 plainants filing a Bond in the penal-
 ty of five hundred dollars with

John Mooney, Jeberian Wardly and
 Abraham Newirth as Sureties The
 undersigned making this order in
 the absence from the County of Cook
 of the Circuit Judge Presiding
 To the Clerk of the
 Circuit Court } L. C. Daniel Esq
 Master in Chancery
 Cook County

"Schedule A"

"We the undersigned directors of said district
 "No 1 townships No 42 and 43 Range
 "No 9 in the Counties of Cook and Lake
 "and State of Illinois do hereby certify that
 "said board have estimated and required
 "to be levied for the year 1857 ^{the rate} _{two (2)}
 "doll for paying the indebtedness of said
 "dis and the rate of ten (10) cents for dis
 "Library on each one hundred (100)
 "dollars valuation of ^{taxable} property in
 "said district

"Given under our hands this twentieth
 (20) day of June 1857"

Philetus Beverly }
 Nathan Squires } Directors

And afterwards and on the same day there was issued out of and from the office of the clerk of this court a writ of Summons which said writ was in the words and figures following to wit

State of Illinois
County of Cook

The People
of the State of Illinois to the Sheriff
of Lake County - Greeting -

We command you that you Summon Philatus Beverly Nathan Esquires John Ralph George T. Waterman and John Jackson if they shall be found in your County personally to be and appear before the Circuit Court of Cook County on the first day of the next term thereof to be holden at the Court House, in Chicago in Said County of Cook, on the first Monday of March next to answer unto Hollis Sabine, Henry Clawson, Lewis Stott, Leander Cass & Willard Stephens in their certain Bill of Complaint & Bill for Injunction filed in Said Court, on the Chancery Side thereof

And have you then and there

this Writ, with an endorsement thereon
in what manner you shall
have executed the same

L. S.

Witness William L. Church
Clerk of our said Court and
the Seal thereof at Chicago
aforesaid this 2^d day of
February A.D. 1858

Wm L. Church
Clerk

Which said Writ was filed on the 16th
day of February A.D. 1858 with the follow-
ing endorsement thereon viz

Served this writ on the within
named John Jackson Philatus Beverly and
Nathan Spinners February 13th 1858

John Ralph George W. Waterman not found in
my county by delivering a copy thereof to them
the 13th day of February 1858 - Fees 3 Services 1.50-3

copies 1.50-85 miles 4.25. Return. 10 — \$7.35
J. Munson Sheriff by P. A. Brown deputy

And on the 12th day of February A.D.
1858 there was filed in the office of the
Clerk of said Court a certain answer
& exhibits which said answer & exhibits
are in the words & figures following
to wit:

31 In the Cook Circuit Court - In Chancery

The joint and several answer
of Philotus Beverly Nathan
Squires & John Ralph Defend-
ants to the Bill of Complaint
of Willis Sabin Henry Clawson
Lewis Stott Leander Goss and
Willard Stephens Complainants
against them & other defendants

These Defendants now and at all times here-
after saving and reserving all just
exception which can or may be had
or taken to the bill of Complaint of said
Complainants for the many errors un-
certainties & other imperfections therein
contained for answer nevertheless there-
unto or unto so much and such parts
thereof as these defendants are advised
is or are material or necessary for
them to answer unto they answering
say - That these Defendants the said
Beverly, Squires & Ralph have been
duly elected School Directors of the
School District in said Bill of Complaint
described and are now and for some
time past have acted as such - and
that during all the time they have so

acted records have been kept of their proceedings as such Directors, though the same are not very formal yet sufficient appears thereby to advise all persons of their acts as such Directors. That said records have always been open to the inspection of all persons interested therein and these Defendants deny that they ever refused to allow the said Complainants or any of them an inspection thereof or to inform them what action they as such Directors from time to time had taken in the management & control of the duties imposed upon them by law as such Directors.

And these Defendants further answering say that at & for some time prior to June 24 1856 there was occupied as a school house by said District a house owned by said District situate on land therein, owned by this Defendant Beverly and by him verbally leased to the district so long as they should want it for two Dollars & ninety cents.

That about the day last aforesaid a meeting of the legal voters of said district was convened

at the ^{Said} School House last named upon notice duly and regularly given as these Defendants from their best recollection believe and state to locate a School house site for said District which meeting was very largely attended and nearly all the legal voters of said district were present that at said meeting it was among other things resolved that the site for the school house for said District should be on the land of W. Hough North of Charles Houghs home on the highest land and should be eight rods North & South and ten rods East & West containing half an acre for which the district should pay said W. Hough One hundred & twenty Dollars - That to pay the same the old School House should be sold & the proceeds paid as far as it would go in payment for said lot of land, and the balance to be paid out of the taxes raised in the district and that the old School House should be sold at Public Auction to the highest bidder

And these Defendants further answering say that on or about the first day of October A.D. 1856 the said old School house was

Sold at public vendue for the sum of eighty one dollars, to one L. Sherwin on thirty days credit - That on or about the 15th day of August A.D. 1856 the said W. Hough & his wife by deed of that date conveyed said lands selected at said meeting for said School House site, and therein more particularly described as follows to wit: Commencing forty two rods & forty two links South of the road running on the County line at the North East corner of said Houghs farm - thence West ten rods to a stake, thence South eight rods to a stake thence East ten (10) rods to a stake, thence North eight rods to the place of beginning containing one half an acre of Land Being in the North West quarter of Section No one Township No forty two (42) North of Range (9) Nine East of the third principal Meridian

to these Defendants and their Successors in office for the use of said District with full covenants of Warranty, and at the same time these Defendants made to said Hough a contract in writing a copy of which is hereto annexed and forms part of this answer marked "Exhibit A" and also file with this ^{their} answer

a copy of said Deed marked "Exhibit B"

And these Defendants further answering say that they did during the year One thousand eight hundred & fifty six build on said lot a School House for school purposes & such a house as in their judgment the wants and necessities of said District required for School purposes - that the building erected by them thereon was some time in process of erection and during the time the same was ^{being} built these defendants are not aware of any complaints being made by any one that the said house was at all unsuited to for the purposes of said District - that these Defendants as they are advised and believe had by law at that time the discretion exclusively vested in them of causing suitable lots of grounds to be procured and suitable buildings to be erected thereon for School Houses and being so vested with that authority they did in good faith proceed to buy said Lot of ground for said district & to erect thereon said building, and they say and insist that the complainants have no right in this form of proceeding to inquire into their acts in the

premises touching the purchase of said Lot & erection of said house & they pray the same benefit herefrom as though they had demurred to said bill specially for that reason & upon this point they pray the judgment of the Court

And these Defendants further answering say the said Nathan Squires for himself of his own knowledge & the other Defendants as they believe to be true that herewith filed ^{marked} as "Exhibit C" and to be taken as part of this answer is a full true and particular statement and account of the indebtedness of said School district to him said Squires that the several amounts charged for each of the items of said account are just and fair and as more than would be charged to any other person or persons for similar articles things & services

And these Defendants further answering say the said Beverly of his own knowledge and the other Defendants as they believe to be true that herewith filed marked "Exhibit D" and to be taken as part of this answer is a full true & particular statement and account of the

indebtedness of said School District to him said Beverly that the several amounts charged for each of the items of said account are just & fair and no more than would and should be charged to any other person or persons for similar articles things & services

And these Defendants further answering say that sometime in July 1856 they as such School Directors contracted with one J. S. Davis to furnish the lumber for said School House And that he accordingly from time to time did furnish lumber for said house of which an account presented by said Davis marked "Exhibit E" is herewith filed & prayed to be taken as part of this answer And which account these Defendants believe to be correct & true & just - except the item of \$24th which these Defendants disallowed on auditing said account

And these Defendants further answering say that as they are advised & believe the certificates made and delivered by them to the Clerks of said Counties of Cook and Lake respectively are

38
And these Defendants further answering say that the total cost of said
house is ^{about} \$1300. - & not to exceed \$1400. as they are
informed & verily believe

legal and in due form of Law &
that no vote of the "tax payers" is
at all required by law as incorrect-
ly charged by said Complainants
in their said Bill of Complaint
That on the 1st Monday of July 1857
the said District was justly indebted
to various persons including the
amounts of the said accounts here-
in above alluded to in the sum of
thirteen hundred Dollars or thereabouts
the greater portion of which was
for purchasing materials for and
erecting said School House
That to pay off said indebtedness and
for no other purpose did these Defend-
ants cause said Certificates to be
issued and delivered to said Clerk

* And these Defendants further
answering say that as they are
advised by their counsel & verily
believe the said Complainants
have not in & by their said bill
made or stated such a case as
doth or ought to entitle them to the
relief prayed for in and by said
bill or any such relief whatever
and they pray the same benefit from
this exception as though they had

demurred to said Bill & upon this point
they pray the judgment of the
Court

And these Defendants deny all fraud
and unlawful combination with which
they stand charged in said Bill
without this that there is any other
matter or thing material or necessa-
ry for them to answer contained
in said Bill & not herein and hereby
well and sufficiently answered unto
confessed and avoided traversed
or denied is true to the knowledge
or belief of these Defendants all
which matters & things these
Defendants are ready to aver
maintain and prove as this
Court shall direct & they pray
hence to be dismissed with their
reasonable costs in this behalf
most wrongfully sustained

Philetus Beverly
Nathan Squires
John W. Ralph

State of Illinois

County of Cook 3 p:

On this eighth day of February A.D. 1858 came before me the undersigned the within named Philatus Beverly, Nathan Squires, & John Ralph who being by me duly sworn did declare and say each for himself ~~and not~~ that they had heard the within in answer by them subscribed read and knew the contents thereof and that the same was true of their own knowledge except as to matters stated to be on information and belief and as to those they believe it to be true.

L. G. Daine Greer

Master in Chancery
Cook Co &c

"Exhibit A"

This agreement made this 15th day of August A.D. 1856 Between Warren Hough of the Town of Barrington County of Cook and State of Illinois of the first part and Philetus Beverly John Rolph and Nathano Squires Directors of School part District No one (1) Barrington of the second part Witnesseth that the said Warren Hough in consideration of the covenants on the part of the said party of the second part ~~hereinafter~~ hereinafter contained doth covenant & agree to and with the said Philetus Beverly John Rolph & Nathano Squires that he will sell & has this day deeded to the parties of the second part one half acre of land for a School House site for part Dist No one for the sum of one hundred and twenty dollars \$120

And the said Philetus Beverly John Rolph & Squires in consideration of the covenants on the part of the Party of the first part doth covenant & agree to & with ^{the} said Warren Hough that they will sell on the first day of October next the old School House and give him the proceeds thereof, and that

They will pay him one half of the balance left when the tax now assessed shall be collected, and the other half they agree to pay as soon as the taxes are levied and collected next year making together the \$120

In Witness whereof we have hereunto set our hands and seals the day and year first above written

Signed sealed and
delivered in the
presence of

Nathan Squier *Seal*
Philatus Beverly *Seal*
John W. Rolph *Seal*

"Exhibit B"

This Indenture made this Fifteenth
 day of August in the year of our
 Lord one thousand Eight hundred
 and Fifty Six Between Warren Haugh
 and Lois his wife of the Town of Bar-
 rington County of Cook and State
 of Illinois of the first part and
 Philetus Beverly John Rolph & Nathan
 Esquiers Directors of Part School
 District No One (11) Town Forty Two (42)
 Range Nine (9) or their Successors in
 office for the use of Said District
 of the Second part Witnesseth that the
 Said party of the first part for and
 in consideration of the Sum of one
 Hundred & twenty Dollars lawful money of
 the United States in hand paid by the
 Said party of the Second part (the receipt
 whereof is hereby acknowledged and the said
 party of the Second part forever released
 and discharged therefrom) hath granted
 bargained sold remised released con-
 veyed aliened and confirmed and by
 these presents doth grant bargain sell
 remise release convey alien & confirm
 unto the Said party of the Second part
 and to their heirs and assigns forever

all the following described lot piece or parcel of land Situate in the County of Cook and State of Illinois and known and described as follows to wit: Commencing Forty Two 42 Rods and Forty Two (42) links South of the road running on the County line, at the North East corner of Said Houghs Farm thence West ten (10) rods to a Stake thence South eight ⁽⁸⁾ rods to a Stake, thence East ten (10) rods to a Stake, thence North eight (8) rods to the place of beginning. containing one half ^{or} acre of land. Being in the North West Quarter of Section No one (1) Township No Forty (42) North of Range Nine (9) East of the Third principal Meridian. containing as aforesaid $\frac{1}{2}$ an acre of Land.

Together with all and Singular the hereditaments and appurtenances thereto belonging, or in any wise appertaining and the reversion and reversions, remainders and remainders, rents issues and profits thereof; and all the estate right title interest claim or demand whatsoever of the said party of the first part. either in law or Equity, of in and to the above bargained premises with the hereditaments

and appurtenances. To have and to
 hold the Said premises above bargained
 and described, with the appurtenances
 unto the Said party of the Second
 part their heirs and assigns for-
 ever And the Said Warren Hough
 and Lois Hough party of the first
 part for themselves and their heirs executors
 and administrators, does covenant
 grant, bargain and agree to and with
 the Said party of the Second part their
 heirs and assigns, that at the time
 of the enrolling and delivery of these
 presents are well seized of the premises
 above conveyed, as of a good, sure
 perfect, absolute and indefeasible
 Estate of inheritance in law, in fee
 Simple, and have good right full
 power and lawful authority to grant
 bargain, sell and convey the same,
 in manner and form aforesaid, and
 that the same are free and clear from
 all former and other grants bargains
 sales liens taxes, assessments & incum-
 brances of what kind or nature soever
 and the above bargained premises in the
 quiet and peaceable possession of the said
 party of the Second part their heirs and

assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part shall and will warrant and forever defend

In Witness Whereof the said party of the first part hereunto set their hands and seals the day and year first above written

(3d) Warren Hough Seal

Signed Sealed and (8d) Lois M. Hough Seal

Delivered in (Copy)

presence
Nehemiah Wilmarth

"Exhibit B"

Barrington August 1856
School District part No 1

To Nathan Squires

Dr

August	10	16	lbs	Nails	6	96
Sept	29	19	20	Do	Do	1 14
Oct	17	25	"	"	"	16 8
"	25	30	"	"	"	1 80
"	26	45	"	"	"	2 70
"	27	60	"	"	"	3 60
"	31	21	"	"	"	1 26
"	31	60	"	"	"	3 60
Nov	3	28	"	"	"	1 68

Nov	6	Nails putty & Oil.	1343
"	28	Pails Barrels & Nails	261
"	28	1 Keg white lead	263
Decm	1	Glasp for House	1375
"	2	24 1/2 lbs Nails 6c	147
"	3	Nails & Hair	1050
from 4 th to 20 th		Nails & trimmings	1084
"	26	Paid Baldwin for plastering	2000
"	26 ⁰⁰	for making seats	500
1857 Jan'y	15	Priming Sash & Setting Glasp	700
"	21	Shovel & tongs	63
"	21	Broom Pail & Dipper	68
"	"	131 lbs weights 3c	655
"	"	6 Lime Barrels 20c	120
"	"	Cords for weights	375
"	"	584 ft lumber @ 18c	1051
Feb'y	3	Trimmings for door	312
"	21	Paid for building dock	409
"	"	Nails putty & Oil	152
		Freight on lumber for building seats	537
March	3	30 lbs Nails at 6c	180
"	4	25 Do Do	150
"	9	Screws & Butts	76
"	10	2 Door locks	80
"	12	Butts Screws & Nails	145
"	14	Nails & Screws	105
"	31	Paid Manners for Privy Building Privy & Nails	1554

April	14	Nails & Bouch	2 11
May	4	Oil Paint & Serpentine	17 62
"	20	2 Gallons Oil 12/-	3 00
"	"	1 cord Wood	2 50
"	"	1 Broom	20
"	21	Oil & Serpentine	3 83
"	22	100 lbs white lead	10 50
June	18	1 Desk lock & wash basin	30
July	14	Paint & Oil	9 87
Oct	3	Broom & Hire	35
"	"	Paid for Plastering	2 00
"	8	Plastering Hair	2 40
"	15	Hauling Sand	1 50
"	19	5 Bbls Lime	9 38
"	22	Wood & Hauling	2 00
Nov	17	do Wood	2 25
Dec	8	7/8 cord do \$3.50	3 25
"	"	Paid Miller for work	25 00
"	18	Glaps	1 33
"	23	3/4 cord Wood \$3.50	2 63
"	"	1/4 do do	75
"	28	Cleaning School House	6 00
"	"	Wood by Martin	1 40
"	"	do do Steel	75
Jan	3	Paid Edwards for Painting	18 00
"	20	do ^{choaf} Hauling Sand	5 00
"	"	One Broom 2/-	25
"	25	6 cords Wood by Honarth \$3.50	21 00

48 " 25 Sawing Wood Steel 7 75
 Paint & Nails by Leonard & Brande 2 67
 Interest on whole Bill up to Jan 15. 1838 25 00

'Exhibit 2'

Part Dis No 1

Dr

To P. Beverly

Oct	19	For Stone for foundation to new School House	\$ 14 00
"	20 & 21 st & Nov 11 & 15 th & 17 th and Dec 8 th & 9 th	to 10 Loads Sand	12 00
"	29 th Nov 10 th	Paid — at Dundee for ^{Brick} 1000	6 00
		and Drawing the above	4 00
Nov	14	To Miller Esq for 8 Bbls Lime 75c	6 00
"	11	To Miller Esq Do 9 " " "	6 75
		For Drawing the above 25c pr bbl	4 25
"	18	Paid W. P. King Esq of Dundee for 1 Stove	
		22 pieces pipe 2 Scrapers &c	25 81
"	18	Paid Increase Bosworth of Dundee for 22 window Sash 12 lights each 64c	17 16
"	18	Going after the above Stove &c	2 50
"	26	To Carrying Mortar Box To School House & window Sash from S. house to Mr Rutledge	1 00
"	29	Paid Mr Miner for work on House	100 00
Dec	1	To 1 Cord Wood	2 50
"	8	To 1 Cord Wood	2 50

Dec	15	To 1 Cord Wood	2 50
"	12	paid Mrs Miners for work on house	50 00
"	22	1 Cord wood	2 50
Jan	4	1 " "	2 50
"	5 & 6	Going to Waukegan with Collector to correct tax with team & expenses	5 00
"	30	To drawing 3 load lumber from Station to School house	1 00
"			<u>267.97</u>
"	16	1 Cord wood	2 50
"	26	paid H. Sabin for Miners for work	40 00
"	29	75 fence posts 12 1/2 cts each	9 37
March	12	Making 33 rods fence to enclose School House	6 60
"	25	paid A Howarth for 12 lbs nails	66
April	15	Digging vault and planking and moving Privy onto vault	3 00
"	16	1 day cleaning School House &c	1 00
"	4	Paid H. Sabin for minor for work on School House	80 50
Jan	2	Paid Peter Sester for 12 1/4 days work done in July 1856 at 14/- per day	21 44
"	2	Paid Peter Sester for 6 doors	11 00
Dec	3	Paid Nathaniel Squires for Mr Miners work on school house	25 00
		for Mortar ^{work} destroyed at School House	2 00

Dec 10	for drawing wood from F Martins	50
12	for wood borrowed of Mr Parker + Bute and furnished by me	1 00
	for Interest on the above	
	Acct up to Jan 15. 1838	<u>4 00</u>
Per \$65.11	Amount	512 54

"Exhibit E"

School Directors of des No in the towns
of Barrington and Cuba County of Cook
and Lake Ills in account with J. S. Davis
for lumber for a School house in des No

July 22-1856	to 345 ft boards	18	621
	69 ft 2 ^d clear	25	172
	129 " clear lumber	30	387
29 93	" " "	30	279
30 151	" " "	30	453
	98 " 2 ^d clear	25	245
Aug 20	" " "	18	36
7 77	" clear	30	231
	105 " " "	30	315
	1376 " torn Siding	18	2476
	1091 " clear	20	2102
Oct 8 1092	" 2+4-20 ft long	20	2184
	1440 " 3+10-24 " "	24	3456

Oct	18	408 ft	8+8 v 8+9	long	24	9 60
	362 "	8+8	16 v 18 ft	"	20	7 84
	620 "	clear lumber			30	18 60
	19 "	"	Siding		20	38
	20	489 "	knill boards		14	6 84
	293 "	clear	"		30	8 79
	240 "	8+4	20 ft long		20	5 60
	1052 "	2+6			17 50	18 41
	532 "	knill boards			14	7 44
	388 "	2+8			18	6 98
	446 "	knill boards			14	6 24
	25541 "	corn boards green			16	8 65
	120 "	2+4			20	2 40
	27300 "	2+4			20	6 00
	495 "	knill boards			14	6 93
	118 "	4+6			20	2 36
	1134	M Shingles				25 33
					4 25	55 80
	30	50 pr	lath			18
		450 ft	knill boards		14	6 30
Nov	2400 "	dropped flooring			20	62 40
	6	50 "	clear lumber		30	1 50
	22	600 "	" "		30	18 00
		1062 "	dropped flooring for wainscoting		26	27 61
	24	108 ft	clear plank		30	3 24
	27	6000 pr	lath		3 60	21 60
	28	14 ft	clear lumber		30	72

52

Dec

197 ft	2 ^d clear lumber	85	4 92
4 216 "	2+4 - 18 ft long	20	4 32
100 "	dropped flooring	26	2 60
8 132 "	clear lumber 1/2	30	3 96
9 11 "	plank	20	22
11 237 "	3 ^d clear boards	20	4 74
121 "	com "	18	2 17
70 "	dropped flooring	26	1 82
200 "	com Siding	18	3 60
126 "	2+4 & 2+6	18	2 46
100 "	clear lumber 1/2	30	3 00
32 "	2 ^d clear "	25	88
800 "	fence boards 17 50		14 00

March

320 "	"		5 44
5 125 "	com boards	18	2 25
147 "	2 ^d clear	25	2 07
64 "	clear Siding	20	1 88
66 "	2+4	18	1 18
48 "	dropped flooring	26	1 14
44 "	2+4	18	79
13 104 "	clear lumber	30	3 12
			5 16 24
17 22 ft	clear plank 1 1/2	30	66
96 "	" Siding	20	1 92
19 48 "	6+6	20	96
Interest on whole amount			24 41
			544 49

And on the same day there was filed
in said Court a Demurrer to said Bill
of Complaint which demurrer was in
the words and figures following:
to wit:

In the Court Circuit Court

54

In Chancery

Hollis Sabin et al

vs

Bill for Injunction

Philatus Beverly et al

The Demurrer of
George T. Waterman one of the
Defendants to the Bill of complaint
in this cause

This defendant by protestation
not confessing or acknowledging
all or any of the matters and things
in said complainants said Bill of Com-
plaint to be true in such sort man-
ner & form as the same are therein
and thereby set forth and alleged,
doth demur thereto and for causes
of demurrer doth show that said Com-
plainants have not set forth and
shown in said Bill how or in
what manner they are prejudiced
by the levying of said tax inasmuch
as they have not anywhere charged
that they have property either real
or personal in the district liable
to be assessed and upon which in
fact said tax has been levied
and assessed

And have not shown that said assessment is illegal - inasmuch as the only defect charged is that of not taking a vote of the taxpayers when by law no such vote is required.

The allegations of a possible misapplication of the fund when collected, the use of the School house as a meeting house on Sabbath days & in the evenings by a Secret Society, the pilfering of wood furnished for the School District are merely impertinent & scandalous and are not any of those matters why the court should interfere with the collection of the tax aforesaid.

And also for that the said complainants have not in and by their said bill prayed that the defendants be enjoined in the manner for which a writ hath been issued in this cause there being merely a prayer for process without any prayer for relief.

And also that the said complainants have not in & by their said bill made or stated such a case

as doth or ought to entitle them to any discovery from the Defendants or relief from a Court of Equity

In which said Several matters said Bill is defective informal & insufficient & he prays that the bill may be dismissed and injunction dissolved with costs &c

W. J. Burgess
for Waterman

And afterwards and on the 19th day of February A.D. 1858 there was filed in said cause a Replication which Replication was in the words and figures following to wit:

In the Leek Leveny Circuit Court
On Chancery
The Replication of Hollis
Sabin Henry Clawson Lewis Etott
Leander Goss and Willard Stephens Com-
plainants to the answer of Philetus Beverly
Nathan Squires and John Ralph Defendants
These repliants saving
and reserving for themselves now and
at all times hereafter all and all manner

of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer for replication thereunto say that they will aver maintain and prove their bill of complaint to be true certain and sufficient in the law to be answered unto, and that the said answer of the said defendants is uncertain untrue and insufficient to be replied unto by these replicants without this that any other matter or thing whatsoever in said answer contained material or effectual in the law to be replied unto and not herein and hereby well and sufficiently replied unto confessed and avoided traversed or denied is true all which matters and things these replicants are and will be ready to aver maintain and prove as this honorable court shall direct and humbly pray as in and by their said bill they have already prayed

Nicholas & McKindley
Attys for Compts

58
And afterwards and on the 8th day
of March there was filed in said
cause certain Amendments to the Bill
of complaint which Amendments
were in the words and figures
following to wit:

Cook County Circuit Court
In Chancery
Hollis Sabin et al
vs
Philetus Beverly et al

Amendments to the
Bill of complaint in this cause made
pursuant to an order of this Court
granted March 3^d 1858

First- In the line marked Seventeenth
of the Bill after the words "Residents
and" in said line strike out the words
"tax payers" and insert and interline
the words "Legal voters" and wherever
the words tax payers occur in the Bill
Strike out the same and interline and
insert the words "Legal voters"

Second After the word "aforesaid" in line

marked thirty three in the Bill interline and insert the words "and that the two townships aforesaid, now are and for more than four years last past have been laid off into districts and that said district now is and for more than four years last past has been laid off a School district and has been during all the period aforesaid a legally formed and organized School District"

Third - After the words "illegally held" in the line marked "fiftieth" in the bill interline and insert the words "And that said meeting was ^{was} authorized by and could not be held legally at that time in the year under and by the Statutes and Laws of this State And that previous to and before said meeting said Defendants Nathan Eggers & John Ralph never held or pretended to hold any office of any kind in said district"

Fourth - After the word "doing" in the line marked "356" in the bill interline and insert the following "to wit"

And your Orators further show unto
 your Honor that they and each of
 them are and for several years
 last past have been tax payers
 residents and legal voters of the afore
 said District and that your Orator
 Hollis Sabin has and is the owner
 of Lots five and six in Block three
 and one in Block ten in Barrington
 Station as per Recorded Map of
 land and about four thousand
 dollars worth of personal property
 and your Orator Henry Lawson
 has and is the owner of the South East
 quarter and the South half of the
 North East of Section two in town-
 ship forty two North of Range Nine
 East of the third P. M. being two hun-
 dred and forty acres of land and about
 four hundred and fifty dollars worth
 of personal property and your
 Orator Lewis Stott has and is the
 owner of Lot two in Block ten in
 Barrington Station as per recorded
 Map of land and about one hundred
 dollars worth of personal property.
 And your Orator Leonard Cope has

and is the owner of Lots one and two in Block F. in the town of Cuba. Said Lots Situated in said district of land and has one hundred and eighty nine dollars worth of personal property, and your Orator Willard Stephens has and is the owner of North East quarter of South West quarter & East half of South East quarter of Sec 36 Township 43 N. of R. 9 East of 3^d P.M. Also the following described lots in South East quarter of South West quarter of said section Lots 1 & 5 in Block A. Lot 4 N. pt Lot 5 & E pt Lot 6 in Block B. Lots 3 & 4 in Block C. Lot 6 in Block D. Lots 1. 2. 3. 4. & 5 in Block E. Lots 3. 4. 5. 6. & 7. in Block G. Lots 1. 2. 3. 4 & 6. in Block H. Lots 1 & 2. in Block I. Lots 1. 2. 3. 4. 5 & 6 in Block J. Lots 5. 6. & 7. in Block K. Lots 1. 3. 5 & 6. in Block L. & Lot 1. in Block M. All of which land and personal property now is and for more than a year last past has been in the aforesaid district. and subject to taxation to pay the expenses and assessments of said District and that your Orators are assessed by the assessment made

as aforesaid respectively as follows to wit: Hollis Sabin about the Sum of about ninety dollars Clawson about the Sum of fifty four & ⁸⁶/₁₀₀ dollars Stott about the Sum of twelve dollars Goss about the Sum of about fifteen dollars and Stephens about the Sum of fifty dollars, and that the aforesaid Defendants are attempting to enforce the collection of the aforesaid amounts respectively from your Orators and out of your Orators property respectively as aforesaid and are threatening to sell your Orators property respectively to pay the aforesaid tax as aforesaid.

Fifth After the words "vote of the" in the line marked "381" in the bill Strike out the word "tax payers" and insert and interline the following to wit "Legal voters"

Sixth After the word "district" in the line marked "418" in the bill interline and insert the following "to wit" "And that said Defendants are not nor are either of them in the opinion ^{& belief} of your

Orators directors de facto

Seventh - After the words "by the" in the line marked "567" in the bill Strike out the words "tax payers" and insert the words "Legal voters" of said District

Nollis Sabier

Henry Lawson

Lewis Stott

Leander Goss

Willard Stevens

Nichols & McKindley
Sols for Compts

State of Illinois

Cook County ss: Nollis Sabier Henry
Lawson Lewis Stott Leander Goss
and Willard Stephens of the aforesaid
county and State being duly sworn
depone and say and each for him-
self says that they are the complain-
ants named in the above entitled
cause and that they and each of them
have heard read the foregoing the amend-
ments signed by them and each of
them and that they and each of
them know the contents ^{and import} thereof and
that the same is true except as to
those matters therein stated to be on
information and belief and as to those

matters they and each of them
believe to be true

Subscribed and sworn
to before me this sixth
day of March A.D. 1858
except Leander Goss
who Subscribed & swore
to same this eighth
of March 1858

Nellis Sabin
Henry Lawrence
Lewis Stott
Leander Goss
Willard Stevens

L.S. Cha. J. Nichols
Notary Public

And afterwards and on the 9th day
of March A.D. 1858 there was filed
in said Cause an answer to the
Amendments to said Bill which
answer was in the words and
figures following to wit:

In the Cook Circuit Court
Philatus Deverly et al 3^d in Chancery
vs
Nellis Sabin et al 3^d Bill

The answer
of the Defendants Deverly Rolph &
Squiers to the amendments made

by the complainants to their Bill
in this cause -

These Defendants further answering say that at the election held for said District on the first Monday of October A.D. 1855. The said Philetus Diverly and John Ralph & J. D. Gay were elected at a Meeting of the legal voters convened on that day, for that purpose. School Directors of said District and took upon themselves the duties of said office - That sometime in June 1856 and before the election alluded to in the said third Amendment to said Bill said Gay removed from said District and that meeting was held for the purpose of filling that vacancy - That said Meeting as these defendants are informed & believe was convened according to law & that the said Nathan Squires was duly elected a School Director to fill said vacancy & hath since acted as such -

W. J. Burgess
Solv for Dfts

State of Illinois
 County of Cook ss: Benjamin Chase
 being duly sworn says that he has
 heard read the above answer and
 knows the contents thereof & that
 the same is substantially true -
 that he is & has for about three
 years last past resided in said
 District & been a legal voter there
 of that he was present at the
 School Meeting at which said
 Beverly Ralph & Gay were elected
 Directors thereof he this deponent
 acted as one of the tellers & knows
 they were duly & fairly elected as
 such

Subscribed and sworn to
 before me this 9 March
 1858

Benj Chase

Wm L. Church
 CLK

Subscribed & Sworn to
 as amended before me
 this 17th day of March
 1858

Wm L. Church
 CLK

67

And afterwards and on the 17th
day of March A.D. 1858 there was
filed in said cause the Demurrer
of John Jackson to the Bill of Com-
plaint in this cause which said
Demurrer was in the words and
figures following to wit:

68 In the book Circuit Court

Hollis Sabin et al In Chancery
vs

Philetus Beverly et al

The Demurrer of
John Jackson one of the Defendants to
the Bill of complaint in this cause
as amended

This Defendant by protestation
not confessing or acknowledging
all or any of the matters and things
in said complainants said Bill
of complaint to be true in such
sort manner or form as the same
are therein and thereby set
forth and alledged - doth demur
thereto and for causes of demurrer
doth show that said complainants
have not set forth and shown in said
Bill how or in what manner they
are prejudiced by the levying of said
tax inasmuch as they have not any
where charged that they have prop-
erty either real or personal in the
district liable to be assessed and
upon which in fact said tax has
been levied and assessed

They have not shown that said

said assessment is illegal inasmuch as the only defect charged is that of not taking a vote of the "tax payers" when by law no such vote is required -

The allegations of a possible misapplication of the funds when collected, the use of the School house as a meeting house on Sabbath days & in the evenings by a Secret Society the pilfering of wood furnished for the School District are merely impertinent and scandalous and are not any of those matters why the court should interfere with the collection of the tax aforesaid

And also for that the said Complainants have not in and by their said Bill prayed that the Defendants be enjoined in the manner for which a writ hath been issued in this cause there being merely a prayer for process without any prayer for relief

And also ~~for~~ that the said Complainants have not in & by their said Bill made or stated such a case as doth or ought to entitle them to

any discovery from the Defendants
or any relief from a Court of equity
and have not stated or charged
any matters that show that this
Court has any jurisdiction over
this Defendant.

In which said several mat-
ters said Bill is defective in formal
& insufficient, wherefore & for divers
other errors & imperfections ap-
pearing in the said Bill as a-
mended this Defendant humbly
demands the judgment of this
Honorable Court whether he shall
be compelled to make any further
or other answer to the said bill
or any of the matters and things
therein contained & prays hence to
be dismissed with his costs
in this behalf sustained -

W. J. Burgess
Solr for Dft

And on the Same day there was
 filed in said cause a Demurrer
 to the Bill as amended which
 Demurrer is in the words and
 figures following to wit

Wm. of Jackson

J. A. Mason

In the Court Circuit Court
In Chancery

The Demurrer of Philetus Brew-
ster Nathan Squires & John Rolph
to the Bill of Complaint of Hollis
Sabin Henry Clawson Lewis
Stott Leander Gess & Willard
Stephens against them & others-

These Defendants by protestation
not confessing or acknowledge
ing all or any of the matters and
things in the said complainants
bill to be true in such sort
manner ~~or~~ form as the same
are therein set forth and alleged
do demur thereto and for cause
of demurrer show that the said
complainants have not in and by
their said bill as amended made
or stated such a case as doth or
ought to entitle them to any such
discovery or relief as is thereby
sought & prayed for from or against
this defendant. Wherefore these
Defendants respectively demand
the judgment of this Honorable

Court whether they shall be
compelled to make any further
or other answer to the said Bill
or any of the matters & things
therein contained & pray to be
hence dismissed with their rea-
sonable costs in this behalf
Sustained

W. J. Burgess
Sfts Solr

And afterwards and on the same
day a decree was rendered by the
Court and entered of record which
said decree was in the words
and figures following to wit:

Cook Cir Court
Sabine et al 2 In Chancery
vs Bill
Beverly et al 3

And now on this
17th day of March 1858 again come
the parties by their counsel & the
motion to dissolve the injunction
allowed and issued in this
cause made by the Sfts Beverly

Squires and Rolph upon their
 sworn answer & by the Defendants
 Jackson and Waterman upon their
 demurrers to the bill as amended
 and the Court now here being
 fully advised on said motion
 the parties conceding that during
 the year 1857 prior to the levy and
 assessment of the tax mentioned
 in said Bill of complaint no vote
 of the legal voters of the district a-
 foresaid had been taken as to whether
 or not the said tax should be
 levied & assessed & the Court being
 of the opinion that such vote
 should have been taken overrule
 and deny said Motion without
 expressing any opinion as to the
 other questions presented on the
 motion and demurrer to which
 said Defendants then and there ex-
 cept

Therefore ^{upon} by leave of the Court the Defendants Beverly Squires & Ralph withdraw their said Answer & file a Demurder to the Bill as amended - thereupon the said demurders to said Bill are overruled & the defts except thereto - thereupon it is ordered that the Defts answer the said Bill instantes and the defendants electing to stand by their demurres & declining further to answer it is ordered that the bill be taken as confessed against them.

And this cause is now brought on by the complainants for final hearing upon the bill taken as confessed against said Defendants. It is therefore ordered by the Court that the injunction granted and allowed in this cause be made perpetual so far as to restrain

the Defendants Jackson & Waterman from further proceeding to enforce the collection of the School tax levied & assessed upon said Complainants & mentioned in the bill of Complaint in this cause as amended - And that the Defts pay the Costs of this Suit to be taxed to which decree of the Court the said Defts except and pray an appeal therefrom to the Supreme Court of this State, which is allowed by the Court to said Beverly & Esquires on the filing bond in the penal sum of three hundred Dollars with Warren Hough or as surety conditioned as the law directs, on or before the 26th March instant

And that afterwards and on the 24th day of March A.D. 1858 there was filed in said cause an appeal Bond in the words and figures following to wit

In the Court Circuit Court

Hollis Sabin Henry Lawson

Lewis Stott Leander Goss & in Chancery

Willard Stephens Compts

vs

Bill for Sums

Philetus Beverly. Nathan

Squires John Rolph. George

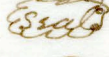
T. Waterman & John Jackson

Know all Men
by these presents that We the said
Philetus Beverly & Nathan Squires
as principal & Warren Hough as
their Surety are held and firmly
bound unto Hollis Sabin Henry
Lawson Lewis Stott Leander Goss
& Willard Stephens above named,
in the penal Sum of three hundred
Dollars for the payment of which
well and truly to be made unto
the said Sabin Lawson Stott
Goss & Stephens their executors
Administrators or Assigns we
bind ourselves our heirs executors
and Administrators, jointly several-
ly & firmly by these presents

Signed Sealed and dated
this day of March A.D.
1858

The Condition of this obligation is Such that whereas the Said Beverly and Squires have prayed an appeal from a certain decree rendered in the above entitled cause by Said Court on the 17th day of March A.D. 1858 during the March Term thereof in that year to the Supreme Court of this State which hath been allowed upon their filing bond & security as provided for by the order of Said Court in that behalf—

Now therefore the Condition of this obligation is Such that if the Said Appellants shall prosecute their said appeal with effect & shall pay the judgments interest costs and damages in the case the decree of the Said Circuit Court shall be affirmed then the above bond to be void or otherwise to remain in full force

Philetus Beverly 
Nathan Squires 
W. Keough 

State of Illinois &
 County of Cook 3^d p I William L. Church
 Clerk of the Circuit Court of Cook
 County within and for said County
 and State that the above & foregoing
 is a full and true transcript of the
 papers on file in my office and the
 proceedings entered of Record in
 Said Court in the case in which
 Nellis Sabie Henry Lawson Lewis
 Stott, Leander Gass & Willard Stephens
 are Complainants and Philatus
 Beverly Nathan Squires John Ralph
 George T. Waterman and John Jack-
 son are Defendants & of the whole record
 thereof

In witness whereof I have hereunto
 set my hand and affixed the
 seal of said Court at Chicago
 this 19th day of April A.D. 1858
 Wm L Church
 Clerk

In the Supreme court of the state of Illinois
in the Third Grand Division

Of April Term A.D. 1858

Philatus Beverly Nathan
Squires John Ralph; School
Directors & George Y. Natanson
& John Jackson Officiers

vs

Hollis Sabin Henry Clawson
Lewis Stott Landen Goss and
Willard Stephens Defts in error

Error to
Cook's
Court

And now come the said
Plaintiffs in error by H. Y. Briggs
their attorney and say that in the
record & proceedings aforesaid and
in rendering the decree aforesaid
there is manifest & material error
appearing of record in this

1) That the court below ~~thereby~~
and in overruling the various demur-
rs of the defendants depts below to
the bill of Complaint.

2) That the case stated & made by
the complainants in their said bill
does not entitle them to any relief in
a court of equity.

3 That the Court below held it to be necessary to take a vote before levying a tax to pay the indebtedness of a school District, whereas by law no such vote is required.

4 That the Court rendered a decree for the complainants below, whereas it should have been for the defendants below. dismissing the bill

whereupon they pray that the judgment aforesaid for the errors aforesaid & for other errors of record therein may be reversed annulled and altogether holden for naught.

W. J. Burleigh
for App

See for description
page 12 & 13

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Bronly Aals

or
Sabin Aals

Filed April 21 1888

Leland
C. R.

[The end]

In Supreme Court

William Salmon Henry Dawson
Levi Stott Leonarda Goss
and Willard Stevens

Whitcomb Perry Nathan Squires
John Joseph George B. Wakeman
and John Jackson

And hereupon afterwards tunc on the third Monday
of April in the April Term of said Court in the year
of our Lord one thousand eight hundred and fifty eight
the said William Salmon Henry Dawson Levi Stott
Leonarda Goss and Willard Stevens by Nicholas
and W. Kimbley their attorneys duly come here unto
Court and say that there is no error either in the
records and proceedings aforesaid or in making of the
decree aforesaid or no error in the overruling the various
demurrers of the defendants aforesaid or in rendering a
decree in favor of the complainants. And they pray
that the said Supreme Court of Judicature before
the aforesaid Judges thereof now here may proceed to
examine as well the records and proceedings aforesaid as
the matters aforesaid above assigned for error and that the
decree aforesaid in form aforesaid given may be in all things
affirmed &c.

Nicholas & W. Kimbley
for depts in error.

Supreme Court
108

Hellen Sabini
et al.
ad.

Philetas Barclay
et al.

Remder in error

Filed April 27, 1858.
L. Leland Clk.

Filed April 27, 1858
L. Leland
Clk

Nichols & M. Kimdley
Supts Attyys

In the Cook circuit court

Hollis Sabie, Henry Clauson
Lewis Stott Leander Goss &
Willard Stephens Compts
vs

Philatus Beverly Nathan
Squires John Rolph George
J. Watnman & John Jackson

In chancery

Bill for inju:

At the April
Term 1858. Injunc-
tion made perpetual
& except for costs -

To the clerk of the Supreme court 3^d Grand division

The defendants in the above
entitled cause pray for a writ of
error to the said circuit court - to
send up the record & proceedings in
this cause alleging error therein
to their wrong & prejudice - & that
a sci fa may issue vs the said
Compts -

W. J. Briggs
for app in error -

108

Beverly at al

us

Sabin at al

Principu -

Filed March 25, 1858

S. Deland

Clk

per Rice

STATE OF ILLINOIS, }
SUPREME COURT, } ss.

The People of the State of Illinois,
TO THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY OF *Cook* GREETING:

BECAUSE, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of *Cook* County, before the Judge thereof, between *Harris Sabin, Henry Clawson, Lewis Stott, Leander Goss & Willard Stephens*

Complainants
plaintiffs and *Philistus Bronley, Nathan Squires, John Ralph, George T. Waterman & John Jackson*

defendant: it is said manifest error hath intervened, to the injury of the aforesaid

Defendants

as we are informed by *their* complaint, and we being willing that error should be corrected if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the *first Tuesday after the third Monday in April* next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

John D. Caton
WITNESS, The Hon. WALTER B. SCATES, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this *25th* day of *March* in the Year of Our Lord One Thousand Eight Hundred and Fifty-*eight*

L. Leland
Clerk of the Supreme Court.
by J. B. Rice Deputy

Clerk of the Supreme Court

of Our Lord One Thousand Eight Hundred and Fifty-
two, this 21st day of March, in the Year
Justice of our said Court, and the Seal thereof, at Ot-
tawa, The Hon. WALTER B. SCOTT, Chief

be done according to law.

pected, we may cause to be done therein, to correct the error, what of right ought to
the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the
aforesaid, with all things touching the same, under your seal, so that we may have
sent to our Justices of the Supreme Court the record and proceedings of the plain-
tiff, in due form and manner, and that Justice be done to the parties aforesaid, com-
plaint, and we being willing that error should be corrected if any there
as we are informed

defendant: it is said manifest error hath intervened, to the injury of the aforesaid

of a party which was in the Circuit Court of
In the record and proceedings, as also in the rendition of the judgment

TO THE CIRCUIT COURT FOR THE COUNTY OF
GREETING:

The People of the State of Illinois,

Philistus Browly & others
vs
Hollis Sabers & others
Wm. J. Ewer

STATE OF ILLINOIS, }
SUPREME COURT, }

ss.

The People of the State of Illinois,

TO THE SHERIFF OF THE COUNTY OF *Cook*

GREETING

BECAUSE, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of *Cook* county before the Judge thereof, between *Hollis Sabin, Henry Clawson, Lewis Stott, Leander Goss & Willard Stephens* Complainants and *Philistus Brownly, Nathan Squires, John Ralph George T. Waterman & John Jackson*

defendants, it is said that manifest error hath intervened, to the injury of the said

Defendants

as we are informed by *their* complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; THEREFORE, WE COMMAND YOU, that by good and lawful men of your county, you give notice to the said *Hollis Sabin, Henry Clawson, Lewis Stott, Leander Goss & Willard Stephens*

that *they* be and appear before the Justices of our said Supreme Court, at the next term of said Court to be holden at Ottawa, in said State, on the *first Tuesday after the* Monday in *April* next, to hear the records and proceedings aforesaid, and the errors assigned, if *they* shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *Hollis Sabin, Henry Clawson, Lewis Stott, Leander Goss & Willard Stephens* notice, together with this writ.

WITNESS, The Hon. ~~WALTER B. SCATES~~ *John D. Baton* Chief Justice of our said Court, and the Seal thereof at Ottawa, this *25th* day of *March* in the Year of Our Lord One Thousand Eight Hundred and Fifty-*eight*

S. Leland
Clerk of the Supreme Court.
by J. B. Rice Deputy

W do hereby certify the appearance of the
depts in war within name -
Mar 29. 1858 -

Michael & Anthony
Ditto 1858

defendant it is said that manifest error has intervened, to the injury of the said

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Philistus Bwily & others

By

Hollis Babine & others

Sci'fa

Filed April 29. 1858
L. Deland
211

that he and appear before the Justice of our said Supreme Court, on the
term of said Court to be holden at Ottawa in said State on the
next, to hear the records and proceedings aforesaid, and the
errors assigned, if they shall see fit; and further to do and receive what said Court
shall order in this behalf; and have you then there the names of those by whom you
shall give the said Hollis Babine, Henry Clemons, Henry Clemons, Henry Clemons
notice together with this writ.

Witness, The Hon. WILLIAM B. SCATTER, Chief
Justice of our said Court, and the Seal thereof at
Ottawa, this 27th day of March, in the
Year of Our Lord One Thousand Eight Hundred and
Fifty-eight.

Clerk of the Supreme Court.

In the Supreme court

Philatus Beverly et al

vs

Hollis Sabie et al

{

error to Cook circuit

court-

Offs Brief-

The principal question in this case is -

Whether it is necessary under the school law of 1857 to take a vote of the legal voters of the District before & which shall be in favor of levying a tax to pay an indebtedness of the district incurred under the laws of 1855-?

From the facts alleged in the bill it appears that Beverly, Squires & Rolph the school directors of a district lying partly in Cook and partly in Lake county caused a piece of ground to be bought in 1856 - and on it erected a school house & had thereby and during that year created a large indebtedness against the district. Afterwards and in June 1857 they filed a certificate in the offices of the county clerks of Cook & Lake counties assessing a tax of upon the district of ten cents on the hundred dollars to pay the indebtedness of the district. The circuit court

held that it was necessary before levying this tax to take a vote of the legal voters of the district whether or not the tax for that purpose should be levied and as it was conceded by ~~both~~ both parties that no such vote had been taken sustained the bill making the injunction perpetual.

I don't know that any question will be raised as to the regularity of the proceedings of the directors under the laws of 1855 but I think an examination of the provisions of that act as contained in ss. 45, 46, 71. & 41^{1/2} ^{pp 64 & 7} will show that so far as their original proceedings are concerned they ^{as directors} had on behalf of the district incurred an indebtedness which was legally binding on it to pay - and the act of 1857. p. 291. S. 78 provides - that all taxes levied and contracts made under the laws then in force should remain valid and all rights remedies defenses & causes of action existing or which might thereafter exist or arise under or by virtue of said repealed laws should continue & remain valid & should be enforced notwithstanding repeal of said laws unless

cancelled according to the provisions of that act.

We then come to the provisions of the laws of 1857 to see what is provided as to the mode & manner of levying taxes & for what purposes.

§ 44. p. 274 directs the time & for which & the persons by whom a tax shall be levied in the district, and the purposes for which it shall be levied, but no where says any thing about the payment of existing indebtedness. And the form given says nothing on the subject. But this section contains the following proviso: "Provided that the people vote the same as hereinafter expressed" And upon this proviso the court below sustained the complainants bill.

To this we say first

That there is no provision contained any where in the act to ascertain the vote of the People - Who are the people - not "tax payers" (as first charged in the bill) not alone not "legal voters" alone - not "free white male inhabitants over the age of twenty one" alone, but all indiscriminately, old & young - male & female black white mixed & copper

colored - the people of a country are
the human beings that live in it -

This house is not again afterwards
alluded to in the act. & no provision
made to carry it into effect. There
occur afterwards two occasions
when elections are to be held -

one in S. 47 in reference to borrow-
ing money - provides "that the same shall
be voted by a majority of all the votes
cast at any election first giving ten
days notice thereof by posting up three
notices of the time place and object of
the meeting - - but this does not
say by whom nor when the notices
are to be posted nor who is to call or
preside at the meeting when convened.

Again in S. 48 in reference to School
house sites - which shall not be purchased or
changed "without the consent of a majority
of the legal voters of any district at an election
in which case notice shall be given in
the same manner & for the same num-
ber of days as is required for the election
of directors either by the directors or at
least ten legal voters of said district"

The mode of calling this is differ-
ent from the other even if these

now what is alluded to in the S.
44. how can their conflicting provisions
be so reconciled as to enable the people
to act with certainty under them—

But be that as it may the purpose
for which the tax may be raised which
are specified in that section and to which
the proviso applies do not include the
paying of indebtedness of the district
and if in which upon that section alone
it is clear that the tax could not be
sustained with or without a vote
and here it is to be remarked— that the
the purposes for which the tax is levied
& to which it is to be applied are all pro-
spective— & require the assent of the voters
in advance, it is not the levying the tax
they assent to but the incurring the
indebtedness—

S 49. p 278 contains the only
provision on the subject of the payment
of indebtedness by levying a tax—

If payment shall be obtained &
the party interested may have execution
therefor by an order directing the
payment of the same out of unappro-
priated money, or by mandamus
compelling the board to levy a tax for

the payment of the debt. The only question now left is shall the directors oblige the persons to whom the district is indebted to go through the form of recovering a judgment & applying to the court for a mandamus - to compel them to do that which they can just as well do without, & without extra cost expense & trouble.

The principle upon which a judgment is recovered & a mandamus is issued is that the party owes a debt which he ought to & refuses to pay & a duty which he ought to & refuses to perform.

But the court below would have us "go to the people" to find out whether they will sanction the tax. Supposing we did and they refused a levy - Then comes the mandate of the ^{same} court in the form of a judgment recovered, & mandamus awarded compelling the directors to do the very thing act the people has said they should not do.

The legislation of this state delights in propounding conundrums to the courts but this is too gross an absurdity to have any use in it.

W. J. Phipps
for app^t

This cause may be submitted to
the Court on written arguments to
be filed -

May 1. 1858

108-148
Sup Court

Beatty et al

vs

Sabrin et al

Jffs Bng - et

Filed May 26. 1858
J. Leland
clerk

108 - 145

Philistus Bronley & others

vs

Hollis Sabin & others

1838

Common

108

Preferred

1858

~~X~~

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