

8523

No. _____

Supreme Court of Illinois

Trustees of School

vs.

P. O. Neil

Patrik O'Neil State of Illinois } In the Monroe County Circuit
County of Monroe } ss Court at the September Term
Trustees of T. 3. q. thereof A D 1857.

Be it remembered, that on ninth day of June A D 1857
Term 3. q. app the following summons was issued, to wit:

State of Illinois } The people of the state of Illinois to the
Monroe County } Sheriff of said County, directing:

We command you, that you summon Patrik O'Neil if
he may be found in your County, that he do and appear
personally in the Circuit Court next, to be holden at the Court
house in Waterloo, within and for said County, on the 2nd
Monday of September next, on the first day of said term, then
and there in our said Court to answer Lewis Grofmann
Patrik Crow, & Charles Borroughs, Trustees of Schools of T. 3.
q. in a certain appeal case, taken by said Trustees to said
Court, from a judgment rendered against them, before
Bradly Rust a J. and hereof make due return.

Witness William Erd, Clerk of said Circuit Court
(seal) and the seal thereof hereto affixed, at the office in
Waterloo the 9th day of June A D 1857

William Erd - Clk

and afterwards, to wit: at the September Term A D 1857
of the Monroe Circuit Court, on the 2nd day of term (Tuesday 15)
the following order was made and entered of Record to wit:
Patrik O'Neil appellee

vs
Lewis Grofmann, Patrik Crow
& Charles Borroughs, Trustees of Schools of T. 3. q. } appeal
Now on this
day comes the

whereby which said summons was the following endorsement to wit:
"Specified by reading, to the within named O'Neil, June 9. 1857
Term 3. q. Making 30. Oct. 10. (1857) J. M. E. Clerk Clk"

plaintiff by his atty George Abbott, and also come the Defendants, by Roemer & Morrison their attys, and the parties being ready for trial, by consent this cause is submitted to the Court to be tried, without the intervention of a jury and the Court having heard the testimony of Witnesses and argument of counsels finds in favor of the plaintiff the sum of \$ 77, 55 & costs, It is thereupon considered by the Court that judgment be entered against The said Defts, in favor of the plaintiff, and that the said plaintiff have and recover from the said defendants the sum of seventy seven Dollars, & fifty five cents, together with the costs by him expended in this suit and that he have execution thereof &c. whereupon the Defendants by their attys make a motion for a new trial, and said motion being denied by the Court, they pray for an appeal of this cause to the supreme Court, which is allowed upon said Defendants filing their ~~last~~ Bill of exceptions within fifteen days and execute & file a bond, in the penal sum of \$ 200.00 in twenty days from the date hereof, to be conditioned according to law and approved by the Clerk of this Court,

And afterwards to wit, on the 28th day of September AD 1857, the following ^{bond} was executed & filed to wit:

Know all men by these presents, that we Charles Burroughs & Lewis Gropmann, Trustees of Schools of T 3. 9. & Harrison & Conine of the County of Murray and State of Illinois are held and firmly bound unto Patrick O'Neil in the penal sum of two hundred Dollars, current money of the United States for the payment of which well and truly to be made we bind ourselves, our heirs, executors and administrators jointly

Severally and jointly by these presents, Witness our hands and
Seals this 28th day of September A D 1857,

The condition of the above obligation is such, that whereas said
Patrick O'Neil did at the September term A D 1857 of the
Monsie Circuit Court of said state recover a judgment in
said Court against the above bounden, Charles Borroughs
Lewis Graftman & Patrick Brown Trustees as aforesaid for the
sum of seventy seven Dollars & fifty five cents, in a case
wherein the ^{said} Patrick O'Neil was plaintiff and the said Charles
Borroughs, Lewis Graftman & Patrick Brown, Trustees aforesaid
defendant and also for cost of suit from which said judg-
ment of the said Circuit Court, said Charles Borroughs &
Lewis Graftman as aforesaid prayed for and obtained an
appeal to the Supreme Court of said state, Now if the said
Charles Borroughs & Lewis Graftman, trustees as aforesaid, shall
duly prosecute their said appeal with effect, and shall more-
over pay the amount of the judgment, costs, interest and dam-
ages rendered and to be rendered against them, in case the
said judgment shall be affirmed in the said supreme Court
then the above obligations to be void, otherwise to remain
in full force and virtue }
Taken and entered into before me } Charles T Borroughs Esq
at my office in Waterloo this 28th } Lewis Graftman (Seal)
day of September A D 1857 } Cassius Horner (Seal)

William End

and afterwards to wit, on the 15th day of October A D 1857
the following Bill of exceptions was filed to wit

State of Illinois, of the September Term A D 1857 of
 Monroe County & the Monroe Circuit Court -
 Patrick O'Neil appellee

vs

Appel

Trustees of Schools of Township

No 3 South of Range No 9 West app^t } Be it remembered
 that upon the Trial of the above entitled case, which was tried
 by the Court by consent, the plaintiff offered in evidence Schedⁿ
 no marked "A" which by consent of parties is to be taken up
 as part of the record, to which schedule in evidence the defend^{ts}
 by their counsels objected for the reason, that it comprised
 several districts and townships, because the amount due the
 plaintiff was not filled up at the time the schedule was present,
 ed for payment which objection the Court overruled, and
 admitted the said schedule in evidence, to which ruling the
 defendants counsels at the time excepted, in connection of
 the aforesaid objection, the defendants introduced one M D
 Horine who stated that he was School commissioner of said
 County and Treasurer & Clerk of the board of said trustees &
 who also stated that the said schedule was exhibited at the
 October meeting of the said board of Trustees A D 1856 and
 that payment was refused on account of the amount due
 said plaintiff not being certified by the directors in their
 certificate to the schedule and that thereupon the plaintiff
 withdrew his schedule and filled up the amount himself
 with the approbation of the directors and presented it
 again after the adjournment of the said October meeting
 to be acted upon at the next April meeting thereafter

3 and that at the said April meeting the trustees declined to pay said Schedule, the plaintiff produced the certificate of the directors marked 'B' and taken by consent as part of this record, which certificate Mrs. Herine stated was not before the Board, the plaintiff then produced one Patrick Mulligan who stated that he was a School director of said district and who stated that said certificate 'B' was presented before the trustees left the house, and that at the April meeting of said trustees there was plenty of money to pay the said Schedule; this was all the testimony in the case whereupon the Court found a judgment for plaintiff for the sum of twenty seven Dollars & 55 cents, the defendants moved for a new trial for the reason that the Court admitted improper evidence and found against law and evidence which motion the Court overruled, to which overruling said motion the defendants then and there excepted, and prays the Court to sign and seal this bill of exceptions -

Sidney Brace (seal)

State of Illinois }
County of Monroe } I the undersigned Clerk of the Circuit Court of said County, certify the foregoing to be true & correct copies of the summons & endorsement thereon, order of Court, appeal bond & of the Bill of exceptions as the same appears on Record & on file, in the foregoing entitled cause, in my office -

Witness William End, Clerk of said Court &
the seal thereof hereto affixed at office in

Watrous this 6th day of November A.D. 1857

William End *W*

Supreme Court of Illinois }
1st division. } Review her term

And now come the said appellants Vernon
by Roemer their attorney and ~~appears~~ ^{say} that
following there is error in the records & proceedings in
the above case, in this that the Court should have
given judgment for appellants instead for the
appellee, that the Court should not have
admitted the evidence objected to by appellants
that the Court ought to have granted a new trial

Grounds in error

Patrick O'Neil

Trustee of Schools of

J. B. G.

Transcript

Wm. B. Underwood

Att'y for drafts in error

Filed 25th Nov. 1857

N. Johnston Clerk

Received \$5.00 by J. B. G.

Received by J. B. G.

Attest 27th Nov. 1857 - J. B. G.

J. Roemer for
appellee

Referred

1150

1150

Mr. John Supreme Court Mt Vernon

1857

G. Hoerner being first duly sworn deposes & saith that the above entitled case was tried at the Sept. Term ⁵⁷ of the Monroe Circuit Court, on the 2^d day of the term thereof; that the order for an appeal was made on the 4th day thereof, ^{the 17th of Sept.} Thursday, & that the first day to the fact that several cases were not ready for trial suddenly adjourned on the day following. That the bill of exception was prepared by this affiant on said Friday during court week, but had to be left for the opposite counsel for examination, that the Judge left the Town of Waterloo on said Friday, returning to Cayuga, as he stated. That the bill of exception a few days afterwards, according to this affiant's best knowledge & belief on the 22^d or 23^d of Sept. was sent by mail to Cayuga, directed to the Judge, and in due course of mail ought to have arrived ^{there} on the 24th or 25th. That the Judge as appears from his letter filed herewith was absent from home & did not ~~write~~ ^{write} the letter containing the bill signed by him, as appears from the date thereof which is 2^d of Octob, and it was not mailed until the fifth

when the time for filing it had expired.
That if said Lusk had received the letter
when it reached Cadiz, there would have
been ample time to have sent it to Waterloo
by the daily mails, within the time
fixed by the Judge. After the day had
expired this affair is informed by
Wm H. Morrison, his associate counsel,
residing in Waterloo, that he did
not look for it and bill any more,
and that consequently it was lying
in the P.O. at Waterloo for some time
without being called for. Had
you been official had not.

G. H. Morrison

Sworn to and Subscribed
before me, Nov. 26. 1857
A. Johnston Clerk

SUPREME COURT OF ILLINOIS.
FIRST GRAND DIVISION.
NOVEMBER TERM, A. D. 1857.

ABSTRACT.

Record Page.

Trustees of Schools, T. 3, S. 9. W. appellants, vs. Patrick O'Neil, appellee.	}	Appeal from Monroe.
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- This was a suit originally commenced before a Justice of the Peace, by appellee, and
1. by appeal taken to the circuit court, where it was tried by the court by consent of parties, September term 1857. The circuit court found a verdict of \$77.55 for appellee, and entered judgment therefore. Upon the trial the appellee, plaintiff below offered in evidence a schedule marked A., which is copied in the bill of exceptions, to which evidence the appellants objected, because it comprised several districts and townships, because the amount due was not filled up at the time the schedule was presented for payment. The court overruled the objection. In connection with the introduction of the schedule, both parties
 4. produced certain evidence which is more fully set out in the bill of exceptions.
 2. Before judgment was entered the appellants by this court moved for a new trial, which the court overruled, to which decision the appellants excepted, and filed their bill of exceptions.

THE ERRORS ASSIGNED ARE.

First, that judgment ought to have been given for appellants instead for the appellee.
Second, that the court should not have admitted the evidence, objected to by the appellants, Third, that the court should have granted a new trial.

G. KOERNER. Atty.

For Appellees.

56. Trustees of Schools Town of Iron. 3 S. 9. W.
appellants

Plaintiffs v. mil. appellees.

The appellants insist that the Schedule marked A. ought not to have been admitted as evidence,

1. because it was not made out according to law. The School law of 1855. ^{§ 49 b} § 50. Page

68. provides that ~~a~~ separate schedules should be kept for each district, town, ship or county. The necessity for this provision appears from § 37. of same law. Page 61. — The reason is that it may be ascertained what proportion of the wages of the teachers is due from each district, as teachers are paid ^{or may be paid} different prices from each district. § 49. above cited is peremptory and no teacher is entitled to compensation unless he prepares his schedule as prescribed by law. —

Trustees should pay on imperfect schedules they would make themselves

liable Law 1855. § 81. —

2. The amount of compensation due, ~~due~~ could not be paid out by the trustees, ^{at the october term} because no amount was in

was in the schedule, (A.) when it was
presented at the October term 1856.

See as to that the 22 Circular of the Superin-
tendant of common schools, which says
(and his instructions are made by the
law authentic interpretations thereof) ^{see Sec. 9. Law} 1855

The amount due teacher must be certified

to entitle the teacher to receive his pay.

At the April meeting 1857 no notice
could be taken of the schedule (it having
been filled up, since the October session
see Bill of exceptions) on account of
~~the~~ six months having expired.

See Laws 1857. Sec. 54. 43. Laws
1855. Sec. 57. 336.

on the Certificate marked B. Payment
could not be made because the sch-
dule had not been certified according
to law. See law 1855. Sec. 66. last
Clause. —

No schedule can be certified & returned
that reaches further back than
6 months. Laws 1857. Sec. 54.

Trustees to distribute school funds
arising & by at April & October term
meeting on schedules certified
and returned according to law
(not extending back more than six

months. See Law of 1857 Sec. 49.
When Trustees perform their duty
under sections 54 & 34. Laws 57
not having the powers they had under
law of 1855. Sec. 70. but which is gi-
ven by Law of 1855 § 44 to the
director, namely the power to levy
a tax for making up deficiencies
no money can come to their hands
applicable. At this kind of indebtedness.
The trustees could not ^{be compelled} by the judgment
of the Court, as the law now stands
to pay. The Directors of the proper
districts would be the only persons
who could control the funds, and
they alone could therefore be sued.

J. Roemer & Wm R
Morrison for
appellants.

56.

Justices of the Peace
Jas. B. L. G. W.

123

Patent Office

Statement and
authorities

Appellate Court
S. L. G. W.

Filed 27. Nov. 1857.
N. Johnston atty

Filed Oct 7/57

Allen Comstock Inock Comstock
Comstock v En

Wm Thayer

Theodore Burdard

Caroline M M. Pabon

Hessie A. Th.

Wells Pomeroy

& Cyrus G. Hays

SUPREME COURT OF ILLINOIS.
FIRST GRAND DIVISION.
NOVEMBER TERM, A. D. 1857.

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 vs. } Appeal from Monroe.
 Patrick O'Neil, appellee.

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2. Before judgment was entered the appellants by this court moved for a new trial, which the court overruled, to which decision the appellants excepted, and filed their bill of exceptions.

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G. KOERNER. Atty.

For Appellees.

56

Trustees of School

L. J. G.

my

Patrick O'Neil

A. C. C. C.

8523

Dec 30. Nov. 1857.

A. C. C. C.

Trustees vs
D. Neal } Appeal from Monroe Co.

1- The certificate of qualification is to be exhibited to the Directors who employ teachers and not to the Trustees or Township Treasurers under Sec 49. In this case the Directors certify that the teacher did exhibit to them such a certificate. See Schedule & also end of Sec 50.

It is only necessary to keep separate schedules where the scholars come from different districts. In this case it is evident from the schedule that they were all from the same district.

The bill of exceptions shows that the schedule was certified by the Directors within six months from the time for presenting schedules.

The record also shows that the Trustees had money to pay said schedule in the treasury after the schedule was presented & if they afterwards disposed of the same improperly they must abide the natural consequences.

Technical quibbles ought not to be countenanced in cases of this sort where every principle of justice requires that the teacher should receive compensation for work & labor done.

It does not follow that a new trial should be awarded because improper evidence was admitted, if the whole record shows that justice has been done.
Greenup vs Stokes 3 Gil R. 202.

Wm Underwood

Attly for appellee

Yours truly Dr
W.

Neal

Chief of Dept.

SUPREME COURT OF ILLINOIS.
FIRST GRAND DIVISION.
NOVEMBER TERM, A. D. 1857.

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by appeal taken to the circuit court, where it was tried by the court by consent of parties,
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schedule marked A., which is copied in the bill of exceptions, to which evidence the ap-
pellants objected, because it comprised several districts and townships, because the amount
due was not filled up at the time the schedule was presented for payment. The court over-
ruled the objection. In connection with the introduction of the schedule, both parties
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G. KOERNER Atty.

For Appellees.

$$\begin{array}{r} 12 \\ 20 \\ \hline 240 \end{array}$$

56

Henry Scheraga
N.Y.C.

my

Patrick O'Neil

Admiral

52
6
312 300

585-

250
20
500

250
20
500

John W. April 1857
A. Scheraga CM

Wm R. Morrison Esq. or
The Clk. of Monroe Ciu. Court

Waterloo

via
Knox

Missis

Filed Oct 15th
1857
Wm R. Morrison

Calypso Oct. 2. 1857

Mr William

The colored birds have been sent
earlier but I was absent from home
until Monday last - I hope they
are in time - I hope you and
family are well

Yrs Truly
Sidney Pierce

W. A. Mendenhall Esq.

W. R. Morris & Co.

Trustees of Schools &c. } appeal from
Patrick O'Neil } Monroe County.

And now comes the appellee & moves to
strike the bill of exceptions from the record
of this case.

1st - Because the same was not filed in
the court below during the term when
taken nor during the time fixed by the
order of the court below.

Underwood
Attys for Dept.

Frederick J. Richards

W. W.

O'Neal

Martin & Strick

from record
bill of exception

Filed 25th Nov. 1857.

W. W.
Mr. Richardson

We the undersigned Directors of District number
 Three Township Number three South Range number
 nine West in the county of Monroe hereby certify
 the foregoing to be a true copy of Patrick O'Neil
 Teachers certificate of Qualification and is such
 as required by law to qualify him to teach in the
 school which he has taught and we further certify
 that the Amount Due said Patrick O'Neil is \$77
 and 55 cents which amount the Treasurer of said Township
 is hereby required to pay

Given under our hands and seal this 1st Day of
 October A. D. 1855
 \$77.55
 Andrew Dickert
 Patrick Mulligan Directors
 A. Clark

To Mr. M. T. Horine Township Treasurer Township
 Three Range nine west

Witness
 Charles Burroughs Patrick O'Neil
 & Lewis Greenman

May 11th 30-1857 Payment on
the Andrew Kirkpatrick no part
of the balance being paid by

8
Patrick O'Neill appdx
RS
Leaves Groffmann
Patrick Brown
Chas. Remington Smith
of T. B. & appdx

appdx

2
1857

Offr End

RS

Exhibit. B.

A COMMON SCHOOL,

Range 2 west of the Principal Meridian, in the County of Macouroc and State of Illinois,
and ending September 20th 1856.

State of Illinois, *in the* County *of Monroe*

We, the undersigned, School Directors in District No. 3 township 3 north, range 9 west of the 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 due the said Patrick Walsh the sum of Twenty Dollars and 50 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 1st day of October A. D. 1881 Andrew

A. D. 185

of *Seventy seven*
and of good qualifications
A. D. 1856, *Andrew Dickson*
Hubrick Milligan
Abner Clark

Schedule of 1856
New and follow Oct 29 1856
W. T. Hornsby

This Schedule is
in consequence of the
Error in Directors
Certificate

Oct 6th 1856

W. T. Hornsby

J. O. Neal Teacher with
draw this Schedule to give the
error in Directors Certificate
and files the same to be
presented at the April
Meeting of the Board of
Directors

W. T. Hornsby

Directors refuse to take any
further action on this Schedule
April 1857

W. T. Hornsby

Exhibit A

Filed Sept 15, 1857

W. T. Hornsby

Schedule Showing the number and names of Books, Maps, Charts, &c., purchased in 185 , for the use of the School kept by Patrick A. Vile in the School House in Dist. No. 2 in Township 2 North, Range 7 West of the Principal Meridian, in the County of Monroe and State of Illinois. Commencing July 28th 185 and ending September 30th 185

NAMES OF SCHOLARS.

	Primer	1st Reader	2nd Reader	3rd Reader	4th Reader	English Grammar	Geography	Orthography	Spelling Book
John Grimes			1						1
Anne Cooney			1	1					
Catherine Tolan			1	1				1	
Thomas Cooney			1						
John O'Leary			1	1		1	1		
Thomas Coleman			1	1					
Mary Coleman			1						
Catherine O'Leary			1	1					
Thomas O'Leary									
Daniel O'Leary	1								1
Michael O'Leary		1						1	1
John Murphy	1								1
Mary Murphy	1								1
Caroline Murphy	1								
Patrick Fletcher			1						1
Andrew Rickert	1	1							
Mary Rickert	1	1							
John Collins	1								
Garnet Stack	1								1
Mary Walsh	1	1							1
Mary Butler					1		1		
Mary Fitzgerald	1								1
Patrick Cooney									1
William Cooney	1								
Patrick Vile		1	1	1			1		1

TOTAL NO. OF BOOKS.

3 8 7 8 3 1 1 3 10 4 = 48

I certify the foregoing Schedule of Books, Maps, Charts, &c., purchased for the use of my school in the year 185 , as herein named, to the best of my knowledge and belief, is correct.

Patrick A. Vile

No 56

Nov 1857

Trustees of Schools

My

P. O'Neil

Appl. from Monroe

85-23

Affirmed