

2/23/06

North Carolina I
Guilford County I

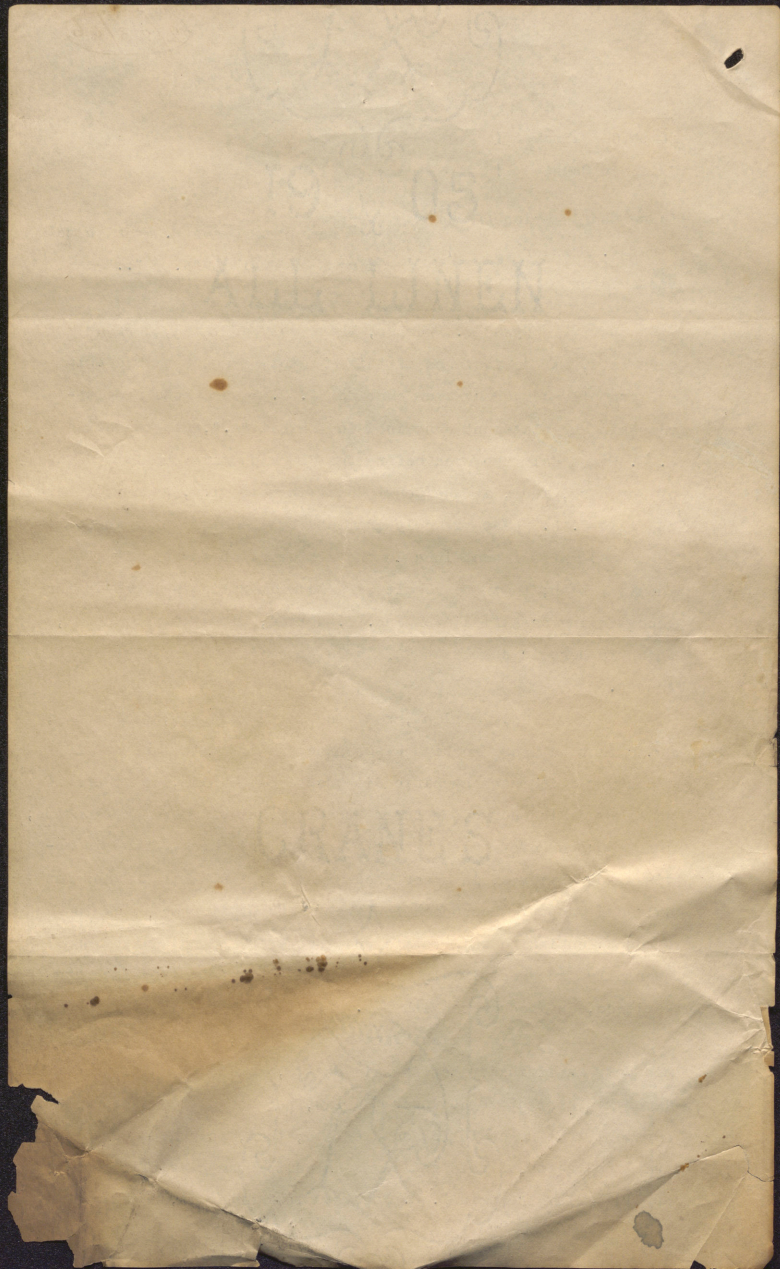
In re Confirmation of I
Cyrus P. Frazier as I
Post Master I

Answer of Cyrus P. Frazier to
Charges in Exhibit "A. & B."

Cyrus P. Frazier, being duly affirmed, deposes and says that, at the instance of this affiant, a subpoena was duly and promptly issued by the Court for J. C. Foust whose name appears in the statement contained in Exhibit "A.", and the said J. C. Foust duly appeared before the Clerk on this the 17th day of February, 1906, at the Court House in said City, when and where the said J. C. Foust was duly examined by the Clerk of said Court as to the matters contained in the statement of the estate of Thomas McLean; that the result of said examination appears in the accompanying certificate of Jno. J. Nelson, Clerk of said Court, which is herewith submitted and asked to be taken as a part of this Answer.

This affiant, replying to the charges, states that while there appears to be a discrepancy as to the nature of the items for which each specific disbursement was made, yet there is no error or inaccuracy as to the total amount of the disbursements; that each and every disbursement was made, as this affiant is advised and believes, in accordance with law; that this affiant has duly and properly accounted for everything that came into his hands belonging to said estate and that every penny thereof has been duly and properly disbursed, as this affiant is advised and believes, in accordance with law.

This affiant further says that, in the discharge of his duty as administrator of said estate, he did not employ counsel, as he had a right to do under the law, because he was anxious to save all that he could for said estate; that, when he ascertained that the assets of said estate amounted to such a trifling sum, he did employ the said J. C. Foust to look after it, as it was



several miles in the country and the nature of the property was such that this affiant would necessarily have incurred more expense if he had been compelled to hire a conveyance and look after the same in person and that it was economy to employ J. C. Foust to act in his place, and further that this affiant managed said estate with the same care, the same prudence and the same economy that he would have done had it been his own individual affair. This affiant further calls attention to the fact that the statement of J. C. Foust above referred to is not verified before any officer authorized to administer an oath, and that this affiant would further state that he is advised and believes that there is not only nothing in these charges, but that they are made for the sole purpose of delaying this confirmation until the parties behind them, moved by their own selfish ends, can mislead the President and induce him to withdraw the name of this affiant from the Senate.

(Properly sworn to and subscribed)

North Carolina I
Guilford County I

In the Superior Court.

I, John J. Nelson, Clerk of the Superior Court of Guilford County, N. C., do hereby certify that I have this day personally examined J. C. Foust, under oath, touching the transactions of Cyrus P. Frazier, administrator of Thomas McLean, and that I have further examined into and investigated the said settlement and that I find, upon such examination and investigation, that the settlement heretofore made, audited and approved by this Court is correct; that, while there appears to be an error in the nature of the items, for which disbursements were made, yet I find that the vouchers tally with the aggregate sum of the disbursements according to the sworn statement of the said J. C. Foust this day made before me and according to the fact of the vouchers themselves. I further certify that there is nothing in the entire transaction of the said Frazier as administrator of this estate which, in the slightest reflects upon the integrity of his character or conduct.

Witness my hand and official seal this 17th Day of Feb. 1900
(SEAL) John J. Nelson, C. S. C.

Answer
to
Exhibits "A" and
"B"

2/23/06

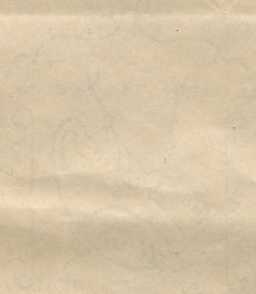
North Carolina I
Guilford County I

In re. Confirmation of I
Cyrus P. Frazier as I Answer of Cyrus P. Frazier
Post Master I to Exhibit "C."

Cyrus P. Frazier, being first duly affirmed, deposes and says that, during the year 1902, he was Public Administrator of the County of Guilford in said State, on the ... day of December 1902, Mr. Levi M. Scott sent a message to this affiant to come to his law office and that, upon receiving said message, this affiant went to the office of said Scott; that, when he went to the office of the said Scott, he was informed that the widow of one Jasper Unthank and the heirs-at-law of the said Jasper Unthank, all of whom were of full age, desired this affiant to qualify as administrator of Jasper Unthank and to help them sell a tract of land, which affiant was advised could be sold under the terms of the will of the said Jasper Unthank at private sale; that thereupon this affiant stated to Mr. Scott and also stated to the heirs at law that if they desired this affiant to help them sell, they must fix a price they were all willing to sell at and, after consulting among themselves and with one Aaron Mendenhall, who is a leading and perhaps the wealthiest colored man in the County, the said heirs-at-law informed this affiant that they had decided to sell the land for Two Hundred and Seventy-five \$275.00 Dollars; that these heirs-at-law were not only of full age, but were among the most intelligent colored people of the community; that this affiant tried for several weeks to find a purchaser and finally found one in the person of J. C. Norman who agreed to purchase the land at said price and thereupon Mr. Levi M. Scott, the attorney, was requested to prepare the deed with the full knowledge and consent of all the heirs-at-law who were the legal owners of the land, and that the said deed was prepared on the 24th day of January, 1903, and placed in the hands of a Notary public to take acknowledgments of the grantors; that, on the 26th day of January, two days there-

ALL TOWN

1870

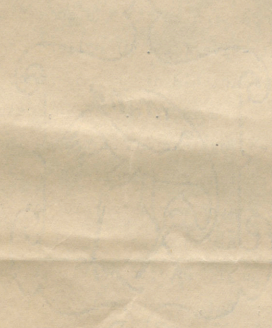


CRANE'S

ALL TOWN

after, the said J. C. Norman came to this affiant and told this affiant that he had decided to go into business and invest what little money he had in a business and that he would be glad to be relieved of the burden of this lot and wanted this affiant to release him from his obligation or take the burden off of him; that, thereupon this affiant, knowing that said heirs-at-law had fixed the price themselves and knowing that there was no moral or legal reason why he should not relieve the said Norman, who was a young man, from this burden upon him, agreed to take the land from Norman as a matter of accommodation and at the same time agreed to give him a profit of Twenty-five (\$25.00) Dollars on the same; that, up to this time, this affiant had never thought of getting the land and did not want it, but the said J. C. Norman, being a young man and having been encouraged, by this affiant and others, to buy the land at that price, this affiant felt inclined to help him in the manner aforesaid and saw no reason why he should not do so since the said heirs-at-law were not only anxious to sell it at the said price, but all of them were amply able to buy it at the same price if they had desired to do so; that, immediately after having agreed to take this land off of the hands of J. C. Norman, the deed from J.C. Norman to this affiant was prepared and acknowledged; that this affiant was unwilling to advance any money to the said widow, who was then in need, until the said deed from Norman was executed and delivered; that the apparent discrepancy and delay in the acknowledgment of the last of the grantors to the original deed was due to the fact that this grantor lived in the City of Raleigh and considerable time was required to locate this colored man and get him before a Notary Public, that, in the meantime, no risk was assumed, except that assumed by this affiant, that, immediately after the execution and delivery of the deed of Norman to this affiant, this affiant did begin cutting out the briars and thickets on said lot, opening up a street thereon and ditching and grading the land, having in his employment one George Saddler, to whom he afterwards sold three-fourths ($3/4$) of an acre of said land for Seventy (\$70.00) Dollars on the installment plan of Two and 50/100 (\$2.50) Dollars per month; that later, after this affiant had put said lot in proper

CRANE'S



1905

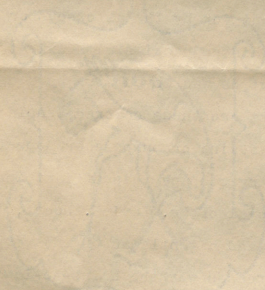
ALL LINEN

shape and improved the same, on the 23rd day of May, 1903, he sold to one John Fairley two (2) acres thereof for Two Hundred (\$200.00) Dollars on two (2) years' time; that in August Following, he sold to Ed McAden and Walter McAden two (2) acres of the said land for Two Hundred (\$200.00) Dollars on two (2) years' time; that these purchasers were colored people and have not yet paid for said land; that this affiant; at the time of selling these lots to George Sadler, John Fairley and Ed and Walter McAden, well knew and it was well understood that he would have to wait a long time for his money and that the increase in price was obtained on account of the long time given to the purchasers to pay for the same; that, before the last two of these sales were made, this affiant had expended the sum of about Two Hundred (\$200.00) Dollars in grading, ditching, cleaning and improving said lot.

And this affiant, further answering the charges, says that he was sent for by the attorney for these colored people to help them; that his connection with this transaction was not of his seeking and that he was moved more by a desire to accommodate and oblige Mr. Scott and these colored people to take hold of this matter then by any desire or purpose or hope to reap any profit therefrom; that every step by this affiant in the entire transaction met with the approval of Mr. Levi M. Scott, the oldest member of the Greensboro Bar and a gentleman of the very highest integrity; that there was no reason why the heirs-at-law themselves should not have retained this property if they had so desired; that they were not only intelligent, but were amply able from a financial standpoint to have held the property at that time; that another explanation of the increase in the price was the rapid enhancement in the value of property in the City of Greensboro.

This affiant further says that, for the past ten years, he has devoted a great deal of time and attention in selling and in helping colored people to purchase homes and that he has invested more money along this line in helping the colored people to buy and provide homes for themselves than any other citizen of Greensboro, and that this affiant has never, during all these years, foreclosed a single mortgage and never has had a single dif-

CRANE'S



ALL LINES

difficulty in a single settlement with any citizen in any of these transactions.

And for further reply to the charges in Exhibit "C.", this affiant respectfully refers to the statements accompanying this Answer.

C. F. Frazier

(Sworn to)

North Carolina I

Guilford County I

I, John J. Nelson, Clerk of the Superior Court of Guilford County, do hereby certify that I have looked into, investigated and examined the matters involved in the administration of the estate of Jasper Unthank, deceased, and the Court finds as fact that the entire conduct and transactions of Cyrus P. Frazier, administrator of Jasper Unthank, are correct, straight, proper and honorable and that all of his acts in connection with the administration of said estate have met with the entire approval of this Court.

I do further certify that Mr. Levi M. Scott, the attorney for the said administrator, is the oldest member of the Bar and no man at this Bar has a higher character for the highest integrity and clean adherence to the ethics of his profession.

Witness my hand and official seal this the 16th day of Feb. 06.

Jno. J. Nelson,

(SEal)

Clerk Superior Court.

1908

WILLIAM

1908

1908

WILLIAM

Mr. Frazier also presents affidavits from Dr. W. T. Beall, John A. Hodgin, Aaron Mendenhall, J. C. Norman and Levi M. Scott in support of the allegations contained in his answer to this charge, and some of them testifying to his good character and to his faithful and honest service as Public Administrator.

Answer
to
"Shiloh D"

North Carolina :

Guilford County:

In re Confirmation of :

Cyrus P. Frazier as :

Post Master :

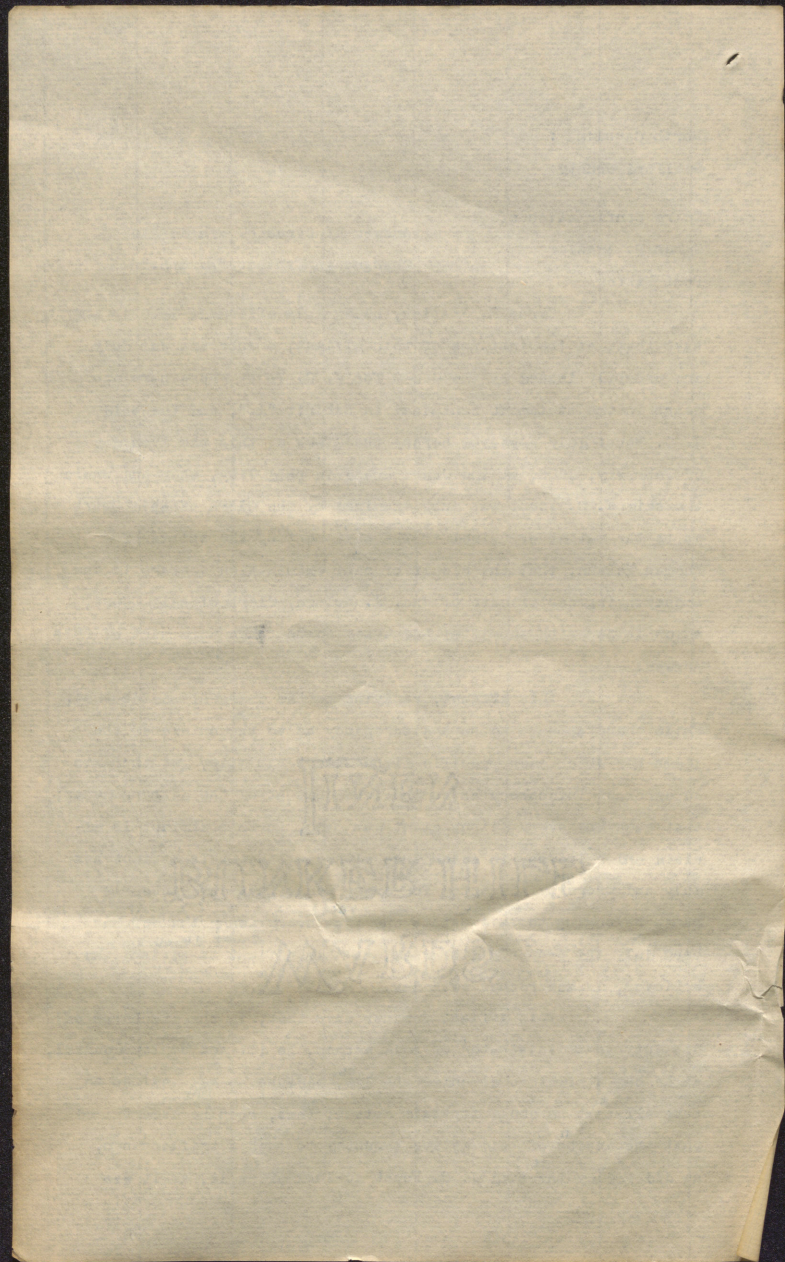
Answer of Cyrus P. Frazier to

Charges in Exhibit "A. & B."

Cyrus P. Frazier, being duly affirmed, deposes and says that, at the instance of this affiant, a subpoena was duly and promptly issued by the Court for J. C. Foust whose name appears in the statement contained in Exhibit "A.", and the said J. C. Foust duly appeared before the Clerk of this the 17th day of February, 1906, at the Court House in said City, when and where the said J. C. Foust was duly examined by the Clerk of said Court as to the matter contained in the statement of the estate of Thomas McLean; that the result of said examination appears in the accompanying certificate of Jno. J. Nelson, Clerk of said Court, which is herewith submitted and asked to be taken as a part of this Answer.

This affiant, replying to the charges, states that, while there appears to be a discrepancy as to the nature of the items for which each specific disbursement was made, yet there is no error or inaccuracy as to the total amount of the disbursements; that each and every disbursement was made, as this affiant is advised and believes, in accordance with law; that this affiant has duly and properly accounted for every penny that came into his hands belonging to said estate and that every penny thereof has been duly and properly disbursed, as this affiant is advised and believes, in accordance with law.

This affiant further says that, in the discharge of his duty as administrator of said estate, he did not employ counsel, as he had a right to do under the law, because he was anxious to save all that he could for said estate; that, when he ascertained that the assets of said estate amounted to such a trifling sum, he did employ the said J. C. Foust to look after it, as it was



several miles in the country and the nature of the property was such that this affiant would necessarily have incurred more expense if he had been compelled to hire a conveyance and look after the same in person and that it was economy to employ J. C. Foust to act in his place, and further that this affiant managed said estate with the same care, the same prudence and the same economy that he would have done had it been his own individual affair. This affiant further calls attention to the fact that the statement of J. C. Foust above referred to is not verified before any officer authorized to administer an oath, and that this affiant would further state that he is advised and believes that there is not only nothing in these charges, but that they are made for the sole purpose of delaying this confirmation until the parties behind them, moved by their own selfish ends, can mislead the President and induce him to withdraw the name of this affiant from the Senate.

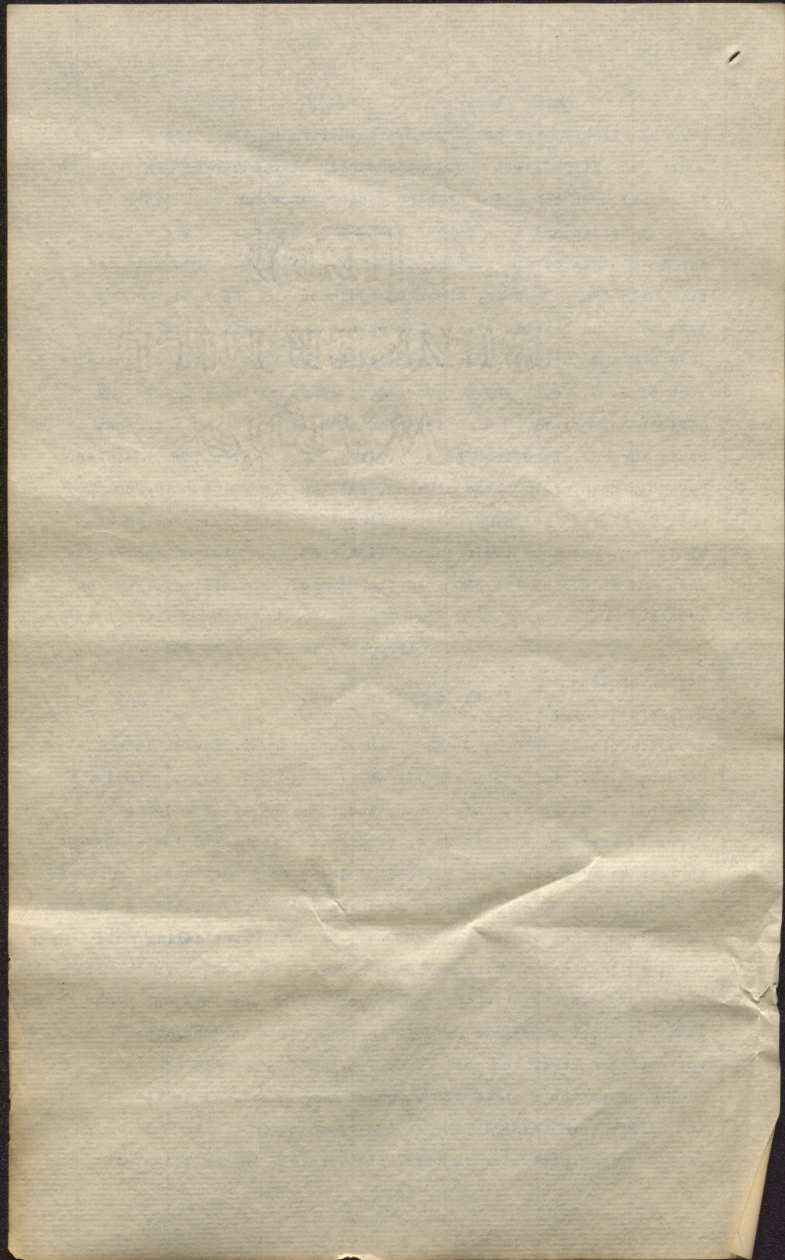
(Properly sworn to and subscribed)

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In the Superior Court.

Guilford County:

I, John J. Nelson, Clerk of the Superior Court of Guilford County, N. C., do hereby certify that I have this day personally examined J. C. Foust, under oath, touching the transaction of Cyrus P. Frazier, administrator of Thomas McLean, and that I have further examined into and investigated the said settlement and that I find, upon such examination and investigation, that the settlement heretofore made, audited and approved by this Court is correct; that, while there appears to be an error in the nature of the items, for which disbursements were made, yet I find that the vouchers tally with the aggregate sum of the disbursements according to the sworn statement of the said J. C. Foust this day made before me and according to the fact of the vouchers themselves. I further certify that there is nothing in the entire transaction of the said Frazier as administrator of this estate which, in the slightest



reflects upon the integrity of his character or conduct.

Witness my hand and official seal this the 17th day of Feb.
1906.

(SEAL)

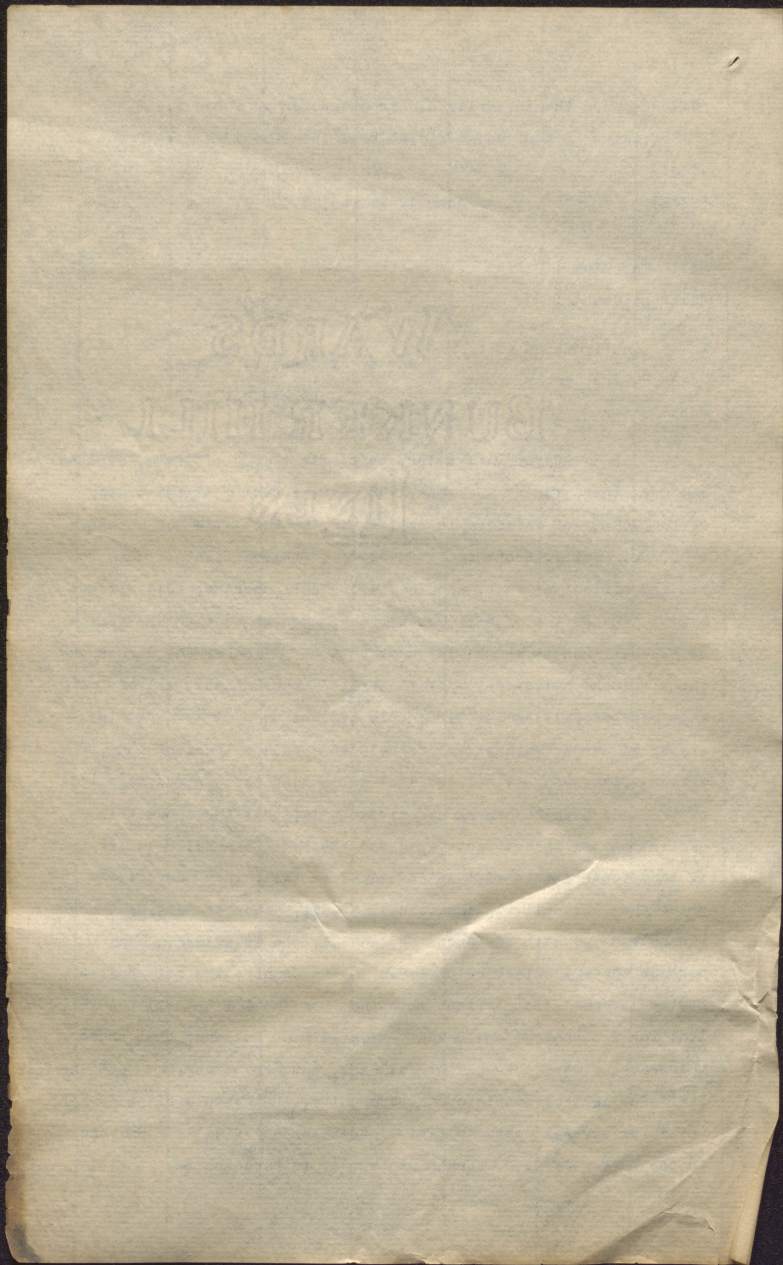
John J. Nelson, C. S. C.

North Carolina :

Guilford County:

In re. Confirmation of : Answer of Cyrus P. Frazier
Cyrus P. Frazier as :
Post Master : to Exhibit "C."

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said price and thereupon Mr. Levi M. Scott, the attorney, was requested to prepare the deed with the full knowledge and consent of all the heirs-at-law who were the legal owners of the land, and that the said deed was prepared on the 24th day of January, 1903, and placed in the hands of a Notary public to take acknowledgments of the grantors; that, on the 26th day of January, two days thereafter, the said J. C. Norman came to this affiant and told this affiant that he had decided to go into ^a business and invest what little money he had in ^a business and that he would be glad to be relieved of the burden of this lot and wanted this affiant to release him from his obligation or take the burden off of him; that, thereupon this affiant, knowing that said heirs-at-law had fixed the price themselves and knowing that there was no moral or legal reason why he should not relieve the said Norman, who was a young man, from this burden upon him, agreed to take the land from Norman as a matter of accommodation and at the same time agreed to give him a profit of Twenty-five (\$25.00) Dollars on the same; that, up to this time, this affiant had never thought of getting the land and did not want it, but the said J. C. Norman, being a young man and having been encouraged, by this affiant and others, to buy the land at that price, this affiant felt inclined to help him in the manner aforesaid and saw no reason why he should not do so since the said heirs-at-law were not only anxious to sell it at the said price, but all of them were amply able to buy it at the same price if they had desired to do so; that, immediately after having agreed to take this land off of the hands of J. C. Norman, the deed from J. C. Norman to this affiant was prepared and acknowledged; that this affiant was unwilling to advance any money to the said widow, who was then in need, until the said deed from Norman was executed and delivered; that the apparent discrepancy and delay in the acknowledgment of the last of the grantors to the original deed was due to the fact that this grantor lived in the City of Raleigh and considerable time was required to locate this colored man and get him before a Notary Public, that, in the meantime, no risk was assumed,

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FRANKLIN HITT

MA 1892

except that assumed by this affiant, that, immediately after the execution and delivery of the deed of Norman to this affiant, this affiant did beg in cutting out the briars and thickets on said lot, opening up a street thereon and ditching and grading the land, having in his employment one George Saddler, to whom he afterwards sold three-fourths ($3/4$) of an acre of said land for Seventy (\$70.00) Dollars on the Installment plan of Two and 50/100 (\$2.50) Dollars per month; that later, after this affiant had put said lot in proper shape and improved the same, on the 23rd day of May, 1903, he sold to one John Fairley two (2) acres thereof for Two Hundred (\$200.00) Dollars on two (2) years' time; that in August following, he sold to Ed McAden and Walter McAden two (2) acres of the said land for Two Hundred (\$200.00) Dollars on two (2) years' time; that these purchasers were colored people and have not yet paid for said land; that this affiant; at the time of selling these lots to George Saddler, John Fairley and Ed and Walter McAden, well knew and it was well understood that he would have to wait a long time for his money and that the increase in price was obtained on account of the long time given to the purchasers to pay for the same; that, before the last two of these sales were made, this affiant had expended the sum of about Two Hundred (\$200.00) Dollars in grading, ditching, cleaning and improving said lot.

And this affiant, further answering the charges, says that he was sent for by the attorney for these colored people to help them; that his connection with this transaction was not of his seeking and that he was moved more by a desire to accomodate and oblige Mr. Scott and these colored people to take hold of this matter than by any desire or purpose or hope ~~of~~ to reap any profit therefrom; that every step by this affiant in the entire transaction met with the approval of Mr. Levi M. Scott, the oldest member of the Greensboro Bar and a gentleman of the ^{very} highest integrity; that there was no reason why the heirs-at-law themselves should not have retained this property if they had so desired; that they were not only intelligent, but were amply able from a financial

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OF THE
OLD TESTAMENT

standpoint to have held the property at that price; that another explanation of the increase in the price was the rapid enhancement in the value of property in the City of Greensboro.

This affiant further says that, for the past ten years, he has devoted a great deal of time and attention in selling and in helping colored people to purchase homes and that he has invested more money along this line in helping the colored people to buy and provide homes for themselves than any other citizen of Greensboro, and that this affiant has never, during all these years, foreclosed a single mortgage and never has had a single difficulty in a single settlement with any citizen in any of these transactions.

And for further reply to the charges in Exhibit "C.", this affiant respectfully refers to the statements accompanying this Answer.

C.P. Frazier

(Sworn to)

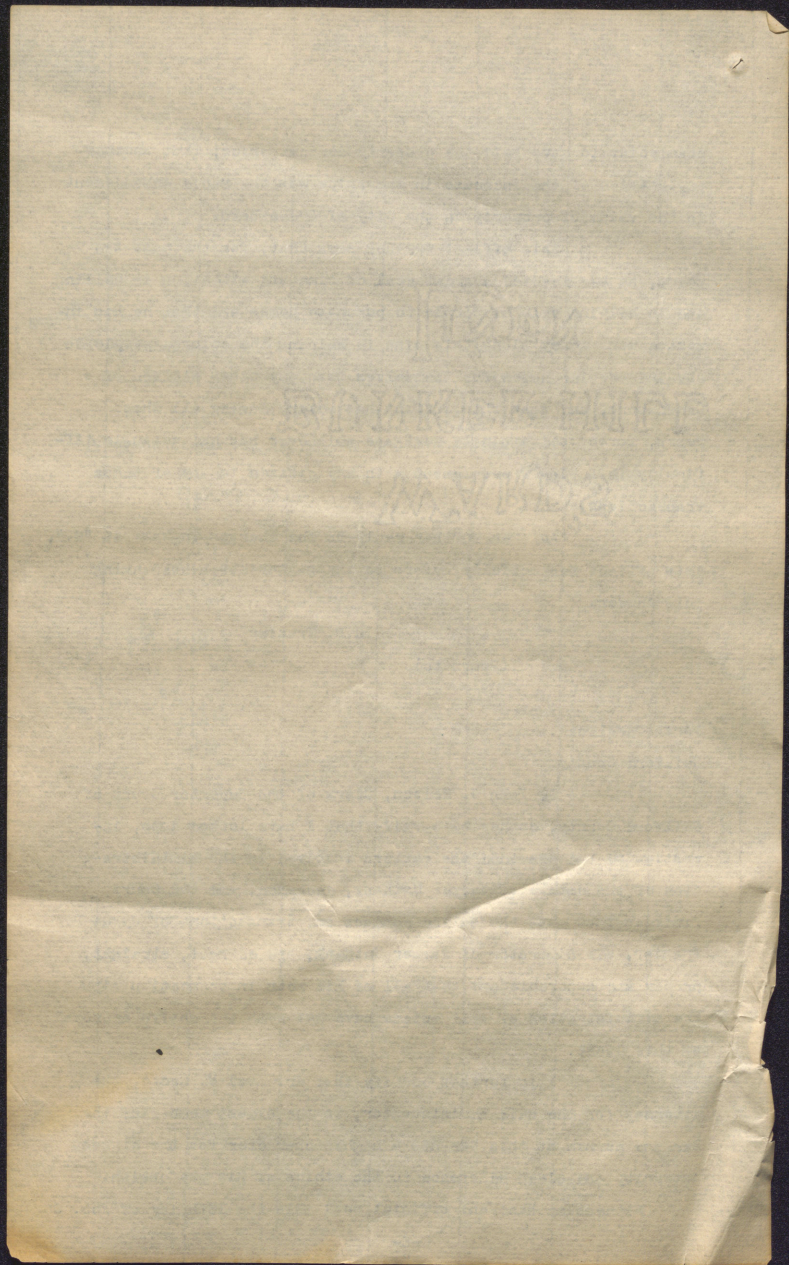
North Carolina :

Guilford County:

I, John J. Nelson, Clerk of the Superior Court of Guilford County, do hereby certify that I have looked into, investigated and examined the matters involved in the administration of the estate of Jasper Unthank, deceased, and the Court finds as fact that the entire conduct and transactions of Cyrus P. Frazier, administrator of Jasper Unthank, are correct, straight, proper and honorable and that all of his acts in connection with the administration of said estate have met with the entire approval of this Court.

I do further certify that Mr. Levi M. Scott, the attorney for the said administrator, is the oldest member of the Bar and no man at this Bar has a higher character for the highest integrity and clean adherence to the ethics of his profession.

Witness my hand and official seal this the 16th day of Feb. 06.

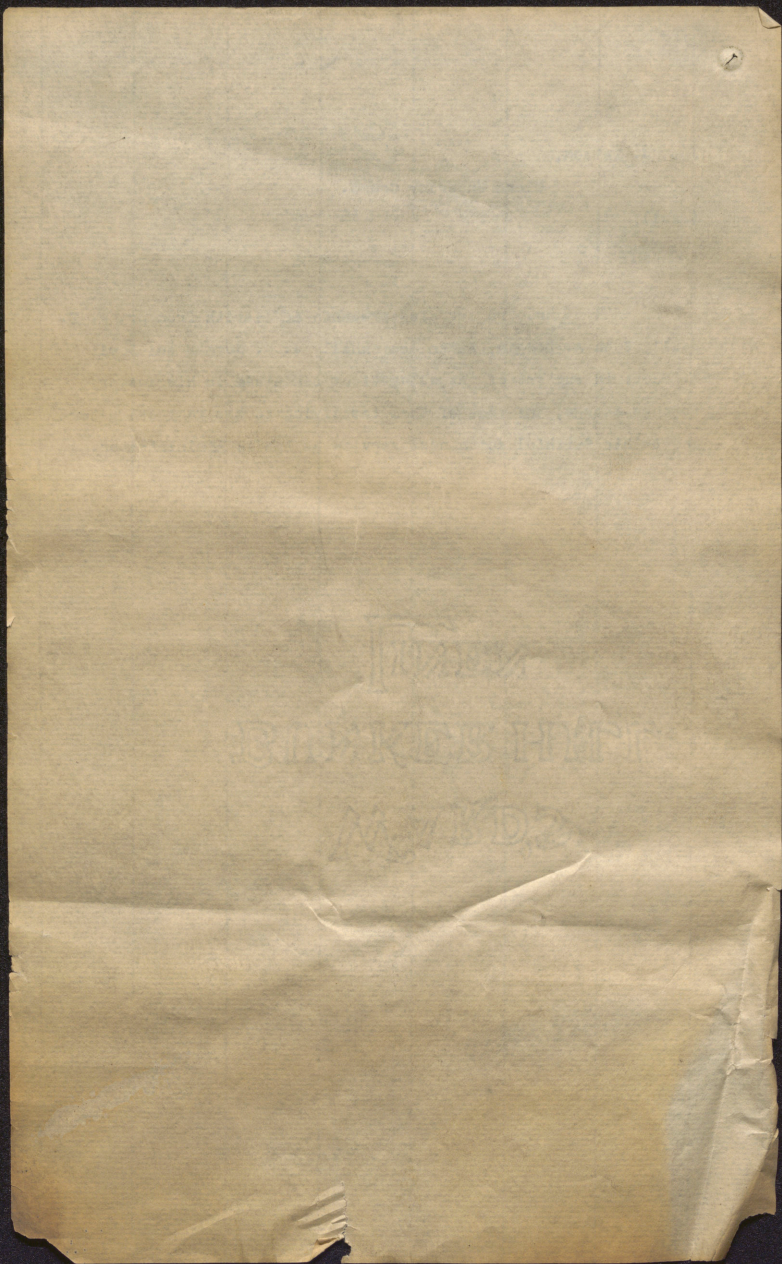


Jno. J. Nelson,

Clerk Superior Court.

(Seal)

Mr. Frazier also presents affidavits from Dr. W. T. Seall, John A. Hodgins, Aaron Mendenhall, J. C. Norman and Levi M. Scott in support of the allegations contained in his answer to this charge, and some of them testifying to his good character and to his faithful and honest service as Public Administrator.



NORTH CAROLINA,
GUILFORD COUNTY.

IN THE SUPERIOR COURT.

C. D. Kellenberger and wife,
Ella Jeannette Kellenberger,
Plaintiffs,

vs.

E. F. Wharton,

Defendant.

A N S W E R

The defendant, answering the complaint of the plaintiffs filed herein, says:

1.

That the first paragraph of the complaint is admitted.

2.

That the second paragraph of the complaint is admitted, except that it is denied that the plaintiff, C. D. Kellenberger, has paid all of said installments therein referred to, save and except the last three (3) thereof.

3.

The third paragraph of the complaint is denied, the true facts in respect to the matters therein mentioned being herein-after fully set forth.

4.

That the fourth paragraph of the complaint is admitted, except that it is denied that the defendant ever received any salary as President of the Standard Table Co., other than for the year 1923, and it is further denied that the defendant performed practically no duties as President of said Standard Table Co., and it is expressly denied that the salary paid him as President was claimed as compensation for the endorsement or guarantee of promissory notes and trade paper of said Standard Table Co., it being alleged in this connection that the salary paid or promised to be paid to this defendant was for performing the ordinary duties

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CHICAGO, ILL.

of President of the Corporation, including the duties of signing reports, attending meetings and otherwise giving time and attention to the affairs of said corporation, although it is admitted that the general management of said corporation and the production and sale of the products of said corporation were in the hands of the plaintiff, C. D. Kellenberger.

5.

That the fifth paragraph of the complaint is untrue and denied, except as herein stated, the true facts being, in respect to the matters therein mentioned, as follows:

That prior to the year 1924 the Standard Table Co., under the management and control of the plaintiff, C. D. Kellenberger, began exclusively engaged in the manufacture and sale of tables; that thereafter, to wit, during the year 1924 and the early months of 1925, the said plaintiff, C. D. Kellenberger, conceived and attempted to put into effect the plan of manufacturing and selling as product of the Standard Table Co. dining room suits, which was a decided and distinct departure from the previous operations of said corporation; that in attempting to carry out this radical change in the policy and product of the Standard Table Co., the said C. D. Kellenberger worked up an inventory consisting of about ONE HUNDRED THOUSAND DOLLARS (\$100,000) of raw material into either parts for dining room suits or into dining room suits, which were badly made, defective and unsaleable, with the result that when this product was shipped to the trade, all or practically all of said output, on account of its defective and unsatisfactory condition, was returned and thrown back on the Standard Table Co. with the result that during the first three (3) months of the year 1925 along the books of the Standard Table Co., even insofar as the same were kept at all by the said C. D. Kellenberger (which said books were at all times incomplete and unsatisfactory),

showed a net operating loss of FIFTY THOUSAND DOLLARS (\$50,000) for said period of three (3) months during said year 1925, without reference and in addition to great losses suffered by said corporation during the year 1924 due to the mis-management and poor business methods of the said C. D. Kellenberger along the same lines pursued by him during the year 1925, and that said net loss was in addition to the loss accruing to the Company from the fact that the said C. D. Kellenberger worked up in a defective manner for use in the manufacture of dining room suits a large part of the inventory of said company without finally assembling the same; that during the years 1924 and 1925 and in fact since the year 1920 the plaintiff, C. D. Kellenberger, had an arrangement with the Finance and Guaranty Co. of Baltimore, Maryland, by which said C. D. Kellenberger sold certain customers' accounts and notes and customers' covering accounts to said Finance & Guaranty Co. at a discount or interest rate of about twenty-five per cent (25%) per annum to be paid and which was paid out of the assets of the Standard Table Co., which arrangement was kept secret by the said C. D. Kellenberger from the defendant, E. P. Wharton, and that the exorbitant discount or interest rate per annum paid by said C. D. Kellenberger to the Finance & Guaranty Co. of Baltimore was a terrific drain during said years upon the assets of the said Standard Table Co.; that at the time of the receivership herein mentioned the said C. D. Kellenberger had flooded his market with defective dining room suits which were thereafter returned and had discounted the accounts of said customers to the Finance & Guaranty Co. with the endorsement and guarantee of the Standard Table Co., so that at said time the Finance & Guaranty Co. held accounts transferred to it by the Standard Table Co. under said arrangement, and at the time of the receivership in this action the Standard Table Co. was totally and hopelessly insolvent by reason of the gross mis-management thereof by the said C. D.

Kellenberger; that it was not until 1925 that this defendant was apprised and became aware of the insolvent condition of the Standard Table Co., and that the said C. D. Kellenberger had for a considerable period of time prior thereto by fraud and suppression, circulating and presenting to this defendant and to the American Exchange National Bank false and fraudulent financial statements as to the affairs of the corporation, preventing this defendant from learning of the insolvent condition of said corporation prior to March, 1925, the purpose and intent of said Kellenberger in practicing this fraud upon this defendant being, among other things, to lull this defendant into a sense of security in order to induce him to continue to guarantee for his benefit at the bank, the true and full facts in respect to which are more fully set forth hereinafter, and that it was in view of the hopelessly insolvent condition of the Standard Table Co. and of the fraud and deceit of the said C. D. Kellenberger as hereinbefore set out that the defendant refused to further guarantee for said Standard Table Co. at the bank, although even after learning of the above conditions and pending the first creditors meeting hereinafter mentioned this defendant endorsed for the Standard Table Co. to enable it to raise the pay-roll for said Standard Table Co. to keep it in operation until said creditors meeting, and that this refusal on the part of Mr. Wharton to further guarantee occurred, as aforesaid, in March, 1925, after the said C. D. Kellenberger had been forced by circumstances to disclose the hopelessly insolvent condition of said corporation and after insolvency proceedings had become inevitable; that this defendant is informed and believes that the allegations contained in the pleadings in the civil action referred to in Paragraph 5. of the complaint were based upon the statements made by the said C. D. Kellenberger, and that after the appointment of the receiver as disclosed by his reports filed in said cause, he found the said corporation to be insolvent.

6.

That the allegations in Paragraph 6 are denied, except as hereinafter admitted, the true facts in respect thereto being that after the affairs of the Standard Table Co. had become hopelessly involved and said Standard Table Co., by reason of insolvency, was unable to continue operation, the said C. D. Kellenberger, sometime during the month of March, 1925, came to the defendant and stated to him that on account of the disastrous and unprofitable venture into the new field of making dining room suits the affairs of the corporation were somewhat involved and that the said corporation was in pressing needs of further funds to continue operation. At this time the defendant expressed to C. D. Kellenberger his willingness to help all he could, and, in order to ascertain the condition of the affairs of the Corporation, the defendant employed J. D. Hightower, accountant in the City of Greensboro, to go over the books of the said corporation and submit a report thereon; that the said J. D. Hightower on account of the confusion and incomplete condition of the books of the Standard Table Co., which had been kept by the said C. D. Kellenberger, was unable to submit an intelligent report, and so advised this defendant; that at or about this time an auditor of the Finance & Guaranty Co., went over the books of the Standard Table Co., and it thereupon developed and appeared that the Standard Table Co. was in a hopelessly insolvent condition; that as hereinbefore stated under the contract with the Finance & Guaranty Co. of Baltimore, the said C. D. Kellenberger sold and assigned customers' accounts to said Finance & Guaranty Co. of Baltimore, paying it in excess of twenty-five per cent (25%) interest per annum, these accounts amounting during March, 1925, to in excess of EIGHTY-FIVE THOUSAND DOLLARS (\$85,000); that upon an audit by the Finance & Guaranty Co. as aforesaid of the books of the Standard Table Co.,

it was discovered that in many instances after the sale of these accounts to the said Finance & Guaranty Co., the plaintiff, C. D. Kellenberger, renewed these accounts by the debtor giving the Standard Table Co. a note for the account, and that the said Kellenberger had then discounted these notes with the American Exchange National Bank of Greensboro, North Carolina, under the guarantee of this defendant, as aforesaid, and had unlawfully and feloniously failed and neglected to remit the proceeds thereof to the Finance & Guaranty Co. of Baltimore. That in view of the condition of affairs of the said Standard Table Co. revealed as aforesaid during March, 1925, a meeting of the creditors of the said Standard Table Co. was held on or about April 1, 1925, at which time there was a large attendance of the creditors, including this defendant and a representative of the Finance & Guaranty Co., at which meeting the plaintiff, C. D. Kellenberger, was present, and at which meeting it was unanimously decided that insolvency proceedings were necessary and proper, and it was agreed, with the said C. D. Kellenberger consenting, that the affairs of the Standard Table Co. should be placed in the hands of a receiver, and that a creditors bill looking to that purpose should be instituted. At this meeting there was a wide range of discussion as to the proper method of handling the affairs of the Standard Table Co. for the best interests of creditors, and it was decided that nothing should be definitely done, other than the appointment of a receiver, unless and until decided upon at a second creditors meeting to be thereafter called. At this time and continuously thereafter until the purchase of the assets of the defendant corporation by this defendant and R. R. Ragan, the plaintiff, C. D. Kellenberger, was repeatedly importuning this defendant to make some arrangement in regard to the affairs of the Standard Table Co.

which would include a purchase and satisfaction of the claim of the Finance & Guaranty Co., his chief motive being, as this defendant is informed and believes, to settle with the said Finance & Guaranty Co. in view of the repeated threats of the Finance & Guaranty Co. to indict the said C. D. Kellenberger for his criminal conduct in embezzling the funds of the said Finance & Guaranty Co. as hereinbefore set out. That in accordance with the action taken at the first creditors meeting, a creditors bill was instituted in the Superior Court of Guilford County and a receiver appointed, and that acting under an order of the Superior Court of Guilford County the said receiver offered for sale the assets of the Standard Table Co. on the 1st day of June, 1925. This defendant denies upon information and belief that prior to the said sale or at any other time the said Finance & Guaranty Co. made an offer to the plaintiffs that he would become purchaser at said sale for the benefit of and as trustee for the plaintiffs, and would thereafter furnish them with necessary working capital with which to carry on the business theretofore conducted by said Standard Table Co., but it is alleged that on the contrary the Finance & Guaranty Co., through its agents, had publicly accused the said C. D. Kellenberger of stealing its funds and had threatened to have him indicted, convicted and imprisoned therefor, and that in May, 1925, the said Finance & Guaranty Co. wrote a letter to its attorney in Greensboro, North Carolina, stating that C. D. Kellenberger had stolen the funds of said Finance & Guaranty Co., and stated that some settlement had to be made, and it is alleged that it was mainly through fear of criminal prosecution that the said C. D. Kellenberger began to importune this defendant to purchase the claims of creditors, in order that the claim of the Finance & Guaranty Co. might be purchased and thus prevent criminal proceedings against said C. D.

Kellenberger; that it is expressly denied that this defendant ever had any understanding, agreement or arrangement with the plaintiffs, or either of them, such as is set out in Paragraph 6. of the complaint; that thereafter on the 28th day of May, 1925, a subsequent meeting of the creditors of the Standard Table Co. was called by said C. D. Kellenberger and was largely attended by creditors, at which time the said C. D. Kellenberger was very emphatic in stating to all creditors that his main interest was to see that creditors got the most that could be had out of the assets of the corporation. At this meeting this defendant publicly made the following proposition when called upon for an expression by creditors, that is, that he would go in with any other creditors pro rata with the claims owned by them and buy the assets of the Standard Table Co. at the receiver's sale, and that each creditor would pay for and own the said assets pro rata according to his claim, and that if any creditor did not wish to enter into said agreement, then creditors who did enter into said agreement would offer such creditor not entering into such agreement twenty-five per cent (25%) of his claim in cash and purchase the same, if he desired to sell it. Under this proposition the claim of the Finance & Guaranty Co. for about SIXTY-SEVEN THOUSAND DOLLARS (\$67,000) which had been purchased by the said Wharton for FIFTEEN THOUSAND DOLLARS (\$15,000) was to be treated as to said FIFTEEN THOUSAND DOLLARS (\$15,000) as a preferred claim. After considerable discussion this plan was unanimously agreed upon by all creditors, the said Kellenber^{ger} being present at all times during said meeting, and the said C. D. Kellenberger favored the said plan and made no intimation of having any contract arrangement or agreement with the said Wharton such as is alleged in the complaint herein; that thereafter and prior to the said sale, all unsecured creditors present at said meeting other than R. R. Ragan decided to accept

twenty-five per cent (25%) of their claims in cash, and thereupon and in accordance with the decision reached at said creditors meeting the said R. R. Ragan and this defendant bid the sum of FIFTY-THREE THOUSAND DOLLARS (\$53,000) for the said property at the receiver's sale on June 1, 1925. Upon refusal of the receiver to recommend sale at this price, the said Wharton and Ragan thereupon, with the knowledge and consent of the plaintiff, submitted to the receiver an offer to purchase the property and assets of the Standard Table Co. by paying twenty-five per cent (25%) to all unsecured creditors, other than said Wharton and Ragan, paying all secured claims and court costs in full, which said offer was favorably reported by the said receiver to the Hon. Thomas J. Shaw, Resident Judge of the Twelfth Judicial District, who, after a careful investigation and consideration of the terms of said offer, found as a fact that the said offer was for the best interest of all creditors and was a fair price for said property and assets, and ordered the receiver to accept said proposition and to make title to the said Wharton and Ragan to the said property and assets, which was thereupon done by said receiver, and that the said Wharton and Ragan, in acquiring the assets of the said Standard Table Co. under the terms of this offer, paid, including their claim, a consideration of ONE HUNDRED, THIRTY-FIVE THOUSAND DOLLARS (\$135,000); that prior to the creditors meeting above set out the Finance & Guaranty Co. entered into negotiations with the said Wharton at the urgent instance and request of the said C. D. Kellenberger relative to the purchase of the claim of the said Finance & Guaranty Co., it being first suggested that the receiver purchase said claim for the sum of FIFTEEN THOUSAND DOLLARS (\$15,000) and issue receiver's certificate therefor. Upon the receiver refusing so to do, the said Wharton then purchased the claim of the said

Finance & Guaranty Co. for the sum of FIFTEEN THOUSAND DOLLARS (\$15,000), the said claim having been sued on by the said Finance & Guaranty Co. in the United States District Court for the Western District of North Carolina in an equity suit therein entitled "FINANCE & GUARANTY CO. VS. STANDARD TABLE CO. AND MASON W. GANT, RECEIVER OF THE STANDARD TABLE CO.", it being agreed by the said Wharton with the said Mason W. Gant at the time of the settlement of said suit on said claim that the claim of the said Finance & Guaranty Co. should be transferred and assigned to the said Wharton, and that thereafter and before payment of first dividend by said receiver, the receiver should have an option to repay the said Wharton the said sum of FIFTEEN THOUSAND DOLLARS (\$15,000), or, if more favorable to said receiver, to pay said Wharton a dividend on the full amount of said claim; that after the purchase of the said assets of the Standard Table Co. by the said Wharton and Ragan as hereinbefore set forth, the said Wharton and Ragan on several occasions in negotiating with the said Kellenberger offered to sell said property and assets of the Standard Table Co. to the said C. D. Kellenberger in accordance with the terms of a letter, copy of which is hereto attached and marked "EXHIBIT A"; and that this defendant and the said R. B. Ragan have at all times since stood ready, able and willing to sell to the said C. D. Kellenberger the assets of said Standard Table Co. in accordance with the terms of said letter.

7.

That Paragraph 7. of the complaint is denied, except insofar as the same is hereinbefore admitted.

8.

That Paragraph 8. of the complaint is denied.

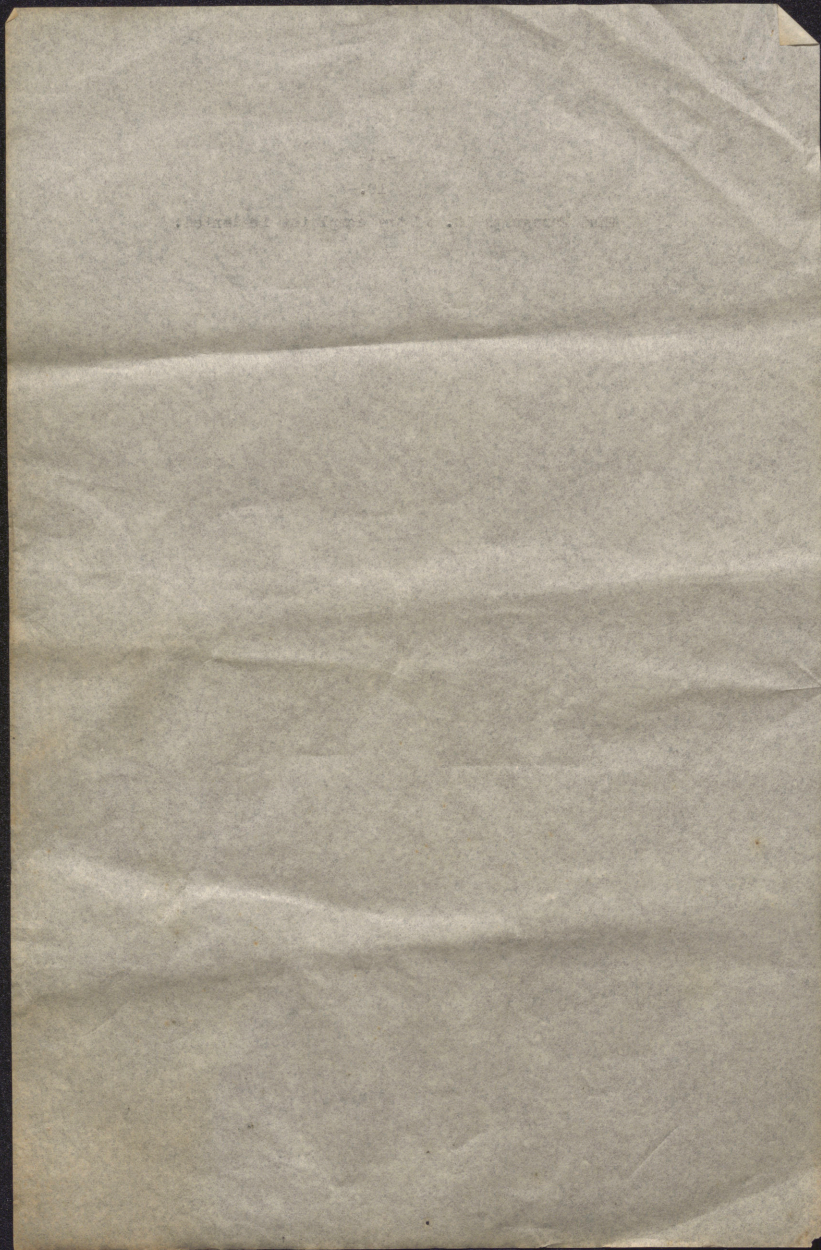
9.

That Paragraph 9. of the complaint is denied.

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10.

That Paragraph 10. of the complaint is denied.



(2) Mr. Wharton's transactions with K and Table Co.

Introduce copy of letter of Mr. W to K of March 1925 asking for security if endorsement was continued. Prove that no answer was made to that letter; and sometime after Mr. W met K on street and K said Table Co's affairs were in such shape that he did not feel justified in giving security.

Prove by Mr. Vaughn that about this time he cautioned Mr. W about the Table Co and it was then that Mr. W asked Mr. Vaughn not to extend any greater amount of commercial paper under his guaranty.

Prove that about this time K came to Mr. W and confessed matters were in bad shape and he needed help and that Mr. W. volunteered to do what he could. For this purpose an examination of the books was made by J.D. Hightower and this report showed the Table Co to be completely insolvent. (see Hightower's report).

During this examination by Hightower the F & G Auditor also came to make an examination, and it was disclosed that K. had misappropriated its funds and that the Table Co would owe it many thousands of dollars not stated on the books.

Prove by W, Douglas and Houston that F & G Co. accused K. of embezzling its money.

After talk with F & G Co's representatives, Mr. W. decided the best course to pursue was to call a meeting of the larger creditors and lay the whole matter before them. K agreed and was present at this creditors meeting.

At this time K. needed money for pay roll if factory operations were not to stop, and Mr. W. endorsed for Table Co at Bank to raise money to keep factory running until creditors meeting.

It was about this time that K said his brother would furnish 10 to 15 thousand dollars and he could raise \$20,00 more if Mr. Wharton could arrange to buy the plant.

Creditors in meeting, with K's approval, decided to put Co. in hands of receiver. A receiver was appointed by a consent order. K. selected the receiver himself.

In this creditors meeting it was agreed nothing would be done until another creditors meeting was held, when plans would be discussed.

K by letter to all creditors called 2nd meeting at County Court House on _____ 1925. K addressed this meeting and said its and his purpose was to devise some plan whereby the creditors could get the most for their claims.

Mr. W. was called upon for his opinion and made his offer (introduce minutes of creditors meeting signed by Fox, secretary). Entered no objection and approved the plan.

K and Mrs K accepted 25% for their claim (introduce receipt and assignment of claim)

Ragan and W. in pursuance of agreement at creditors meeting, attended public sale of factory advertised by receiver and bid \$53,000. K agreed to this (introduce signed agreement by K. consenting to R and W buying and owning the factory.)

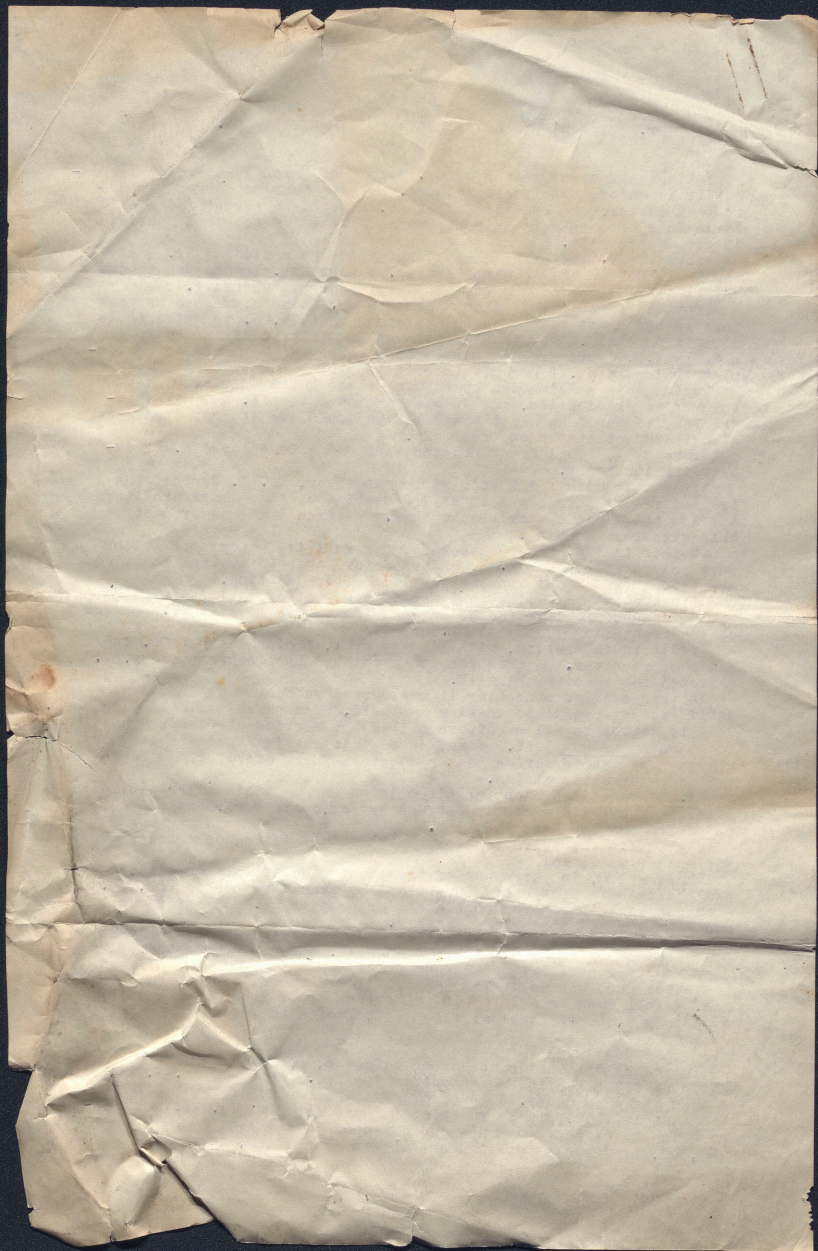
Receiver refused to recommend sale at this figure and a private bid was made by W and R with K's consent. offer was accepted. (introduce receiver's report and judges order)

After deed was delivered W & R called K and offered to sell to him. K fell down as alleged in answer (see memorandum of that meeting signed by W, R and Douglas) (see letter of W to K offering to sell)

* * *

Introduce original contract of purchase, the last paragraph of which states all prior agreements abrogated. Show how Mr. W. knew K when K had no money. date of original guaranty for table co at bank was in 1909, six years prior to contract of sale. Prove as alleged in answer that guaranty was extended during 1924 and 1925 from \$20,000, previously agreed upon between W and Bank, to about \$50,000.

Introduce financial statements of Table Co presented to W & R which failed to show indebtedness to F & G Co.



Greensboro N. C.
Oct. 1, 1925.

Mr. C. D. Kollenberger
Greensboro N. C.

Dear Mr. Kollenberger:-

Sept. 29th.

I am in receipt of your letter of

When I recall the long and financially unprofitable dealings I have had with you relative to the Standard Table Co. and relative to your personal affairs, and when I recall very definitely what took place at the sale of the Standard Table Co. assets, I am at a loss to understand your letter of the 29th.

Since the failure of the Standard Table Co. under your management, the auditors have had, and are now having, considerable trouble trying to balance the books of the Federal Table Co., which you now say was a trade name used by you. It also appears that the bank is undertaking to hold me personally liable for matters that are altogether your own obligations, which were handled in the name of the Federal Table Co.

At the time Mr. Ragan and I bought the assets of the Standard Table Co., we bought as individuals, and we were following the lines suggested by you at a meeting of creditors which you called. You were very free to say that you wanted creditors to have as much as 25%, and that, if anybody would buy it at 25% and satisfy the creditors, they would be doing the best thing for creditors.

My experience in financing you in the past would have kept me from agreeing to any sort of indefinite plan to re-finance you in the same business. I told you in answer to your suggestion, both before, at and after the creditors meeting, that I personally would like to see you go back in business again, and that I personally would be very glad to see you buy the property, if you could give good security and could finance it. Now if you have imagined any other statement from me that that, I am not responsible for it. I am still willing to sell you all the stock of the new corporation, the Tucker Furniture Mfg. Co., which carries with it the present plant, machinery, furniture and everything located on the premises now, all for One Hundred Thousand Dollars (\$100,000). We are willing to give you reasonable terms of payment, provided you can furnish good security for the purchase price. At this price you must know that we would be selling at a considerable loss when you take into consideration what the property cost at the receiver's sale and the money that Mr. Ragan

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C.D.Kellenberger

Oct. 1, 1925.

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and I have lost. I have not been trying to hinder you. I have been trying to co-operate with you. I do not think that you have any right to tell me that I have made any promises to you that have not been faithfully kept or that I have entered into any arrangement, agreement or understanding with you relative to your acquiring the Standard Table Co. property from Mr. Ragan and myself other than as above stated. I am denying in every detail the implications of your letter of Sept. 29th.

Heretofore you made some suggestions to Mr. Ragan and myself of vague and indefinite agreements which you assert in your letter of the 29th, at which time we emphatically and distinctly repudiated the same or any knowledge of same, and as a condition of our treating further with you relative to the property of the Standard Table Co. you definitely agreed to abandon any such contention. If you are disposed to again take this position and to assert that any such vague and indefinite arrangement was made, this ends for me any further negotiations with you. If, however, you are disposed to again abandon the assertion of some sort of vague and intangible arrangement, which, so far as I know, exists only in your mind, I will be disposed to negotiate with you further relative to the disposal of the property of the former Standard Table Co. on the basis above mentioned.

Mr. Ragan is his own agent and I am not undertaking to bind him - I am only telling you what I myself would do subject to his approval, if you are further interested in accordance with the terms of this letter.

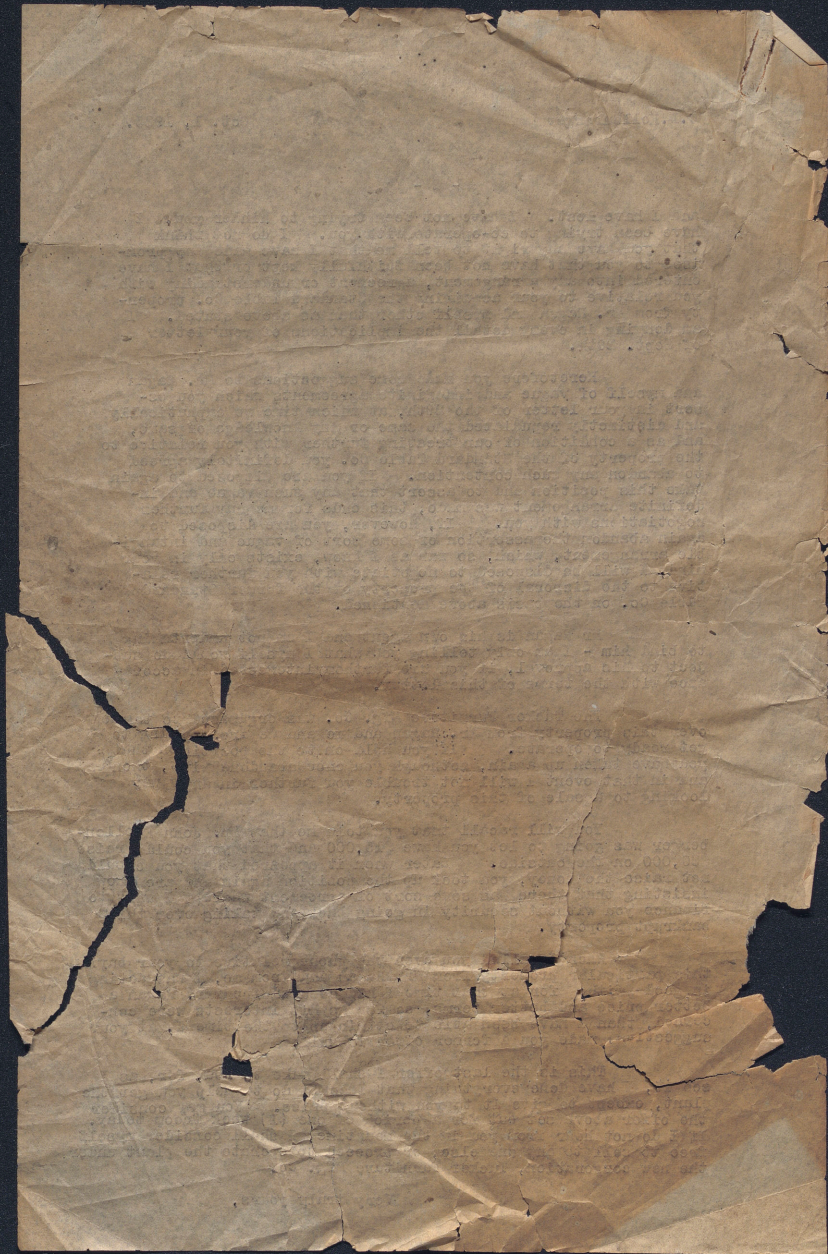
The Tucker Furniture Mfg. Co. was organized to take over this property from Mr. Ragan and me and we are now getting ready to operate. If you hold on to the position that you have taken up again, although you once abandoned it, then and in that event I will not trouble you further in any way looking to a sale of this property.

You will recall that you told me that Mr. John Kellenberger was going to let you have \$15,000 and that you could raise \$30,000 on the outside. Later when it appeared that you could not raise the money, you took up the position again and are now insisting that there was some sort of agreement whereby I was to finance you without security in going back and taking over this bankrupt property.

When I called you over the phone relative to your buying this particular property from Mr. Ragan and from me, I was acting in good faith. For at that time I had secured from Mr. Ragan a better price and better terms, so far as his interests were concerned, than I have been able to obtain up to the time I, at your suggestion, made you a former offer to sell.

This is the last offer I shall make to you, for, as I see it, I have done everything that I could do to help you get the plant, except to give it to you without price. You may consider the offer above set out for a period of one (1) week from today. If I do not hear from you in the meantime, I shall consider myself free to sell to any one else, or proceed to operate the plant under the new corporation, Tucker Furniture Mfg. Co.

Very truly yours,



But the following is a more tasteful origin of the appellation of "Sucker".

On occasion of a pleasant entertainment at Petersburg, Virginia, Judge Douglas gave the following humorous account of the origin of the term "Suckers" as applied to Illinoisans; the account is valuable further, and confers a proud distinction upon Illinois, in that it clears up all doubt regarding the discovery of this important and inspiring beverage called "mint julep," a momentous question heretofore covered with obscurity and beset with many doubts, but now in the light of these facts, happily placed at rest. It is not improbable that a glass of the stimulating beverage served to quicken the memory of the honorable senator on the occasion.

About the year 1777, George Rogers Clark applied to the governor of Virginia, and suggested to him that as peace might be declared at any time between Great Britain and the colonies, it would be well for us to be in possession of the northwest territory, so that when the commissioners came to negotiate a treaty, we might act on the well known principle of uti possidetis, each party holding all they had in possession.

He suggested to the governor to permit him to go out to the northwest, conquer the country, and hold it until the treaty of peace, when we would become possessed of it. The governor consented and sent him across the mountains to Pittsburgh. From there he and his companions floated down the Ohio on rafts to the falls, where Louisville now is.

After remaining there a short time, they again took to their rafts and floated down to the salines, just below the present Shawneetown in Illinois. Here they took up their march across the country to Kaskaskia, where the French had an old settlement, and by the aid of a guide they reached the Aquaw river, and encamped near Peter Menard's house, some little distance from the town. You see, I am well acquainted with the locality. (Laughter) Next morning, Clark got his little army of ragamuffins together (for they had no army wagons with supplies, no sutler, and no stores, and by this time looked ragged enough), and took up his line of march for the little French town of Kaskaskia. It was summer and a very hot day, and as he entered the town he saw the Frenchmen sitting quietly on their little verandahs, in front of their houses, sipping their juleps through straws. He rushed upon them, saying, "surrender, you suckers, you!" (Great laughter) The Frenchmen surrendered, and from that day to this, Illinoisans have been known as "Suckers" (Applause)

13508

27.00

NF

Suckers

1350 | 3500 (.26)
 2700
 8000

10 Mo. 3.50
1.90

from
P. 347 - 14th St.
1873 by Alexander
Burdick & Burdick
1.90

Whereas- The Almighty in His omniscient wisdom has seen fit to take unto Himself the honored father of our esteemed brothers Robert Dick and Martin Francis Douglas whom we hold in deep affection and highest respect;

Be it Resolved- That while deeply realizing the irreparable loss imposed by their sad bereavement, we, the Greensboro Council of the Knights of Columbus, extend to our stricken brothers our heartfelt sympathy in this their hour of sorrow, in the hope that even some small solace may be derived therefrom, and

Be it Resolved - That we pray our heavenly Father to grant to them in fullest measure that comfort and consolation which only our holy Religion can afford; that in their grief He may keep them ever mindful of that eternal reward so surely won by a life so truly lived - True to his God, true to himself and true to his fellowmen.

Be it further Resolved- That these resolutions be engrossed on the records of this Council and a copy be sent to each of the Brothers Douglas.

Committee on Resolutions { John J. Morley
Wm. H. M. Cornick
Linton Auburn,

Greensboro, N.C., February 1912.

