

Messrs John Brabson Samuel Pickens George McCown and Isaac A. Miller take notice that on the twenty first twenty second and twenty third days of June next (1844) that in pursuance of a commission from the chancery Court of the County of Sevier in the State of Tennessee we shall proceed to take the deposition of Micajah C. Rogers at the Store House and granary ? of George W. Rogers in the town of Huntsville in the county of Montgomery in the republick of Texas which when taken we intend to offer as evidence in the trial, etc.

This respondent, answering for himself would humbly represent to your honor, that he has carefully examined complainants Bill from beginning to end, charging mismanagement and waster of the funds of Nancy Academy in the county of Sevier and State of Tennessee.- That so far as the facts have come to the knowledge of this respondent the main drift of charges and specifications, of bad faith, mismanagement, waste &c are entirely untrue, unjust, injurious and malicious towards a body of men acting for a public institution solely and alone for the public good.- This respondent would represent to your honour that the very language in which the Bill of complainants is couched bears the impress of malice and a disposition to vent the worst of human feelings, and a fondness for litigations, rather than an ardent desire to seek for and save the funds of an institution, which they pretend have been squandered, mismanage, or wasted.- And had the law required these complainanes to have sworn to their bill, this respondent humbly believes for the honour of human nature, that the allegations and specifications therein contained would not have been filed with the sweeping denunciations it now bears- Respondent has nothing to conceal in all the various transactions touching the funds of the said institution, in which he has borne a large part, and his answer would long since have been upon file, but for absence from the United States.

1st. It is charged "that Porter, Sharp, Preston, Rogers, Henderson, Hill and Love, are the only persons now living, who acted in the ~~capacity~~ character of trustees of said Academy that had anything to do with the management of the funds of the institution, and of its property, both real and personal," and they are called upon to make a shewing &c. It is well known that, Preston had not been a trustee for many years and this respondent does not recollect of his ever acting at any time, during the time he served the board which was for many years.- Love also had not acted for a considerable time.- Benjamin D. Brabson did not act long but was one of the latest appointments made amongst the old trustees, and why he was left out (unless on the system of favoritism and close connection to one of the new trustees) in making this first allegation- in the bill is not for this respondent to determine.

2d. Bill charges "that on the 31st day of May 1811, Isaac Thomas and James McMahan each donated an acre of land in the vicinity of the town of Sevierville made deeds therefor and that by lapse of time and negligence on the part of the old trustees this donation has been lost &c. Who were the trustees that transacted this business, this respondent personally knows not, being then about 16 years of age and having nothing to do with public affairs whatever. Respondent was surprised to see the assertion in the Bill that the deeds for those two acres of land were not in their possession, being under the impression that they were upon file with the

Books, papers and vouchers belonging to the board, and which were handed over to the new Board of Trustees, by this respondent as clerk and treasurer of the old Board, as a duty devolving on him when going out of office.

3. Bill further charges that on those two acres of land the Academy was originally built, and that donations to considerable amounts were made by different individuals, but to what amount they are not advised, that the former Academy has been destroyed, and prays that the former trustees may be compelled to disclose &c. This respondent being then a boy, has no knowledge who were the donors, to what amount, nor how disbursed. He well recollects that an Academy was built upon the ground named, being an extensive frame building, and never can forget the sight when the Academy was burnt, for he was at George W. Porter's residence, and all the family stood for some time in the yard looking at the extensive light produced from the flames of the building and did not know what building had been destroyed until the next morning.- What that building cost, or who were the donors this respondent has no knowledge.

4. Bill charges the receipt of one hundred dollars from the Treasurer of East Tennessee in 1819 by the old board of Trustees. If it ever was received, this respondent has no knowledge of the fact not then being a trustee, and consequently knows nothing of its disbursement.

5. Bill also charges the receipt of two hundred dollars from the Treasury of East Tennessee without date, but previous to the year 1832. This respondent frankly acknowledges the receipt of two hundred dollars from the treasurer of East Tennessee as clerk and treasury of the Board of Trustees, which was applied in part payment for the lots and Brick House complained of in an afterpart of complainants bill, but does not recollect dates, &c which he thinks may be found in the records, handed over to the present board of Trustees, perhaps in a Report to the General Assembly, a copy of which is on file with the papers handed over.

6. Bill farther charges the receipt of 1311.85 as having been received from the Bank of the state of Tennessee about the year 1831. This respondent did receive from the Bank of the State of Tennessee about that time that sum which was vested by law as a permanent fund, and the interest only to be used. If the present trustees will but take the trouble they will find the time that money was received, or nearly so, by the discount Book in their possession, for it was loaned on the next Saturday after its receipt (as this respondent believes) renewable from time to time according to the rules of Banking, and which discount book will show from the first to the last of this respondents management of the fund, who were the borrowers, the amounts by them respectively borrowed, the interest paid and all the particulars of which they profess to be "ignorant."

7. Bill charges "the purchase of lots Nos 11 & 12 on which stood an indifferent unfinished Brick Building, in an imperfect state for the price of \$400. of the Respondent.- for answer says the price agreed upon and paid to him out of the funds of the Academy was Four hundred dollars, and as much as the present trustees may disparage that purchase, this respondent will state, that when he made the sale he was no trustee- that the trustees had no means to rebuild the Academy which had been burnt on the

donated ~~x~~ cites - nor had they any funds in their hands to pay this respondent- that they made the purchase upon the faith of funds yet to be realized, but no one could tell when, for the purpose of getting a house for the purpose of immediate use, and to secure the services of an eminent teacher, whom they considered a valuable acquisition to the institution, and for the benefit of the citizens at large-- And as this respondent was acquainted with the teacher- had lived with him in an adjoining county, and had received the benefit of his instruction- the great endearment, to this respondent, in selling the House and Lots, at the price he did, was to secure the teacher to the people of Sevierville.- Whatever the present trustees may think of that purchase now, this respondent would not then have taken \$400 from a private individual paid down for that property, and he felt, that he was making a sacrifice for the public good, and the further object of having his old teacher located near to him as a neighbor, not knowing when he was to get his pay, having only a promise from the trustees to pay it as they realized the means, and for which this respondent wated several years, the precise time not now recollected.

8th Bill charges "mismanagement of the funds of said institution, and that very little regard, if any, seems to have been paid to the interests of the Institution, as the funds have been greatly mismaaged and wasted. In the loaning of money a due regard to its safety was not had- many debts seem to have been made with persons who are insolvent, and in the execution of notes, blanck ones in some instances were taken and thereby the payment disputed and evaded."

This, is indeed, may it please your honour a grave and sweeping charge, and if true the deep and damning sin all lies at this respondents door. The former trustees I know to be men, who wished to manage the funds of the institution, in a correct and upright manner, & for the purpose of adopting a proper system of accountability, this respondent being then clerk and treasury of the Board of Trustees, was also made sold loaning agent for the institution, and was required to give bond and security for the faithful performance of the duties asigned to him, which bond was executed and handed over, and from time to time the notes taken and the discount book was laid before the Board for their inspection and their opinion- and advise had thereon. In this way business was transacted for about ten years, and a regular Discount Book kept by this respondent as clerk and treasuryr of the Board in the manner required by the late Bank of the State of Tennessee of her Agents, of which this respondent acted as agent for s/ some ten or twelve years. The Directors of that Bank could then understand the amount kept by this respondent, and could tell to whom the money had been lond - ~~and~~ who were the endorsers, how much to each person loaned- and the interest on each loan- the whole interest on the whole fund committed to his charge and all that was worth knowing about the fund- And this respondent here positively asserts without fear of contradiction, that any business man can take the discount Book kept by this respondent, and by him handed to the present burstees and tell the exact amount of interest made upon the fund, the days upon whcih it was made, from whom received, and from the records and vouchers returned to said trustees at the same time how disbursed. The present Trustees under all this information profess to be ignorant of how the funds have been managed; and if this respondent could for one moment believe that the ignorance existed ~~that the time had arrived when it might be expected~~

of which they complain did exist, it would not be hard to predict, that if mismanagement had not heretofore existed that the time had arrived when it might be expected. But no such ignorance does exist, they (at least some of them) can investigate a plain matter of fact account, and the only way such a sweeping denunciation of the conduct and management of the former trustees can be accounted for, is, that the new trustees found it necessary to draw off public opinion from the very first step they had taken, in which they so missmanaged the first money they were entitled to receive that some 6 or \$700 dollars was received by one of their own body upon their order- put to private use and never accounted for at all to the board as this respondent is credably informed and believes.- Here are the funds, lost and mismanaged (sic), may it please your honour, that the new trustees in honor are bound to look after.

That notes were ever signed in blank while this respondent acted as agent of the fund and presented to him in that manner he positively denies, and he was the only one of the board that ever transacted that kind of business while he acted as trustee.

9th- Bill charges further, "that the fund was loaned to men who are in solvent." This allegation may it please your honour is couched in the present term, but if your respondent knows any thing about what makes a public agent liable, it is right of due care and loaning to a party who was insolvent at the time the loan was made, and publicly knows to be so, otherwise the directors of Banks would be in a deplorable condition if be bound to make good on the debts that might finally prove to be bad- But all technicality aside, this respondent avers that every loan when made was believed to g be good and well secured, by at least two indorsers, and due care was always exercised to keep all debts at all times in a solvent condition, and as procf how futile this charge was by the new trustees after the fund had been upon loan some ten years they received all the notes that were then due and owing to the fund amounting to \$1498. except two- one on Cumberland Clabough- the other on Andrew Lawson senr. both of which this respondent thinks did not amount to more than \$250 but only speaks from recollection and both of which this respondent thinks might have been managed so as to have been saved, and could yet for all he knows, but he had no power to act upon them, and the new trustees refused to receive them, and so they remain in respondents private papers with some small notes for interest due for about \$75.12 which they also refused to receive, and with \$25.83 cents which he tendered in money, mostly in Georgia money, but which they also refused claiming Tennessee money, but which was going then at par in the ordinary transactions of business but not ~~new~~ receivable in Bank. Had the new trustees received the payments tendered by this respondent he would not have owed one cent to the fund.

This respondent would farther represent to your honour, that he had acted more for the public good, than from any other motive from beginning to end, and although the law creating the board allowed the trustees to compensate the clerk and treasurer out of the fund for his servides not exceeding \$50. per annum, yet this respondent nad never consulted with the board about what compensation they would allow him. When winding up the account currant this respondent put the question to the board and for fear the new trustees might have a dispostion to complain \$10 was all that was

allowed this respondent per annum for his w services- a sum this respondent would have reflected altogether, preferring nothing, had it not been for his strained circumstances at that time. As complainants pray an account to be taken, this respondent also prays that the compensation voted him for ten years attention to the business of the board be also looked into and the account corrected also- for if half compensation had been awarded him the \$75.12 in interest notes and \$25.83 tendered in money as above would not compensate him, but the fund would be in his debt; the notes on Clabaugh & Lawson being the property of the Academy and respondent thinks should remain so, and can be had at any time in respondents private papers.

9th. Bill farther charges waste of Fund &c. This respondent received from the Bank \$1311.85 as a permanent fund of which only the interest was to be used. The Board ordered the interest from time to time to be expended for the use of the Academy- At a time when there seemed to be no particular call for the money, this respondent was ordered to loan the interest accruing, which was done until \$186.15 were added to the principal making an increase in the fund of that amount, besides paying out for the use of the Academy \$451.62 as will appear from the books and vouchers handed over to the new trustees.

This Respondent further states that all his special statements in this answer are derived from a copy of his last account current, which appears to be in the hand writing of Mitchell W. McCown and which was endorsed to him with a copy of complainants Bill. From his best recollections he is under the impression that the copy is true and correct.

Ack., 22 June 1844, William Viser, J.P., Republic of Texas, Montgomery County. Taken in "Storehouse and groery of G.W. Rogers in the town of Huntsville." M.C. Rogers, "aged about forty nine years." Said Rogers gave above anwer in form of his deposition.

O.H.P. Walker made oath that he carried foregoing to "seat of Government at Washington, Texas,"; 8 July 1844, Joseph Daniels, Notary Public. Also signed by Anson Jones, Sec. of State, Republic of Texas, under seal of Lone Star. Signed also by A.M. Green, "Consul of the United States of America," at Galveston, Texas, 15 July 1844.