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ACCOUNT BOOKS AS EVIDENCE IN ILLINOIS

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ADMISSIBILITY of account books in evidence is questioned, it is safe to say, every day. It is almost equally as safe to say that there is more confused thinking, more fallacious reasoning, and more downright erroneous rulings upon this point than upon any other rule of evidence which is considered as frequently as this one is. Despite the clarity of the statute, and despite the large number of cases decided under it, the rules relating to such evidence are involved, technical, and, unfortunately, still highly controversial.

The purpose of this article is to discuss generally the Illinois rules regarding the admissibility into evidence of account books for the purpose of proving or disproving a claim founded upon goods sold or services rendered, and to discuss more particularly section 3 of the Illinois Evidence Act of 1867,[2] its effect upon the common law rules applied before its enactment, and the law in Illinois as it now exists under both the statute and the common law.

A casual inspection of the problem is worse than none at all. To reconcile decisions which hold opposite ways on sets of facts that are almost identical, it is necessary to proceed with the utmost caution carefully to analyze the facts, the ruling, and the exact ground upon which

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[2] Cahill's Illinois Revised Statutes, 1931, Ch. 51, par. 3, which reads:

"Where in any civil action, suit, or proceeding, the claim or defense is founded on a book account, any party or interested person may testify to his account book, and the items therein contained; that the same is a book of original entries, and that the entries therein were made by himself, and are true and just; or that the same were made by a deceased person, or by a disinterested person, a non-resident of the State at the time of the trial, and were made by such deceased or non-resident person in the usual course of trade, and of his duty or employment to the party so testifying; and thereupon the said account book and entries shall be admitted as evidence in the cause."

the ruling is put. An examination of the authorities of other jurisdictions is more likely to confuse than to clarify the issue, and to trace our rules, step by step, as they now exist, to their English sources, if such sources exist, is a tedious and unprofitable undertaking. It will be the endeavor of the writer, then, to cite only Illinois cases insofar as it is possible to do so. However, before discussing the first Illinois case in which the question arose, it will be well to summarize briefly the history of the rule in the United States and its status at that time.

At common law the parties to an action were incompetent as witnesses. The early judges felt that self-interest was a motive so all-compelling that no man could be expected to tell the truth even under oath if the truth would prejudice his cause. Therefore, they refused to hear that which they felt that they could not believe. The rule was a harsh one, and its effect on the small shopkeeper can easily be imagined. If he kept no clerk, he dared not sell on credit. For if he did, and a dispute arose between him and his customer it would be utterly impossible for the shopkeeper to prove his case in a court of law. It was to remedy this situation that the "shopbook rule," as it is called, came into being in this country. The shopkeeper was allowed after certain preliminary proof to introduce his account book into evidence and let it prove his case for him. This, of course, was a clear-cut exception to the rule against hearsay evidence, but so elaborate were the precautions taken before the book was allowed to go in that the courts felt that the same test could be passed by the shopbook as could be passed by all other exceptions to the hearsay rule; that is to say, under the circumstances, it is probably true. But the rule was tolerated under protest, so to speak, and judges in the eastern states condemned it even as they applied it.[3]

In *Boyer* v. *Sweet*[4] the problem was presented to the

[3] Vosburgh v. Thayer, 12 Johns. 461.
[4] 4 Ill. 120.

Illinois Supreme Court for the first time. The court said:

> In the case of open accounts composed of many items where the entries are made by the party himself, no clerk being employed, the book of accounts is admissible in evidence upon proof being made by a person who has dealt with the party and settled by the same book that it is the party's book of accounts and is fair and correct, and that some of the articles charged were delivered at about the time the entries purport to have been made, and that the entries are in the handwriting of the party producing the book.

It will be observed that the Illinois court did not follow the fashion of condemning the rule, but stated that the common law is adopted in this state by legislative enactment, but that this must be understood only in those cases where that law is applicable to the habits and conditions of our society and is in harmony with the genius, spirit, and objects of our institutions. In the case then, of open accounts, composed of many items where the entries are made by the party himself, no clerk being employed, what other evidence in the power of the party to produce could be offered than the books themselves? From the nature of the dealings no other evidence could be adduced, and no danger could be apprehended in admitting it. It is safe in practice and tends to promote the ends of justice. The rules laid down by the court under which account books could be admitted were the ones commonly applied at that time. Though the point was not specifically made that the books must be books of original entry, this fact seems to have been taken for granted. In *McCormack* v. *Elston et al*,[5] a case decided a few years later, the ledger offered by the plaintiff was held inadmissible because it appeared that the entries were first made in a day book.

Boyer v. *Sweet* has never been overruled, and books can be introduced in evidence today by complying with the rules and requirements therein contained. Subsequent decisions, have, however, elaborated and explained

[5] 16 Ill. 204.

these rules so that it will be well here to recapitulate and analyze them.

First, the book must be a book of original entry as indicated above. By "original entry" is meant the first permanent record of the transaction.[6] This means that it is not important, for instance, if the entries were first made on sales slips, and later transcribed to the book in question, as the book is considered the first permanent record. Parenthetically, this requirement is not as important as it once was due to the marked change in bookkeeping methods that has taken place in the last thirty years or so. Previously, merchants kept journals, day books, cash books, subsidiary ledgers, and control or general ledgers. But in these days of loose-leaf ledgers and bookkeeping machines, entries are almost invariably posted directly from the first memorandum made of the transaction to the final ledger sheet. So it is safe to say in most cases that occur today the ledger offered by the merchant is a book of original entry within the meaning of the rule.

Second, the entries must be contemporaneous or nearly so. This means that the entry must be transcribed within a reasonable time after the transaction took place. In *Redlich* v. *Bauerlee*,[7] one month was considered not too long a time where the record was carried on a slate. Third, the book offered must contain more than a single entry.[8] It will be recalled that in *Boyer* v. *Sweet* the court said: "In the case of open accounts composed of many items. . . . " This also is a requirement which need not particularly concern us, as in most cases where the question arises, the book offered contains the running account between the parties. Fourth, there must have been no clerk employed.[9]

[6] Rudolph Wurlitzer Co. v. Dickinson, 153 Ill. App. 36, aff'd 247 Ill. 27.

[7] 98 Ill. 134.

[8] Kibbe v. Bancroft, 77 Ill. 18.

[9] Boyer v. Sweet, 4 Ill. 120.

This requirement may be traced originally to the fact that if the shopkeeper kept a clerk, he need not testify himself, as the clerk could go on the stand to prove the entry.

Fifth, it must be proved that (a) someone has settled on a basis of the books and found them correct, and (b) some of the articles were delivered or some of the labor was performed.[10] These requirements are simply added safeguards prescribed by the courts to insure the truthfulness of the books.

Cash items are not provable by the introduction of book accounts.[11] There is obviously sound sense behind this requirement, because cash accounts are usually evidenced by notes, checks, receipts, etc. However, this requirement must not be construed too literally. An Iowa case, *Levi* v. *Levi*[12] states that where money charges are made in the banking business or otherwise as a matter of fact in the ordinary course of business, the accounts of the party making such charges will be admissible under the shopbook rule. While the writer has not found identical or similar language used by an Illinois court, the books of a bank are frequently introduced in evidence.[13]

This is the shopbook rule in Illinois. It will be noted that it is applicable in the strict sense only in those cases where the proprietor of the shop kept no clerk. If a clerk who kept the books was employed and this clerk was available at the time of the trial, it was a simple matter to introduce the books in evidence under the rules concerning "refreshed recollection." These rules are well settled in Illinois. In a recent case, *People* v. *Jacob Greenspawn*,[14] the syllabus reads:

[10] Ingersoll v. Banister, 41 Ill. 388.

[11] Ruggles v. Gatton, 50 Ill. 412; Schwarze v. Roessler, 40 Ill. App. 474.

[12] 156 Iowa 297.

[13] People v. Dime Savings Bank, 350 Ill. 503; Cooke v. People, 134 Ill. App. 41, aff'd 231 Ill. 9.

[14] 346 Ill. 484.

While a witness can testify only to such facts as are within his knowledge and recollection, he may refresh and assist his memory by the use of a written instrument, memorandum made in the usual course of business, or entry in a book, and the writing need not have been made by the witness himself nor need it be an original writing and admissible in evidence, providing that after inspecting it the witness can speak to the facts from his own recollection; but if at the time of testifying the witness can recollect nothing except that he made the writing and that it is an accurate record of the transaction the writing itself may be admitted in evidence.

Under these rules, the clerk who made the entries could either testify from "present recollection"—that the sight of the figures in the book recalled the transaction involved to his mind so plainly that he could swear that it occurred, or "past recollection"—that he remembered the book and that he made the entries therein and that the writings are a correct record of the transaction that occurred. In either case, the same end is obtained and the account is in evidence.[15]

It may be well here to correct a common misconception of the best evidence rule as applied to book accounts. It is true that the material contents of an existing book of original entry cannot be proved by parol testimony as the book itself is the best evidence. "Account books, if in existence, are the best evidence of their contents, and a witness may not state the condition of such accounts from memory while such books are accessible."[16] But this does not mean that simply because a business transaction is entered in an account book there is no other way of proving that transaction than by introducing the book. While books of account may be the best evidence of their contents, they are not necessarily the best evidence of the facts therein contained;[17] so that

[15] Scovill Mfg. Co. v. Cassidy, 275 Ill. 462; Richardson Fueling Co. v. Seymour, 235 Ill. 319.

[16] Inter-state Finance Corp. v. The Commercial Jewelry Co., 280 Ill. 116.

[17] North American Life Insurance Co. v. Colonial Trust & Savings Bank, 236 Ill. App. 464.

if the clerk can testify from present recollection he may use a book or memorandum, as above stated, that would under no circumstances be admissible in evidence, yet prove the transaction to the satisfaction of the court. Or evidence may be introduced of an account stated or admissions against interest.[18]

If the entries made in the book were made by a clerk who is dead or unavailable the shopbook rules does not apply. At least there appears to be no case in Illinois prior to the passage of the statute where the issue was squarely raised, but there is little doubt that the common law rule would have adapted itself to the circumstances and let the books go in upon proof of the clerk's handwriting and his subsequent death, coupled with the other proofs required by the shopbook rule. In *Humphreys* v. *Spear,*[19] though the point was not directly involved, the court stated that books of account kept by a clerk might be admitted after his death if shown to be in his handwriting. This dictum is quite in keeping with the general common law rule of *Boyer* v. *Sweet.*

Another well settled principle of evidence which might be applied in the supposed case, concerns "entries made by a person, since deceased, in the ordinary course of business." From the United States Supreme Court case, *Nicholls* v. *Webb,*[20]it may be taken that memorandums, entered in an account book in the ordinary course of business by a person whose duty requires that he perform the act of which he makes the entry, are, in case of his death, admissible in evidence of the act so done. This rule obtained in England from a very early date, though the English cases stressed two points. The person making the entry must owe a duty to a superior to make the entry correctly; also he must make the entry as a matter of routine in the regular course of his duties, and he must be dead at the time of the trial.[21]

18 The Chicago Smelting Co. v. Sullivan, 246 Ill. App. 538.

19 15 Ill. 275.

20 8 Wheat. 326.

21 Price v. Earl of Torrington, 1 Salk. 285, 2 Raym. Ld. 873.

American courts, as indicated above, in *Nicholls* v. *Webb,* have quite generally ignored the requirement of duty to a superior. The two cases involving this rule, which are familiar to most of us, are those of the wheelwright who repaired the wagon wheel[22] and the case of the law clerk who served the notices.[23] Both of these appear in most standard case books on evidences; so it is apparent that no great difficulty would be involved at common law if the entries were made by a clerk instead of by the party himself.

The statute enacted in 1867 greatly simplified the introduction of account books in those cases where it applied. However, it did not change the rules as to the admissibility of book accounts[24] nor did it change the old law as to the character of the book that may be admitted, nor the items or charges that may be proved by it.[25] In short, the effect of section 3 is solely to change the character of the preliminary proof sufficient to admit book accounts;[26] and it will be observed at once that there are three situations not covered by the statute: If the proprietor of the business kept the book and is dead at the time of the trial, or if a clerk kept the book and both the clerk and the proprietor are dead or unavailable at the time of the trial, or if the book was kept by a clerk who is neither dead nor out of the jurisdiction, but who is unavailable at the time of the trial.[27] In these cases, we must still look to the common law to furnish a means of introducing the books into evidence.

We have not yet considered the problem that arises when the entries in the books of account which are sought to be introduced were made by one with no

[22] Lassone v. Boston & L. R. R., 66 N. H. 345.

[23] Doe dem. Patteshall v. Turford, 3 Barn. & Adol. 890.

[24] Taliaferro v. Ives, 51 Ill. 247.

[25] Boyd v. Jennings, 46 Ill. App. 290.

[26] Brooks v. Funk, 85 Ill. App. 631.

[27] For wording of statute see footnote 2.

first-hand knowledge of the facts recorded. This, of course, is the ordinary situation which confronts the attorney. In these days, the bookkeeping departments of most concerns are as far removed from the department where sales are made or where labor is performed as if the two were separate and distinct business enterprises. The first case in Illinois in which this problem arose is *Stettauer* v. *White*.[28] The court reached the conclusion that the statute could not apply to such a situation, and looked to the common law for the rules that govern. The court said:

> But at common law, where the clerk who made the entries had no knowledge of the correctness of the same, but made them as the items were furnished by another, it was essential that the party furnishing the items should testify to their correctness, or that satisfactory proof thereof, (such as the transactions were reasonably susceptible of), from other sources should be produced.

Parenthetically it may be said here that *House* v. *Beak*[29] expressly overrules the holding in *Presbyterian Church* v. *Emerson*[30] that the statute is a repeal of the common law rule as to the admissibility of account books, and reiterates the doctrine of *Stettauer* v. *White*.

Let us first consider the case where A does work or sells goods and reports the fact to B who makes the appropriate entries. Obviously, there is no sound reason why these books should not be admitted if A and B are both put on the stand to testify as to the facts within their knowledge, nor is the problem changed by introducing others who lengthen the chain.[31] This situation is covered by the first part of the rule as laid down in *Stettauer* v. *White*. However, when one or more of the parties in the chain are unavailable, it is necessary to consider that part of the rule which states that

[28] 98 Ill. 72.

[29] 141 Ill. 290.

[30] 66 Ill. 269.

[31] Wright v. Charbonneau, 122 Ill. App. 52.

"satisfactory proof thereof, such as the transactions are reasonably susceptible of, from other sources should be produced."

A leading case involving this point is *Chisholm* v. *The Beaman Machine Company.*[32] In this case the machine company was suing Chisholm for labor done and materials furnished at his instance. The record of the labor was kept as follows: Each workman, at the close of the day, entered upon a time slip the number of hours he had worked and dropped the slip in a locked box. The next morning the foreman collected the slips, checked them, and if he found them to be correct, delivered them to the bookkeeper who entered them in the books. The bookkeeper and the foreman testified but the workmen did not, and while a great number of the time slips, some 5,000 in fact, were introduced into evidence, there were more of the time slips that were not produced in court, though these slips were in the possesion of the plaintiff, and were ready to be produced. The court allowed the books to go in and dispensed with the evidence of the workmen saying:

This [testifying of the workmen] certainly would have been the best evidence upon the subject, but it is easy to see that upon the trial of a case like this, occurring long after the transactions denoted by the entries, it might not be possible to find the men who made the slips.

This rule may be called the "composite entry rule." In other words, the court regards the whole chain of reports as one bookkeeping transaction. If satisfactory evidence can be produced, having regard to the nature of the transaction, the court will consider the book to be in the same class with those which are produced and sworn to directly by the person who knew and recorded the facts himself. This is quite logical. If A makes the sale and reports to B, who enters it in the account book, if it can be shown that B's entry is correct, this entry is merely a record of A's recollection. True, the

[32] 160 Ill. 101.

fact that there have been two steps instead of one increases, perhaps, the probability of error, but this affects the weight of the evidence, and not its admissibility.

Ryan Car Company v. *Gardner*[33] is a case where the facts are very similar to those in the case last cited and the ruling is the same. It is in these cases we begin to notice a slight relaxation of the rigid rules applied to book accounts in the early reports. As previously mentioned, even though the Illinois courts did not denounce such evidence when it was first presented, it was generally regarded as unsatisfactory and admissible only from necessity. But about this time it began to be felt that books of account were entitled to more credit than was previously accorded them. Every day in the commercial world money is loaned and credit extended on the basis of account books without any of the elaborate precautions being resorted to that to this time were necessary in a court of law. Shrewd bank cashiers find it impossible to falsify their accounts in a manner which will escape the accountant's examination. Petty thieving by employees from merchandise stocks can be located and stopped by the examination of the inventory account. Government income tax experts, as a rule, search no further than the account books of the business. Yet, these same account books would have been held inadmissible to establish the sale of a few spools of thread, because the clerk at the counter who made the sale was no longer employed by the plaintiff company. Writers upon the subject recognized this fact and were uniform in urging that the rules of evidence be relaxed to admit account books in evidence if vouched for by authority that the commercial world would recognize as credible.

Professor Wigmore, in his work on evidence[34] says, Now, the ordinary conditions of mercantile and industrial life

[33] 154 Ill. App. 565.

[34] John Henry Wigmore, A Treatise on the Anglo-American System of Evidence in Trials at Common Law (2d Ed.), III, sec. 1530.

in some offices do in fact constantly present just such a case of practical impossibility [the impossibility of producing everyone in the chain to testify]. Suppose an offer of books representing transactions during several months in a large establishment. In the first place, the employees have in many cases changed, and the former ones cannot be found; in the next place, it cannot always be ascertained accurately which employee was concerned in each one of the transactions represented by the hundreds of entries; in the third place, even if they could be ascertained, the production of the scores of employees to attend court and identify in tedious succession the detailed items of transactions would interrupt and derange the work of the establishment, and the evidence would be obtained at a cost practically prohibitory; and finally, the memory of such persons, when summoned, would usually afford little real aid. If unavailability or impossibility is the general principle that controls, is not this a real case of unavailability? Having regard to the fact of mercantile and industrial life, it cannot be doubted that it is. In such a case, it should be sufficient if the books were verified on the stand by a supervising officer who knew them to be the books of regular entries kept in that establishment.

Greenleaf speaks to substantially the same effect.[35] Benjamin N. Cardozo, now on the United States Supreme Court Bench, in an article written a number of years ago, stated that he was convinced it would be in the interest of justice that a statute should be enacted in all states, making entries in books of account admissible as prima facie evidence upon the sole proof that they were made in the usual course of business.[36] The weight of these opinions has been felt throughout the country and Illinois is no exception to the rule.

In *Cook* v. *People*,[37] which was a criminal trial for conspiracy to defraud the country of money, the court held that books of a bank are admissible to show that the

[35] Simon Greenleaf, A Treatise on the Law of Evidence, I, sec. 118 et seq. and notes.

[36] Benjamin N. Cardozo, "A Ministry of Justice," 35 Harv. L. Rev. 122.

[37] 231 Ill. 9.

proceeds of warrants issued to fictitious persons reached the private account of the accused if the deposit slips and books are identified by the cashier of the bank, who testified that the entries were made in the usual course of business, although they were not made by him personally, but by other clerks, who, since the bank ceased to exist had moved to different places. The court cited *Chisholm* v. *Beaman Machine Company.*

The problem was considered and exhaustively discussed in *People* v. *Small.*[38] This was the case, it will be recalled, where the State of Illinois recovered something over a half million dollars of the funds of the State for which former Governor Len Small had failed to account when he was treasurer. Here it was sought to introduce books of a bank in evidence without producing the clerks who made the entries and without making a showing that these clerks were dead or without the jurisdiction. The court allowed the books to go in, quoted the section from Professor Wigmore's work that is quoted above, and concluded by saying,

> the business of this great commercial country is transacted on records kept in the usual course of business and vouched for by the supervising officer, and such evidence ought to be competent in a court of justice. Modern authority sustains this view.

The court cites, among others, *Cook* v. *People.* It is true that in *People* v. *Vammar*[39] the court refused to allow the books of a bank in evidence on a somewhat similar set of facts. But this was a criminal trial, and the court appears to base the decision on the grounds that the accused has a constitutional right to confront the witnesses testifying against him.[40]

In *First National Bank of Stronghurst* v. *Vaughan,*[41] the bank offered in evidence the ledger sheets of Vaugh-

[38] 319 Ill. 437.

[39] 320 Ill. 287.

[40] Ill. Const. 1870, Art. II, sec. 9.

[41] 240 Ill. App. 50.

an's account. It was objected that the books were incompetent because several persons making entries therein did not testify to their correctness, although within the jurisdiction of the court. It was objected further that the original deposit slips and cash books were not offered. The cashier testified that he had been employed by the bank during the period covered, that the books were kept under his supervision, and that the entries were made in the usual course of business and were true and accurate. It was admitted that one of the witnesses who worked on the books was within the jurisdiction but was under quarantine for a contagious disease at the time. The court held the ledger sheets admissible.

In *National Malleable Castings Company* v. *Iroquois Steel and Iron Company*[42] a very similar question arose. Books were offered in evidence. One Madigan, who had worked on the books, was present in the town but was visiting a relative who was ill at the hospital. The court allowed the books to go into evidence, citing the now familiar rule that it is sufficient that a book be verified by a supervising officer who knows it to be a book of regular entry kept in the usual course of business, regard being had to the nature of the business and the method of its conduct in determining what is the best evidence. The most recent case in which the same point is discussed is *Rawleigh* v. *Ulm.*[43] It is not quite apparent just what preliminary proof was offered in this case, but the court states that it complied with the rule laid down in *People* v. *Small.*

Now, all these cases are within the rule laid down in *Stettauer* v. *White.* There has been no departure from well recognized and long established principles, for it will be remembered that it is essential that the party furnishing the items should testify to their correctness, or that satisfactory proof thereof such as the transactions are reasonably susceptible of from other sources should be

[42] 333 Ill. 588.

[43] 268 Ill. App. 248.

produced. These are all "composite entry" cases where for one reason or another the chain stretching from the one with first-hand knowledge to the one who made the entries is incomplete at the time of the trial. In these cases, the court has allowed proof of the correctness of the entries obtained from other sources. *People* v. *Small* has, perhaps, gone farther than any preceding case. But it stands on precisely the same ground as *Chisholm* v. *Beaman Machine Company.*

Studying the language used in the later cases cited above, it is apparent that the courts are willing, even eager, to relax the common law requirements necessary to introduce account books in evidence. In *People* v. *Small* they have come as close as they well could, under our decisions, to observing the rule recommended by Professor Wigmore, Mr. Justice Cardozo, and a host of others. But having gone as far as they can, the situation is still, from the lawyer's point of view, a most unsatisfactory one.

Section 3 of the Evidence Act is incomplete, as has been seen. If it provided that books of account could be introduced upon the oath of the supervising officer that they are in fact the books of original entry, kept under his care and are true and correct, the beneficial results of such a change can easily be perceived. We would be confronted then, not with the multitude of overlapping, clumsy, and some times conflicting requirements which now exist, but with a simple, practical, and essentially logical rule as to book accounts, which could be satisfied as easily as it could be understood. It is to be hoped that our legislature will see fit to make this change.

There are a number of cases which the writer has not discussed. In one case[44] books were admitted apparently on no other ground than that they were a part of the *res gestae.* In others[45] they go in, apparently, as admissions

[44] C. & N. W. R. R. Co. v. Ingersoll, 65 Ill. 399.

[45] Dows v. Naper, 91 Ill. 44; Chicago Smelting Co. v. Sullivan, 246 Ill. App. 538.

against interest. In one case,[46] the facts were so unusual that the writer considers it can have little weight as an authority.

Inasmuch as this article has in necessity dealt with a number of different situations in which it is necessary to introduce books, it may be well to close with a brief summary and analysis.

SUMMARY

I

Bookkeeping entries made by one who has knowledge of the facts recorded, (a) if made by the party himself, and he is living, may go in by complying with the requirements laid down in *Boyer* v. *Sweet,* or by complying with the provisions of paragraph 3 of the statute, or by using the rules as to refreshed recollection; if the party is dead, the common law rules of *Boyer* v. *Sweet* must be used; (b) if made by a clerk who is available as a witness, may go in under the rule as to refreshed recollection. If the clerk is dead or out of the jurisdiction, section 3 applies. If the clerk is unavailable, the case may be within the *res gestae* principle set out in *Chicago & Northwestern Railroad* v. *Ingersoll.*[47] If not, the principle of *Humphreys* v. *Spear,*[48] of entries made in course of duty, should apply.

II

Bookkeeping entries made by one who has no first hand knowledge of the facts recorded are admissible in evidence (a) if all the parties in the chain are available and are called, under the principle set out in *Wright* v. *Charbonneau;* (b) if some part of the chain is unavailable, and all those who can should testify, particularly the supervising officer, may go in under the principles of *Chisholm* v. *Beaman Machine Co., People* v. *Small,* and *National Malleable Castings Company* v. *Iroquois Steel and Iron Company.*

[46] P. C. C. & St. L. Ry. Co. v. Chicago, 242 Ill. 178.
[47] 65 Ill. 399.
[48] 15 Ill. 275.