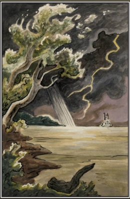
Missouri Historical Review



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The State Historical Society *of* Missouri

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“Fraud All the Way Through”:
The First Kansas City Waterworks

PETER J. BARRY*

The Kansas City waterworks. The water system was completed in 1875. [Kansas City in 1879: Sketches of the Trade, Manufactures and Progress of the City, 1879. SHSMO-C]

The late nineteenth century was an era of great corruption in the United States. As the nation rapidly became more urban, large sums of money appropriated for public services to an increasing number of city dwellers enticed less-than-honest businessmen and politicians to divert taxpayer dollars for their own personal gain. According to economists Edward L. Glaeser and Claudia Goldin, such corruption and fraud peaked in the United States in the 1870s. Causal factors included measures of tolerance by the public, the speed and scope of urban growth, extensive industrialization, and relatively large public and private budgets. Fueling the fire were greed and personal motivations for wealth and power, together with financial and peer pressures from business and society. The gains from fraudulent behavior could be high, while the likelihood of being caught was low. Fraud was everywhere. A minister in New York City gave a sermon about the epidemic of fraud. The *Boston Herald* lamented, “Fraud, fraud, fraud everywhere and nobody punished. This is about the way matters seem to be going under our beautiful system of government by spoilsmen.”[1]

Kansas City, Missouri, was among the cities that fell victim to scheming entrepreneurs, unscrupulous politicians, and insufficient regulatory oversight. Located at the crossroads of major rail lines and on the Missouri River, Kansas City was destined to become a major metropolitan area of the heartland. In the 1870s, however, the city was at a different crossroads. Historians Theodore Brown and Lyle Dorsett observed,

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The Kansas City waterworks pumping station (46) and one of its two reservoirs (47), as shown in an 1878 bird's eye panoramic view of the city. The waterworks were south of downtown, near the present-day Kemper Arena grounds.
[Native Sons of Kansas City Photograph Collection, SHSMO-KC]

"Kansas City in 1870, and for some years thereafter, was an anomalous community, impossible to characterize either as a frontier settlement or as an urban center." Rapid growth was transforming the city from a closely organized, compact community into a more disorganized and heterogeneous business environment. Party politics were "for the most part uninspired during this period." Oversight seemed lax, and the city's government could experience payroll problems, weak fiscal management, and short-sighted planning. "Much of the money which the city did collect had a way of disappearing in unaccountable ways." These lax conditions along with urban growth motivated a "reform impulse." For a time, the old-guard business leaders advocated fiscal control and public services commensurate with a vibrant city—"especially with the supply of water."[2]

Against this backdrop of urban transition, Kansas City became vulnerable to shady deals by politically powerful and wealthy cronies. In the 1870s the city experienced a major case of fraud in the construction, operation, and financing of its first water system. The fraud was discovered through investigations by the press and the Missouri legislature, and the ensuing lawsuits ultimately reached the Missouri Supreme Court. The Kansas City case was brazen, innovative, and characterized by the state supreme court as yielding "enormous profits."[3] Unprecedented in the legal records of the time, the story behind the waterworks fraud involves not only its perpetrators but also its subsequent entanglements with city politics, banking, and the Missouri state treasury. The case demonstrated the need for constant vigilance to safeguard against conflicts of interest and opportunistic behavior by parties in positions of financial power and in possession of advantageous information.

A chronology of the Kansas City water fraud covers several phases: 1) the planning and building of the waterworks from 1873 to 1875; 2) problems between the city and the waterworks beginning in the mid-1870s and continuing for decades; 3) public disclosure in 1877–78 of links between the Missouri state treasury, the Mastin Bank in Kansas City, and the waterworks fraud; and 4) lawsuits and litigation among the perpetrators of the fraud from 1878 to 1888. The timelines are not necessarily exclusive, but this division of the events facilitates the story.

Planning and Building the Waterworks

By 1870 Kansas City needed a new water system to serve a growing population and foster further economic development. The old sources—springs, cisterns, public and private wells, and private carriers—were inadequate, unreliable, and inefficient. Other eastern and midwestern cities had also faced similar choices about publicly or privately owned systems, the sources of water, the technologies to employ, allowances

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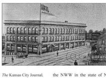


The Kansas City Journal, *a Republican paper, opposed the financial partnership behind the waterworks, publishing critical views and, notably, recirculating exposés by other newspapers such as the* St. Louis Post. [Carrie Westlake Whitney, *Kansas City, Missouri: Its History and Its People, 1808–1908,* vol. 1, 1908. SHSMO-C]

The water contract was finalized quickly in 1873. Within NWW, the $800,000 bond authority was offset by the company's resolution "that $800,000 of full paid stock of this company be issued to John J. Mastin, H. M. Holden, Thomas H. Mastin, and Amos Green for their services and money expended in securing the franchise for building the Kansas City waterworks." Green claimed that the stock issuance would secure their control of the company and provide limited liability. He incorporated the NWW in the state of New York and secured the involvement of Donnell, Lawson, and Company. Later he claimed involvement with potential investors in London. But the NWW was in fact a shell company. Its office in New York City was limited to desk space in a rundown office building near Wall Street. Green was the company's attorney, and John J. Mastin served as its fiscal agent. The company nevertheless had additional officers and a perfunctory board of directors in New York, and it hoped to expand business to other locations.[9]

The fate of the $800,000 of water bonds is a key part of the story. Only thirty-three bonds totaling about $150,000 were sold publicly. Green, Mastin, and the Donnell, Lawson, and Company firm held the rest, while receiving the annual payment of $56,000 from the city. The Mastin Bank financed the construction costs with a loan of $350,000 to the National Waterworks Company of New York at 2 percent interest per month (24 percent per year); Donnell, Lawson, and Company received commissions on bond transactions as compensation for services. Amos Green drew $5,000 annually for legal services.[10]

Green took the lead in developing contracts during the start-up phase. He accepted bids and negotiated prices for construction materials, engineering services, labor, and other subcontracts. The most substantial contract was with Thomas Corrigan to build the waterworks. Corrigan was a well-known power broker and businessman in Kansas City who had designed, built, and operated the city's streetcar system, along with other public construction projects. He was also on the board of directors of the Mastin Bank. In a clandestine move, Green arranged a private fifty-fifty profit-sharing agreement with Corrigan in which Green could control and fix construction prices. In modern terms, this would resemble a kickback, although it did not directly involve other contractees.[11]

Green told Corrigan "that he [Green] could control the prices and wanted him to make $25,000 on the job." Corrigan and Green entered into the profit-sharing agreement on March 10, 1874. Green framed the written agreement to reflect compensation for advice and service he gave Corrigan during the construction process. Years later, Green testified he had made frequent trips to the construction sites, but when pressed, he could recall no specific advice he gave to Corrigan or other workers. Nonetheless, he sought 50 percent of the construction profits and did not share this information with his NWW partners.[12]

President Mahan was more revealing about Green's liberal pricing. He later testified that "Col. Green was a little more liberal than he should have been in contracts let by him, and they were sometimes modified and lowered. . . . The letting of most of the contracts at Kansas City was left to him, as he was better acquainted with prices than I was."[13]

Corrigan's compensation was to cover his actual cost of constructing the waterworks plus net earnings of about $50,000, which he would share with Green. Corrigan's actual construction costs (materials, hired labor, subcontracts) were $109,020, in part reflecting recessionary conditions in 1874 that kept costs down. At Green's contract prices the construction costs would have been $214,109.61; in either case the total was far below $800,000. While Corrigan received periodic payments totaling nearly $60,000 for construction expenditures from Mastin, he had determined the final payment due him from the NWW was $101,000. John Mastin, however, was unaware of the profit-sharing agreement between Green and Corrigan, although he had become suspicious of Green's intense interest during the construction phase. Thus, Mastin balked when he learned of the agreement in early 1876, believing the contract between Green and Corrigan was illegal. Corrigan was nearly hung out to dry. He became anxious to settle with the NWW before the expiration of a claim-filing deadline. After several meetings, Mastin and Corrigan settled on a payment to Corrigan of $50,000 on February 23, 1876. At that point, they were ignoring the contract, estimates, and actual work effort. They wanted to settle and move on to other projects. Moreover, they saw no reason to tell Green about the settlement. Green had moved from Kansas City to St. Louis in 1875, but he was still peppering Corrigan with letters and visits about his 50 percent interest in the profits. Corrigan and Mastin later testified that Green was simultaneously advising Corrigan to seek payment and Mastin not to pay it. In fact, as late as July 4, 1876, Green remained unaware that Mastin knew of his and Corrigan's arrangement, writing to Corrigan, "There is a still more dangerous question going to the validity of the entire contract as against the company, that I will call to your attention when I see you. . . . The company are not at present aware of the facts, but may at any time discover them." Corrigan finally informed Green of the settlement in June 1877.[14]

Thomas Corrigan, a powerful Kansas City businessman who had built and operated the city's streetcar system, was awarded the contract to construct the waterworks. He became embroiled in litigation stemming from a profit-sharing agreement with Amos Green that other financial partners did not know existed. [Monroe Dodd, *A Splendid Ride: The Streetcars of Kansas City, 1870–1957*, 2002. SHSMO-C]

Meanwhile, the water system had been completed in July 1875.[15] The Kansas City works initially consisted of two reservoirs, about sixteen miles of street main pipes, and 250 fire hydrants. The waterworks were tested on July 9, 1875, before city officials, insurance men, and numerous local citizens. The visiting water commissioners of Chicago declared it the finest water system they had seen, and eastern insurance companies announced their readiness to reduce fire insurance rates.[16]

Problems between the City and the Waterworks

Following the panic of 1873–74, the city's financial problems rapidly increased. Tax revenues decreased and proved difficult to collect, interest on the city's bond indebtedness was delinquent or unpaid, rolling over maturing bonds was difficult and costly, the city's credit was impaired, and short-term borrowing to meet obligations became excessive. Local bankers, including the Mastin Bank, were reluctant to further finance the city and met with city officials to insist upon reforms.[17]

The result in January 1875 was the introduction of a bill in the state legislature to overhaul the city's financial management and ultimately to create a new city charter. Several of the proposed provisions (e.g., appointment versus election of a financial oversight board) became controversial. The debate was largely carried on by Amos Green's *Kansas City Times* and the Republican *Journal of Commerce*, as well as in discussions at several public and backroom meetings. Opponents to the appointment of oversight board members feared the influence that Green and Mastin would exert on behalf of the waterworks company to pressure the mayor to pay for completing the water system. Author Thomas Barclay reported, "The Mastin Bank had advanced large sums to the NWW and the failure of the city and the company to settle their differences was very detrimental to the bank." Later, Green and the Mastin Bank were reported to control the mayor and the press, and "Boss Green and others of his stripe insisted that the Simonpure [genuine] democracy demanded the amendments" to the proposed charter about the oversight board. The first vote in the Missouri House of Representatives on the revised bill failed; one reason was that "the new charter would increase the power of the alleged city boss [Green]." After further negotiations, compromise, and lobbying, a new city charter was passed by the Missouri legislature and signed by Gov. Charles Henry Hardin on March 24, 1875. "Provision was made for the appointment by the incoming mayor, with the consent of the council, of one comptroller, who was to hold office for one year and who was given the same powers as had originally been delegated to the fund commission."[18]

During the newspaper debate on the charter, Green had a venomous exchange of letters with journalist Frank Grice. The feud with Grice arose over Green's involvement with the waterworks. Grice worked for the *Kansas City Evening Mail*, a paper that, according to historian Roy Ellis, was originated as "a journal opposed to the movements of the waterworks clique as it then existed." Grice became so incensed that he challenged Green to a duel. Green declined.[19] Perhaps as a result of the charter controversy, Green resigned as president of the *Kansas City Times* on May 9, 1875, and relocated to St. Louis. A *Times* editorial, announcing the change in ownership and management, paid appropriate tribute to Green but stated that he had been "misunderstood and misrepresented" in his promotion of public enterprises.[20]

Having a working water system was good news for Kansas City, but tensions between the city and the water company were high over the water contract, water quality, and service. They reached a boiling point in early 1876 when Mayor Turner Gill visited New York City to verify the legal standing of the National Waterworks Company of New York. He provided Grice of the *Evening Mail* some critical information about the company's shadowy existence in New York, including his finding that the NWW was not legally incorporated there. In response to Grice's article, Amos Green defended the company's corporate status. He referenced several leading citizens of New York and lambasted Mayor Gill as a "champion liar" and Grice as a "puppet" and "mouthpiece." The feuds continued.

In January 1877 the city cited the company's negligence on several counts: poor water quality, overpriced buildings and production plant, breakdowns of pipes and other equipment, and mortgaging of the property. The NWW countered that the city had reneged on payments for real estate, rights-of-way, the net earnings guarantee, and interest on these overdue payments. In February 1877, after the NWW sued the city, a temporary agreement was reached in which "the city was to render $92,500 in 8% bonds to the company while the city was to be relieved of guarantees relative to net earnings." More of the company's revenue would come from fire hydrant rentals.[21]

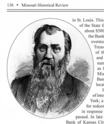
Thomas H. Mastin of Kansas City's Mastin Bank, one of the primary financial partners in the waterworks project. This portrait was painted by famed Missouri artist George Caleb Bingham. [Courtesy of the Kenneth and Cynthia McClain Collection]

Public Disclosure

The water dealings up to this point had simmered below the surface of public awareness, but that was about to change. Details about the fraudulent history of the waterworks became public in 1878 when the situation was caught in a quagmire of partisan politics involving the intense competition between St. Louis and Kansas City for political and financial control of the state, including the location of the state's lucrative bank deposits. The controversy played out in the cities' strongly partisan newspapers. Links were clearly established among the financial problems of the state treasury of Missouri, the Mastin Bank's deteriorating financial condition, and the financing of the Kansas City water system. Newspaper reports in St. Louis, Kansas City, Chicago, New York, and other places such as Quincy, Illinois, generally followed the lead of the *St. Louis Post*, whose investigative work revealed a dark side of the endeavor.

Several years earlier the Mastin Bank had invested heavily in the 1874 election of a Democrat, Joseph W. Mercer, as state treasurer of Missouri. Mercer reciprocated for this "efficient and valuable support" by placing a substantial amount of state funds in the Mastin Bank. The bank invested the state's deposits to earn short-term profits that, in the largely unregulated banking and treasury environment of the 1800s, could be risky, opportunistic, and difficult to validate. In turn, Mercer may have benefited personally from these earnings. A later article reported, "The Times has stated that the ring banks [including Mastin] with which Mercer deposited the public money were seized with a wild desire to control the state financially through its politics and accordingly were liberal in subsidizing ring papers [including the *Kansas City Times*] and ring politicians." Mercer's successor in the treasurer's office, Democrat Elijah Gates (1876), was also well supported by the Mastin Bank.[22]

Heavily involved in the 1876 election was Col. James N. Burnes, a stockholder in the Bank of St. Joseph who "took a most active part in securing the nomination of Elijah Gates to the office of State Treasurer." Burnes obtained "full and complete control of the State's deposits." He and Gates could determine which banks could receive the state deposits based on their political support and security bond pledges for Gates. Not surprisingly, Burnes's Bank of St. Joseph "was selected nominally sole depository of the State funds," which then were "let out" at interest mostly to the Mastin Bank and the National Bank of the State of Missouri located



As the waterworks financial scheme unraveled, Elijah Gates, Missouri's state treasurer, was arrested in 1878 and charged with improperly benefiting from state funds. He was acquitted in 1879, the same year that an attempt to impeach him was defeated in the state legislature. He eventually restored the state funds lost in the waterworks venture. [*Missouri of To-Day*, 1893. SHSMO-C]

in St. Louis. This arrangement continued until the National Bank of the State failed on June 19, 1877. The National Bank held about $500,000 in state funds, which had been "let out" by the Bank of St. Joseph, and which, as will be shown, were eventually recovered by the state through the hands of Treasurer Gates. Gates then withdrew a large portion of the state deposits from the Bank of St. Joseph and allocated them to the Mastin Bank in his own name as state treasurer. State funds were then held as follows: defunct National Bank of the State of Missouri, $501,462.88; Mastin Bank, $856,111.68; Bank of St. Joseph, $387.77; and two other minor locations.[23]

In July 1877 the Mastin Bank had to pay $450,000 of interest to the State of Missouri's bondholders in New York; a month later Gates ordered a $490,000 payment for redeemed bonds. Mastin could not pay at that time or in response to subsequent orders from the treasurer. Time passed. In late January 1878 the closing of the First National Bank of Kansas City threatened a panic run by claimants on the Mastin Bank. In a secret night meeting, the Mastins, Burnes, and Gates agreed to save the Mastin Bank from failing the next day by advancing $131,000 of assistance from Burnes's Bank of St. Joseph. In return Mastin had to take half ($187,500) of the Bank of St. Joseph's loss on the state funds deposited in the defunct National Bank of the State. As security for the $131,000 advance, the Mastin Bank pledged $350,000 of NWW bonds. The tactic worked, as the Mastin Bank lived on—for a while.[24]

On July 25, 1878, the *St. Louis Post* reported the Mastin Bank's $350,000 loan to the Kansas City waterworks during its 1874–75 construction, an amount well above the bank's capital of $250,000. The loan was secured by the water bonds, whose value was questionable because of limited public sales and feuds between the city and the waterworks company. The bank's risk concentration was high, and concerns about its solvency and liquidity were increasing. A follow-up article in the *Post* linked the Mastin Bank's investments to Missouri's state funding problems:

> The Mastin Bank has had the reputation of being "enterprising," which term when applied to a bank means that it has directly invested someone else's money in outside speculations, and it did a great deal to "develop the resources" of Kansas City—which means that when the developing process netted a profit the directors pocketed the profit, and when it netted a loss the bank stood the loss . . . .
>
> Our sympathy is not with the bank but with the confiding depositors, who in spite of the glib assurances of the directors will probably have to whistle for their money. But there is one depositor whose case demands public attention and notice, and that is the State of Missouri, whose loss is the result of a deliberate and systematic swindle. . . . The Mastins have for several years kindly undertaken to run the deposit department of the State Treasury—they have used the money they made off the State's deposits in controlling legislation, and it was largely due to their influence if not to their money

that the venal politicians of the Legislature were induced to sacrifice the interests of the treasury for the benefits of the ring. The State deposits were claimed as the reward of this corrupt service, and the people's money, which was lost by stupid mismanagement in the bank, was secured only by corruption in the Legislature. The sooner such a bank fails the better, and the more conspicuous the disgrace of its downfall the better.[25]

As concerns mounted, wary depositors began a relentless run on the bank. They were mostly commercial customers; the bank had no savings department and few small deposits. According to John J. Mastin, the run came from payment demands by other banks: "This run came upon us unaware and unexpectedly, and in such a way that no bank could stand it. It was not over-the-counter where we would have had notice of it but through the clearinghouse—all in a lump."[26] On August 3, 1878, Mastin announced the bank's loss of liquidity and suspended operations. Col. Kersey Coates, another well-known, long-term resident of Kansas City, was appointed as receiver. He was to manage a complex process of determining who had claims on the Mastin Bank, how much they were owed, their priorities, and the disposition of the bank's assets.[27]

A week later, on August 12, 1878, the *Post* linked the loss of state funds to the Kansas City water bonds, held in part by the Mastin Bank. The bank had pledged them as security for the state deposits. The *Post* estimated the bonds were worth "somewhere between fifty cents on the dollar and ten cents" and further reported: "July interest on the state bonds was not paid by the state, but that more than $200,000 of the coupons are now held by a bank in New York City until it disposes of certain so-called Kansas City water bonds to reimburse itself. Those bonds, which are part of the 'security' which the state treasurer holds for his deposits in the Mastin Bank are extensively advertised in New York and offered for sale at par."[28]

On August 16, 1878, the *Chicago Tribune* provided more history on the bonds and cited the disputes between Kansas City and the National Waterworks Company of New York. Amos Green, then in St. Louis, responded to an interviewer:

> The Missouri Embarrassment
>
> Col. Amos Green, who is a member of the Waterworks, said today: "I regard the bonds as good and well secured, but not available on the market at present, at prices such as they ought to command. The bonds are now held in trust by Donnell, Lawson and Company No. 93 Broadway, New York, for advances made to fit parties to complete the waterworks. The advances were all made by or through the Mastins, Donnell, Lawson and Company, and myself. The stock of the company is held intact by John J. Mastin as the financial agent of the Company."

The paper reported that Green had sued Donnell, Lawson, and Company to appoint a receiver of the bonds, basing it on his claim of one-third interest. The suit further reduced the marketability and value of the bonds.[29]

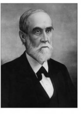
With adverse publicity increasing, the mysterious NWW and the reputable New York banking firm of Donnell, Lawson, and Company sought to salvage the value of the unsold bonds. On August 19, 1878, the *St. Louis Evening Post* received a visitor (Mr. John F. Hume; affiliation not cited) from New York who urged the paper to favorably consider the profitability of the water system and remarked, "Our statement that the Kansas City water bonds were 'worthless' had done an injustice to the innocent holders of the bonds." Future growth of Kansas City suggested a high probability of steady increases in future income. The downgrading of current bond values could stymie such growth.[30] The paper cushioned its harsh criticism of the bonds by publishing a statement of regret: "We regret exceedingly that any reflections of ours should have injuriously affected the value of a security which is placed on the market by its own merits, and we willingly make the best reparation we can."[31]

The regret was short-lived. The Associated Press had learned of Mr. Hume's visit to the *Post* and broadcast a bulletin, an "ingeniously worded falsehood," about the *Post*'s regrets. The AP bulletin stated that "the only security that official [State Treasurer Gates] had for the state money deposited in that bank [Mastin] was some Kansas City waterworks bonds which it [the *St. Louis Post*] characterized as comparatively worthless. . . . Today it editorially withdraws this statement." The *Post* objected to this "exceedingly sharp trick . . . we have never retracted the statement that the only security the Treasury had was this $350,000 of bonds, and as for the value of the bonds we know nothing except from the statements of interested parties." This distortion had deepened the *Post*'s suspicion that something was wrong, and they promised to investigate further.[32]

The Democratic *Kansas City Times* responded to the *Post* by cynically stating, "The St. Louis Post retracted its retraction in regard to the Kansas City waterworks bonds, abused the agent of the Associated Press for the dispatch he sent westward over the wires, and counseled everybody to have nothing to do with the bonds."[33]

On August 21, 1878, the *Post* published a detailed exposé entitled "Those Water Bonds." A subheading reported "Fraud All the Way Through." The article described the NWW as "a very thin concern" with its lone desk on Wall Street. The article further revealed the contract with Kansas City, the resolutions bestowing $800,000 of stock on the company founders, the appointments of Green as attorney and Mastin as fiscal agent, and the $800,000 of bonds along with a mortgage given to the Farmers Loan and Trust Company of New York. A "competent engineer" testified to the paper that the original cost of the works could not have exceeded $400,000. Thus, the $800,000 in bonds was "at least twice the value of all property held by the company." The annual yield of $56,000 paid by the city on this investment was nearly double the 7 percent interest return. Since most of the bonds were not sold to outsiders, where did the construction money come from? It came from the Mastin Bank. And where did the Mastin Bank acquire these funds? It hardly came from the pockets of the four principal owners (Green, Holden, and the Mastins). Rather, it had to be the State of Missouri.

> The most natural supposition in the world is that they employed the State money for that purpose, depending on a sale of the bonds with which to return the money. The bonds could not be sold, and, consequently, when Mr. J. W. Mercer [former State Treasurer] turned over the State Treasury to Gates, he could not get the cash from the Mastin Bank, due the State, and gave a [worthless] check for $296,000 instead. The Kansas City Waterworks is, therefore, doubtless the hole into which nearly $300,000 of State funds was sunk beyond hope of recovery.
>
> These Kansas City Waterworks bonds have never been salable. . . . They were born in fraud and conceived in iniquity, and are about as worthless as the paper upon which they are printed. . . . The state treasurer has been duped in taking them as security for the half-million of State money in the Mastin Bank."[34]



Gov. John S. Phelps addressed the state legislature when the waterworks scandal broke, saying, "If the treasurer is guilty . . . let him be punished." [Walter Williams and Floyd Shoemaker, *Missouri, Mother of the West*, 1930. SHSMO-C]

The Kansas City papers responded vigorously to the closure of the Mastin Bank and the disclosures from St. Louis, although they remained silent about the waterworks bonds. The failure of the Mastin Bank was attributed to movements, malicious private rumors, and newspaper innuendo from St. Louis; personal and political jealousy; and, according to John Mastin, a "diabolical conspiracy." Much of the controversy involved the quest for the State of Missouri's deposit funds. The *Kansas City Times*, which probably still had financial connections to the Mastin Bank, rendered the loudest and longest responses. Their lengthy article of August 4, 1878, claimed:

> A concerted movement originating at St. Louis—ostensibly emanating from an irresponsible newspaper [the *Post*], but really backed by leading politicians and financiers—was in progress to destroy public confidence in the management of the State Treasury, and the banks holding its deposits in Kansas City and St. Joseph. . . . The hue and cry so lately raised by the defeated and unscrupulous St. Louis Ring to discredit the western banks of deposit was simply intended as the basis of a second assault upon the Treasury through the next legislature. No concealment is now made of their purpose to destroy the Mastin Bank . . . to force the state deposits into their own vaults.[35]

The *Times* cited the protection provided by the treasurer's $1 million security bond, signed by well-known financiers in the state; however, the ten bondsmen for Treasurer Gates included the beleaguered John and Thomas Mastin, another director of the Mastin bank, and several others allegedly on shaky financial ground.[36]

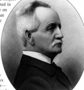
The *Times* later cited the *St. Louis Post* as "sensational and irresponsible," and suggested that the problems of the state treasurer had begun a year earlier with the failure of the National Bank of the State at St. Louis. The *Times* spent nearly as much space lambasting the local Republican *Kansas City Journal*, which was reprinting the "fulminations" of the *St. Louis Post*. The *Kansas City Mail* of August 7, 1878, also carried an undated article from the *Sedalia Democrat* asserting that the Mastin Bank would meet 100 percent of its obligations and again blamed the press: "There are a class of newspapers in the state, just as there are classes of individuals, who hate to see the sun shine."[37]

The *Kansas City Mail*, also a Democratic paper, observed that the Mastin Bank's closing was the "culmination of a political and financial conspiracy organized at St. Louis." But subsequent revelations about the past connections between former State Treasurer Mercer, the Mastin Bank, and other politicians soon became more compelling. An article in the *Mail* of October 2, 1878, bewailed a statute of limitations for the culprits but concluded, "The facts heretofore discovered and published show that there is a rich and vast field of corruption to be explored if the truth in regard to this matter is discovered." Discovering such truth would be challenging: "In this case the state has been plundered by men skilled in villainy, unscrupulous in the methods of plundering and alike unscrupulous in the means to be used for covering up and concealing their crimes."[38]

On September 10, 1878, John J. Mastin and H. M. Holden were arrested by the county sheriff. They posted bonds and were quickly released, pending trials. Similarly, State Treasurer Gates was arrested on October 14, 1878. A special grand jury had been meeting to take evidence and render indictments. For Mastin and Holden, the rather weak charges were that each man had accepted deposits from citizens while knowing the bank was going to fail. Gates was charged with unlawfully benefiting from state funds. These developments were sensational. In his message of January 9, 1879, to the General Assembly, Gov. John Phelps observed, "If the treasurer is guilty as charged, or has violated any other law, let him be punished." However, each party was acquitted following trials held in late February and March 1879. The acquittal of Gates was especially controversial. He was a former colonel in the Confederate army; one of the newspapers suggested the jury was composed of "ex-rebel soldiers and bushwhackers."[39]

In late 1878 officials at the Missouri state treasury became increasingly tight-lipped, but information had surfaced that the water bonds in question were held by Donnell, Lawson, and Company in New York and that a New York bank had advanced $260,000 to the state treasury with the bonds pledged as security. This action allowed the state treasury to remain viable and pay interest on the state bonds, while encouraging concerned citizens to pay their taxes in a timely fashion, given a media view "that the Mastins played a sharp game to beat the state. . . . It was a palpable fraud and a well-planned deception." When the Mastin Bank failed, the state funds in the bank totaled $506,188—about 61 percent of the state's total cash balances. By the end of 1878, the sale in New York of the $350,000 of water bonds realized $220,000, reducing the Mastin Bank's obligation to $286,188, which was left to the management of the Mastin Bank's receiver.[40]

By 1879 the Missouri General Assembly had learned enough about the shady dealings of its state treasury to name a Special Committee to Investigate the Management and Present Condition of the State Treasury. After a thorough investigation of a complex web of dealings, the committee issued a comprehensive report that largely summarized and recapitulated earlier newspaper reports, although providing additional details about the handling of the state's bank deposits. The special committee's report recommended that Elijah Gates be impeached for numerous charges of malfeasance. He was indeed subject to an impeachment filing, but it was narrowly defeated in the House of Representatives. In a Special Message on April 22, 1879, Governor Phelps further observed that losses of bank deposits would mean losses to the people. By February 15, 1881, however, Gates had restored all of the state funds. He did not disclose the source of the money, although it likely resulted from legal maneuvering among Gates, his bondsmen, the receiver of the Mastin Bank, and the General Assembly.[41]



John W. Henry, chief justice of the Missouri Supreme Court. The court issued the final judgment in the lawsuit between Amos Green and Thomas Corrigan, ruling in 1885 that Green had engaged in fraud and thus overturning a lower court's decision against Corrigan. [A. J. D. Stewart, *History of the Bench and Bar of Missouri,* 1898. SHSMO-C]

Lawsuits and Litigation

The public focus on the state treasury and the Mastin Bank had masked the role of Amos Green in these ventures. He was seldom mentioned in the news reports and seemingly had avoided public attention—even though he was a substantial holder of the water bonds. His role, however, would ultimately be exposed.

Recall that Green had contracted with Thomas Corrigan in 1874 to build the waterworks, with a private fifty-fifty profit-sharing pact. Green had received none of the profits, however, and had only learned in 1877 about the settlement between Corrigan and Mastin. He could not accept being cheated within a fraudulent arrangement and, despite the risk, brought suit against Corrigan in the Law and Equity Court of Jackson County. The suit was reported in the press on September 27, 1878—during the furor about the Mastin Bank and the state treasury. The report quoted Green's petition that "Corrigan combined and confederated with John J. Mastin, the financial agent of the National Waterworks Company to cheat and swindle Green out of his share of the partnership profits," a sum of $67,000. A subsequent newspaper article reported, "The case was submitted to Hon. A. Comingo as Special Judge several weeks ago, and its trial occupied considerable time. The testimony was very voluminous, and every point was very carefully watched and contested." In fact, the record of the case at the Missouri State Archives contains nearly fifteen hundred pages. Green served as his own attorney, questioned all the witnesses, and was interrogated by the opposing attorneys.[42]

Green claimed he had an agreement with Corrigan for constructing the waterworks and sought a judgment for half of the profits as well as a specific lien on some of Corrigan's property. Corrigan admitted to the contract but denied the partnership and argued that such a contract was "against public policy."[43] The trial went to Judge Comingo for a decision:

> After the evidence was all in and arguments delivered, the court took the case under advisement. The evidence shows that there was an immense job in this waterworks business. It is made apparent that the National Waterworks Company of New York . . . was a moneyless institution. It appears that it did not at the time it was engaged in constructing the waterworks at Kansas City own a dollar's worth of property, nor have a farthing in money, nor did it have an office or

The National Waterworks Company offices in Kansas City. The New York-based company moved its local headquarters several times in the 1870s and 1880s before settling in this building at 602 Walnut around 1889.
[Native Sons of Kansas City Photograph Collection, SHSMO-KC]

> place of business. It further appears from the evidence that it was but nominally engaged in the construction of said waterworks. It permitted Donnell, Lawson, and Company of New York, John J. Mastin and the plaintiff [Amos Green] to use its name, and under that cover to engage in the enterprise mentioned. The profits of the job are shown to be $51,287.29.[44]

On December 28, 1878, the judge found in favor of Amos Green and ruled that he was to receive $30,285.51 from Thomas Corrigan—half the profits plus interest. It was a strange verdict and a hollow victory.[45]

With this success in hand, Green also moved against the others who apparently were cheating him. In the circuit court he filed a request for a receiver for the National Waterworks Company of New York and asked for the settlement of the partnership with the Mastins; Donnell, Lawson, and Company; and the NWW. Green claimed to be a one-third owner of the stock, bonds, works, and franchise of the NWW, but that he had been "precluded from all interest in or participation in its management, and on account of this and the gross mismanagement of its affairs, asks for a receiver. He claims that the sum of $130,000 is due him upon a fair and equitable settlement of the affairs of the concern." The case against Mastin et al. was finally dismissed in April 1888.[46]

Thomas Corrigan was not satisfied with Judge Comingo's ruling against him on December 28, 1878. He appealed to the Missouri Supreme Court. The court, led by Chief Justice John W. Henry, waded through the lengthy and voluminous evidence: depositions, precedents, testimony, contracts, and other materials. The process took considerable time. Corrigan had denied all the material facts alleged in Green's petition. He testified that his net profits did not exceed $20,000; that Green, as attorney for the NWW, had fixed the prices for the work; that the prices were unreasonable; and that he (Corrigan) was forced to deduct $51,000 from his contracted prices because of Green's "advice to the company." Corrigan admitted that he did not disclose his partnership agreement with Green but argued that it was illegal and void because Green was the NWW attorney. It was Green's duty to advise the company whether the contract between Corrigan and the NWW "was wise and prudent." Of course, Green had not done so.[47]

In his testimony Green had denied that he was the attorney of the National Waterworks Company of New York, except nominally—yet, as the state supreme court observed, "He claimed against that company for services as its attorney $5,000 to June 1874, $5,000 additional for each of the years to 1874, 1875, 1876, and $5,000 for extra or special services in 1877, aggregating $25,000; certainly a very liberal allowance to a mere nominal attorney." Green attributed the high prices in the contract to the "risks taken and the large margin to be carried for the company. Moreover, the great reduction in the prices of labor and material, which took place during the spring and summer of 1874, left the profit larger than it otherwise would have been." Green further claimed that other NWW parties had been fully informed and approved the prices, without any concealment or misrepresentation.[48]

In its final report the Missouri Supreme Court summarized all the details, including Green's letter to Corrigan of July 4, 1876, in which he stated, "The company are not at present aware of the *facts*, but may at any time discover them" (emphasis added). The court asked, "What *facts* are here alluded to? Evidently the *facts* that Green had become a co-partner with Corrigan in the work and, in the interest of himself and Corrigan, was mainly instrumental in fixing the prices for the work. That the relations between him and Corrigan were studiously concealed from his co-partners the testimony leaves no doubt." The court called the prices and profits "enormous," and Green was to share in them.[49]

The court faced the complex task of unraveling conditions of fraud. Did it occur? By whom? Against whom? By how much on the part of each individual if multiple parties committed it? Despite the citation of numerous legal precedents during the trial, the chief justice observed, "I am satisfied that no case can be found with such features as are presented in this, where the defendant [Corrigan] has been denied the right to set up the fraud of the plaintiff [Green] as a defense to his action." Corrigan seemed innocent of participating in a fraud; it came down to whether Green's associates in the NWW were aware of his agreement with Corrigan. They were not, leaving Green as the guilty party.

> If the facts were as represented to Corrigan by Green, Corrigan neither perpetrated nor participated in any fraud. If Green's associates were willing to let him stand in with Corrigan, Green was guilty of no fraud; but when it is shown that there was no such agreement between Green and his partners, he is the only guilty party to the contract he seeks to enforce. . . . The testimony leads me to that conclusion—that Green induced Corrigan to believe that he had the consent of his co-partners to stand in with Corrigan.[50]

Green consistently denied any fraud on his part, but the court concluded otherwise. "The testimony which shows that Corrigan was not equally guilty with Green—if it shows any fraud on the part of Corrigan at all—was inseparably connected with the proof of fraud against Green, was not objected to at the trial, and was fairly before the court for its consideration." On December 18, 1885, the Missouri Supreme Court's final ruling was, "The judgment is reversed." Thus, Corrigan won the case.[51]

The Kansas City waterworks fraud of the 1870s was a complicated, murky, multi-ring circus involving the perpetrators (politically powerful and wealthy cronies), the city of Kansas City, and the state treasury of Missouri. The cheaters attempted to defraud the city, and then some of the cheaters tried to cheat each other, with one of the parties suing another, first in a local court and then in the Missouri Supreme Court. Several years later, the court sorted out most of the details and concluded that Amos Green had committed fraud in a quest for "enormous" profits. Green, however, incurred no penalties or punishment. Two of the bankers (John J. Mastin and H. M. Holden), along with the state treasurer of Missouri, were arrested on flimsy charges and then exonerated, perhaps by friendly juries. The stakes, and thus incentives, were high—approaching $1 million in the 1870s. Thanks to the investigative work by the press, a diligent state supreme court justice, and a special committee of the Missouri legislature, most of the details have come to light.

Kansas City experienced adverse media controversies and added costs from the waterworks fraud and subsequent litigation, but the water project was largely successful. It contributed to the well-being of the citizens and to the economic development of the city. Moreover, the city eventually purchased the waterworks so that it could bring the operations under closer municipal control. Perhaps it became a fraud with some merit, consistent with that articulated by economists David Cutler and Grant Miller: "Corruption [and fraud]—although undesirable and inefficient—can in fact go hand in hand with policies that improve public welfare if corrupt politicians seek both political support and a robust economy to exploit."[52] If so, then Amos Green's own self-serving view of the waterworks experience may have some fortuitous merit. Writing in 1912, Green acknowledged the difficulties yet also offered self-congratulation for his performance: "There was by no means smooth sailing for the [water] enterprise, and disaster was only averted by the fine executive ability and judgment of Col. Green."[53] More broadly, the waterworks fraud reflected the corruption of the era and led to recognition of the necessity for expanded government oversight of public utilities during the Progressive Era of the 1890s to the 1920s.

NOTES

1. Edward L. Glaeser and Claudia Goldin, eds., *Corruption and Reform: Lessons from America's Economic History* (Chicago: University of Chicago Press, 2006); Amos Green Respt. versus Thomas Corrigan, Appt., *Western Reporter*, vol. 3, Missouri Supreme Court and Court of Appeals, from September 1886 (Rochester, NY: Lawyers Cooperative Publishing Co., 1886), 627–32. The *Western Reporter* contains a summary of Green v. Corrigan and the Missouri Supreme Court's deliberations. The complete record of the case is at the Missouri State Archives, 46/1/6–7 boxes 824–825. Subsequent citations to the *Western Reporter* are cited as Green v. Corrigan; other citations to the case are cited as Green v. Corrigan, Missouri State Archives. For examples of the era's incidences of fraud, see *New York Times*, February 24, 1871, 5, September 19, 1871, 8, January 19, 1872, 5, June 23, 1872, 3, September 15, 1873, 8, December 8, 1873, 1.

2. A. Theodore Brown and Lyle W. Dorsett, *K.C.: A History of Kansas City, Missouri* (Boulder, CO: Pruett Publishing Co., 1978), 37, 60–62.

3. Ibid.

4. Quotes are from Kate Foss-Mollan, *Hard Water: Politics and Water Supply in Milwaukee, 1870–1995* (West Lafayette, IN: Purdue University Press, 2001), 22, 29. Joanne A. Goldman, *Building New York's Sewers: Developing Mechanisms of Urban Management* (West Lafayette, IN: Purdue University Press, 1997); Sarah S. Elkind, *Bay Cities and Water Politics: The Battle for Resources in Boston and Oakland* (Lawrence: University Press of Kansas, 1998).

5. Roy Ellis, *A Civic History of Kansas City* (Springfield, MO: Press of Elkins-Swyers Co., 1930), 128–31; *The History of Jackson County, Missouri* (Kansas City: Union Historical Co., 1881); W. H. Miller, *The History of Kansas City* (Kansas City: Birdsall and Miller, 1881).

6. Ellis, *Civic History*.

7. L. H. Waters and J. J. Williams, *An Ordinance in Revision of Ordinances Governing the City of Kansas* (Kansas City: Kimberly and Hudson, 1888); A. R. Burdette, ed., *The Lawyers Reports*, Book 27 (Rochester, NY: Lawyers Cooperative Publishing Co., 1915).

8. E. Polk Johnson, *A History of Kentucky and Kentuckians*, vol. 3 (Chicago: Lewis Publishing Co., 1912); Peter J. Barry, "Amos Green, Paris Illinois: Civil War Lawyer, Editorialist, and Copperhead," *Journal of Illinois History* 17 (Spring 2008): 39–60. During the Civil War, Green, then living in Paris, Illinois, became a notorious Copperhead who vehemently opposed the war policies of the Lincoln administration. In 1862 Green was arrested by the military. He fought the arrest in an Illinois civil court, stymieing it and a wave of other arbitrary arrests. In 1863 Green became grand commander of the secret Order of the American Knights in Illinois and led its transition nationally to the Sons of Liberty. In 1864 he and others collaborated with Confederate agents in Canada to liberate Confederate prisoners of war and establish a Northwest Confederacy. Green was arrested again in November 1864. He agreed to testify against other conspirators in the renowned Cincinnati treason trials of 1865. Green quickly left Illinois at the end of the war, working first as a lawyer in Lexington, Missouri, and then moving to Kansas City in 1871.

9. *St. Louis Evening Post*, August 21, 1878, 2; Green testimony, Green v. Corrigan, Missouri State Archives.

10. Green v. Corrigan.

11. Ibid.; *St. Louis Post-Dispatch*, February 11, 1890, 4.

12. Green v. Corrigan, 627.

13. Ibid., 630.

14. Ibid., 627, 630; Corrigan, Mastin, and Green testimonies, Green v. Corrigan, Missouri State Archives.

15. Green later described the waterworks as follows: "The system of works is a compound system, having a large distributing reservoir on a hill 250 feet above the city low water-mark; also two large settling basins, together with the Holly system, by which a fire in any part of the city can be immediately extinguished; thus furnishing, in the estimation of insurance men, one of the best safeguards against fire in the United States. I consider the works the best in any city west of the Alleghenies, and they are of ample capacity to supply a city of 100,000 inhabitants." The Holly system was a network of pumps that would regulate a steady and constant flow of water for users. *St. Louis Evening Post*, August 15, 1878, 4.

16. *Chicago Tribune*, July 10, 1875, 12; Miller, *History of Kansas City*, 132.

17. Thomas S. Barclay, "The Kansas City Charter of 1875," *Missouri Historical Review* 26 (October 1931): 23.

18. Ibid., 26n37, 34, 38.

19. *St. Louis Post*, October 6, 1874, 6, October 10, 1874, 6; *Sedalia Daily Democrat*, October 28, 1873, 1; *Chicago Daily Tribune*, October 25, 1873, 5; Ellis, *Civic History*, 207.

20. "The Times," *Kansas City Times*, May 9, 1875.

21. Turner Gill, *Kansas City Evening Mail*, February 18, 1876, 4; Amos Green, *Kansas City Journal of Commerce*, February 20, 1876, 4. The Gill and Green letters are in Green v. Corrigan. Ellis, *Civic History*, 131. The feud flared up again in the 1890s, especially when the city had to purchase the waterworks, but this goes beyond the scope of the present story.

22. *Kansas City Mail*, September 27, 1878, 2, 4, October 1, 1878, 2, October 1, 3, 1878, 2. The *Mail* changed its name from the *Evening Mail* on May 7, 1877. A ring is a group of individuals or organizations that work together for selfish or dishonest purposes.

23. Missouri House of Representatives, *Report of the Special Committee to Investigate the Management and Present Condition of the State Treasury with Accompanying Testimony, Thirtieth General Assembly* (Jefferson City, MO: Carter and Regan, 1879), quotes from p. 5; Missouri House of Representatives, *Report of the Committee Appointed to Examine the Accounts of Auditor and Treas. of the State of Missouri and the Validity of the Bonds of State Officers, Also to Report upon the Condition of the Office of the Register of Lands, the 30th Gen. Assembly—Regular Session* (Jefferson City, MO: Carter and Regan, 1879).

24. Missouri House of Representatives, *Report of the Special Committee*; Missouri House of Representatives, *Report of the Committee Appointed to Examine Accounts of Auditor and Treasurer.*

25. *St. Louis Evening Post*, July 25, 1878, 4, August 5, 1878, 2.

26. *Kansas City Times*, August 4, 1878, 2.

27. *Kansas City Mail*, August 3, 1878, 4; *Quincy (IL) Herald*, August 4, 1878, 1; *Quincy (IL) Whig*, August 8, 1878, 1; *Washington Post*, August 5, 1878, 1; Missouri House of Representatives, *Report of the Special Committee*.

28. *St. Louis Evening Post*, August 12, 1878, 1.

29. *Chicago Tribune*, August 16, 1878, 4.

30. *St. Louis Evening Post*, August 19, 1878, 2.

31. Ibid., August 17, 1878, 4.

32. Ibid., August 19, 1878, 2.

33. *Kansas City Times*, August 22, 1878, 2.

34. *St. Louis Evening Post*, August 21, 1878, 2.

35. *Kansas City Mail*, August 3, 1878, 4, October 1, 1878, 2; *Kansas City Times*, August 4, 1878, 2; *St. Louis Post and Dispatch*, December 9, 1879, 4.

36. *Kansas City Times*, August 4, 1878.

37. Ibid., September 7, 1878, 2, October 22, 1878, 2; *Kansas City Mail*, August 7, 1878, 1, 2.

38. *Kansas City Mail*, August 3, 1878, 2, 4, October 2, 1878, 2.

39. *Quincy (IL) Whig*, September 19, 1878, 1, October 17, 1878, 5, March 20, 1879, 3; *St. Louis Post and Dispatch*, February 7, 1879, 1, 25, April 16, 1879, 1–2; Message of Gov. John S. Phelps to the Thirtieth General Assembly of the State of Missouri, January 9, 1879, *Journal of the Senate of the State of Missouri, Regular Session, Thirtieth General Assembly* (Jefferson City, MO: Carter and Regan, 1879), 10.

40. *Quincy (IL) Whig*, October 17, 1878, 5; "The Mastin Bank," *New York Times*, October 14, 1878, 5; *St. Louis Evening Post*, August 28, 1878, 1; Missouri House of Representatives, *Report of the Special Committee*.

41. Missouri House of Representatives, *Report of the Special Committee*; Missouri House of Representatives, *Report of the Committee Appointed to Prepare Articles of Impeachment against Elijah Gates, Treasurer of Missouri* (Jefferson City, MO: Carter and Regan, 1879); *Special Message of Governor John S. Phelps to the Thirtieth General Assembly, Report of the Senate Ways and Means Committee* (Jefferson City, MO: Carter and Regan, 1879); *St. Louis Post-Dispatch*, January 3, 1881, 8, 7, February 15, 1881, 8.

42. *Kansas City Mail*, September 27, 1878, 1–2, 4.

43. Ibid.

44. *St. Louis Globe-Democrat*, December 29, 1878, 3.

45. Ibid.

46. *St. Louis Post and Dispatch*, January 11, 1879, 5; *St. Louis Post-Dispatch*, April 23, 1888, 3.

47. Green v. Corrigan, 630; Green v. Corrigan, Missouri State Archives.

48. Green v. Corrigan, 630, 631.

49. Ibid.

50. Ibid., 631.

51. Ibid., 632.

52. David Cutler and Grant Miller, "Water, Water Everywhere: Municipal Finance and Water Supply in American Cities," in Glaeser and Goldin, *Corruption and Reform*, 182.

53. Johnson, *A History of Kentucky and Kentuckians*, 1687–89.