

No. 11902

Supreme Court of Illinois

Smith, et al

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vs.

Sackett, et al

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71641  7

No. 7.

Benjamin Smith et al.  
vs  
Simon Sackett et al.

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11902

1849

State of Illinois, Oct.

The people of the State of Illinois,

To the Clerk of the circuit court for the county of *Winnebago* Greeting :

BECAUSE in the record and proceedings, as also in the rendition of the *Decree* & judgment of a plea which was in the Circuit Court of *Winnebago*— county, before the Judge thereof, between *Margaret Ellenthrop & Levi Ellenthrop* by the said *Margaret Ellenthrop* his next friend *Complainants*—

*Benjamin Sackett, Erastus P. Ellenthrop, Horace Miller, Garden C. Miller & Ariam Waterman* —  
plaintiff and *Benjamin Sackett,*

defendants it is said manifest error hath intervened to the injury of the aforesaid *Complainants* of *Benjamin Smith*, with whom the said *Margaret Ellenthrop* had intermarried since the making of the *Decree* in the said case, of the said *Margaret*, now *Clayton* as we are informed by the complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the county of La Salle, on the *second Monday of June* — next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

WITNESS, the Hon. *Samuel A. Vest*  
Chief Justice of our said Court, and the seal thereof at Ottawa, this *28<sup>th</sup>* day of *February* — in the year of our Lord one thousand eight hundred and forty-*nine*.

*A.eland*  
Clerk of the Supreme Court.

[11902-3]

*W. Smith & of the said Levi Ellenthrop by the said Benjamin Smith his next friend*

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Supreme Court  
Benjamin Smith et al.  
vs  
Simmons Sackett et al.

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Writ of Error

To June Term 1849.

A. Simon and J. H. Reed and Proceedings of the  
Court of District Prosecutors in certain writs and  
County of New York  
Circuit in the County of Otsego  
in the Year 1848  
in the Court of  
Chief Justice of our said Court and the  
County of Otsego  
in the County of Otsego  
in the County of Otsego

W. R. Phelps Esq. Clerk of the Court  
County of Otsego  
Dated at Otsego the 5th day of  
June 1849

Judge of the Supreme Court  
the Judge of the District Court  
RECEIVED in the record and proceedings as also in the rendition of the  
County of Otsego

State of New York  
County of Otsego

APR 20 1849 - 1849

United States of America  
State of Illinois  
Wernwicks County

3  
3

Plas began  
and held on the Thirtieth day of October in  
the Year of Our Lord one thousand Eight  
hundred and Forty Eight at the Court House  
in Rockford in said County. The same being  
a Special Term of the Circuit Court of said  
County called by an order filed in said Court  
on the 18<sup>th</sup> day of September A.D. 1848. & made by  
the Hon. Jere B. Thomas one of the Associate  
Justices of the Supreme Court of the State of Illinois  
and presiding Judge of the 7<sup>th</sup> Judicial  
Circuit of on the thirteenth day of September  
A.D. 1848.

Present Hon Jere B Thomas  
Judge

Attest  
Charles W. Spafford Clerk  
William A. Bondurant  
States Attorney  
Hiram R. Maynard  
Shiriff

Be it remembered that untofor to wit on the 22<sup>d</sup>  
day of May A.D. 1846 Maryant Moulthrop &  
Levi Moulthrop filed their Certain Bill in Chancery  
in the Clerk's Office of said Circuit Court, against  
Simmons Sackett Benjamin Sackett, Erastus  
P. Moulthrop & Horace Miller.

Which said Bill is in the words and  
figures following to wit

In the Winnebago County Circuit Court.

In Chancery

To the Honorable Thomas C. Brown, one of the Justices of the Supreme Court of the State of Illinois, and Judge of the Circuit Court for the County of Winnebago

Complaining Margaret Mouthrop of Rockford in the County of Winnebago Widow of Levi Mouthrop late of Winnebago precinct in said County of physician, deceased, and Levi Mouthrop son of the said Margaret, and infant under the age of twenty one years, that is to say of the age of five years, by the said Margaret Mouthrop his next friend, respectfully states that for several years previous to the twenty fourth day of October, one thousand eight hundred and thirty nine, the said Levi Mouthrop, deceased was in possession of the following lands lying in said County of Winnebago to wit

E $\frac{1}{2}$ of L $\frac{1}{4}$ of 14, T 43, N. R. 1. E. 3 p m	78.65. a.
W $\frac{1}{2}$ S. E $\frac{1}{4}$ of 14, T 43 N " " " " " "	78.65. a.
E $\frac{1}{2}$ of W $\frac{1}{2}$ of 14, T 43 N " " " " " "	78.65. a.

$E\frac{1}{2}$ $W\frac{1}{2}$ $S. W\frac{1}{4}$ $S. 14. T. 43$ $N. R. 1. E. 3^d$ $P. M.$	39.32.0
$W\frac{1}{2}$ $N. E. \frac{1}{4}$ $S. 19. T. 43$ $N. R. 2. E. P. M.$	80. 0
Undivided $\frac{1}{2}$ $E\frac{1}{2}$ $S. E. \frac{1}{4}$ $S. 20 T. 43, N. R. 2, E. P. M.$	20 0
$23\frac{3}{4}$ $A. pt$ $N. W. \frac{1}{4}$ $S. 14. T. 43. N. R. 1. E. P. M.$	25.75 0
	<hr/> 419.02.0

which lands are described in words at length in the annexed schedule marked A. And these Complainants further state, that the said lands were sold by the Government of the United States at a public Land Sale at Salinas in the County of San Diego on or about the said twenty fourth day of October in the Year of our Lord One thousand eight hundred and thirty nine, and that up to the time of the said sale, the said Levi Monthrop deceased had improvements on the said lands to the value of One thousand dollars and more, and had a preemptive right to a quarter section thereof. And these Complainants further state, that the said Levi Monthrop deceased during all the time he so held the said lands and while he made the said improvements thereon proposed and intended to acquire the title to the same for his own use, when said lands should be sold by the Government. And these Complainants further state, that the proclamation of the said sale was known to him and in the neighborhood only about six weeks previous to the said sale, and it was necessary for him to raise the money by him to pay the amount for the said lands,

usually bid at land sales, being one dollar and twenty five cents per acre estimated at \$530 (five hundred and thirty dollars) which it would have been if the quarter sections had been full. And these Compliments further state that there was then much sickness in the country and within the Circle of friends of the said Levi Mouthrop deceased, and he could not consistently with his duty absent himself at that time, and that therefore he commissioned Erastus P. Mouthrop whose residence is now in Brown to these Compliments (a defendant hereto) his Cousin, to go to Connecticut where he had formerly resided, to borrow said sum of money and so much more as should be necessary to bear his expenses back on account of the said Levi Mouthrop deceased, and the said Levi advanced to him the necessary money to bear his expenses thither.

And the said Compliments further state that the said Erastus P. Mouthrop accordingly took his departure for the State of Connecticut for the ostensible purpose of borrowing the said money for the said Levi Mouthrop deceased; yet instead thereof, and in violation ~~thereof~~ of his duty in that behalf, the said Erastus P. Mouthrop, after disclosing the purpose of his said mission to Benjamin Sackell, then and still of Waver in said State of Connecticut (a defendant hereto), his brother in law, entered

into a negotiation and combination with the  
said Benjamin Sackett to secure to the said  
Erustus P. Mouthrop some share of the benefit  
to be derived from the said ~~lands~~ <sup>land</sup> from the  
<sup>a said loan & the purchase of the said lands from the</sup>  
Government. And these Compliments  
further state that it was then and there  
arranged and agreed, by and between the  
said Benjamin Sackett, and Erustus, P.  
Mouthrop, that the said Benjamin Sackett  
should advance the necessary sum of money  
to buy said lands at the lowest Government  
price and that the legal title to the said  
lands should be holden as security for the  
repayment thereof with interest, and that  
the said Erustus P. Mouthrop should participate  
with the said Levi Mouthrop deceased in the  
benefit to be derived from the said purchase.  
And these Compliments further state, that  
Dominicus Sackett then and still of Campfield  
in the County of Trumbull and State of Ohio  
(also a defendant hereto) a brother of the  
said Benjamin Sackett happened to be at  
that time on a visit to him at Warner  
aforesaid; and the said Benjamin Sackett  
then and there proposed that the said  
Dominicus Sackett should after returning home  
accompany the said Erustus P. Mouthrop to  
the residence of the said Levi Mouthrop deceased,  
in the precinct of Richwood in the County  
of Wm. Waynes aforesaid, and should attend  
the said Land sale, and see that the business



of bidding off and entering the said lands  
was properly conducted, assigning as a  
reason that the said Simmons Sackett was  
well acquainted with and well understood  
land operations, and could be confided in  
to conduct the said business correctly.  
And these Complainants further state that  
the said Benjamin Sackett then and  
there further proposed that the said Sim-  
mons Sackett should bid off the said lands  
in his own name, and should hold the legal  
title to the same in trust to secure to the said  
Benjamin Sackett the repayment of the  
said money necessary to enter the said lands,  
which was estimated at \$530, (five hundred  
and thirty dollars, and would have amounted  
to that sum but for only a few cents, had  
the subdivision of the said lands been full meas-  
ure; and in trust also to secure the said  
Benjamin Sackett the payment of the  
further sum of \$120. (one hundred and twenty  
dollars) in the name and under color of a  
compensation to the said Simmons Sackett  
for his expenses, time and trouble in attending  
the said sale and conducting the said business;  
making in all the sum of \$650. (six hundred  
and fifty dollars); and in trust also to  
convey the said lands to the said Sen. Matthias  
now deceased and Ernestus P. Louthrop, their  
heirs and assigns, when the payment of the  
said sum of \$650. (six hundred and fifty dollars)

and interest thereon at the rate of six per cent  
per annum should be obtained.

And these Complainers further state  
that the said propositions of the said  
Benjamin Sackett were then and there  
accepted to by the said Crustus P. Moulthrop  
and Simmons Sackett. And that thereupon  
the said Benjamin Sackett placed in the  
hands of the said Simmons, the sum of \$530.  
(five hundred and thirty dollars) to pay for  
the said lands according to the said  
arrangements and agreement.

And these Complainers further state  
that the said Simmons Sackett returned  
to his home in Ohio aforesaid and there  
accompanied the said Crustus P. Moulthrop  
to the residence of the said Levi Moulthrop  
deceased in the County of Wm. Bayo aforesaid  
where they arrived only three days previous  
to the said Land Sale at Galena; and  
that thereupon the said Crustus and Simmons  
informed the said Levi Moulthrop deceased  
that upon such terms as aforesaid, and  
no other, he could have the benefit of the  
said loan?

And these Complainers further  
state that the said Levi Moulthrop deceased  
was unwilling to accede to such terms, but  
was unable within the short time to the said  
Sale to obtain the necessary money to pay  
for the said lands from any other source

And was forced to comply with said terms,  
And these complainants further state, that  
the said Simmons Sackett and Levi Moulthrop  
attended the said land sale; and the said  
Simmons Sackett bid off the said lands, and  
took the Recivers receipt therefor in his own name  
except the said tract of twenty three and three  
quarters acres, and the said undivided half  
of Eighty acres. And that the said tract  
of twenty three and three quarters acres, being  
part of a ~~divided~~ fractional division of land  
was bid off by another person, and the price  
thereof paid out of money loaned as aforesaid  
and the same tract was immediately conveyed  
by that person to the said Simmons Sackett,  
And that the said undivided half quarter  
section of land had been occupied by the said  
Levi Moulthrop deceased, and one Parley J. Shumway,  
jointly, and it was agreed by them and the said  
Simmons Sackett that half the purchase money  
for the said half quarter section should be  
advanced by the said Parley J. Shumway,  
that it should be bid off by the said Simmons  
Sackett, and that he should convey an undi-  
-vided half thereof to the said Parley J. Shumway  
free of incumbrance. And these complainants  
further state, that the same was accordingly  
bid off by the said Simmons Sackett, but  
that instead of putting out the recivers  
receipt for the said half quarter section of land  
to the said Simmons, a mistake occurred in the

description thereof, so that the said receipt did not describe any land in witness; which led to a mischief hereafter detailed; And these Complainants further state, that the sum advanced for the said lands by the said Simmons Sackett out of the moneys advanced by Benjamin Sackett & as aforesaid was \$ 523.77 (five hundred and twenty three dollars and seventy seven cents) less by \$ 126.23 (one hundred twenty six dollars and twenty three cents) leaves the aforesaid sum of \$ 650. which was to be secured on the said land to the said Benjamin Sackett as aforesaid, And these Complainants further state, that upon his return from the said Land Sale the said Simmons Sackett began to contend that the said that the said sum of \$ 126.23 was not sufficient to compensate for his time trouble and expenses in travelling and attending to the said business; And claimed a further allowance of \$ 30. (thirty dollars) which claim was finally acquiesced in by the said Levi Montthrop deceased, for the reason, that he supposed himself in the power of the said Simmons Sackett, as to the title to the said Lands, And these Complainants further state that thereupon a contract in writing was entered into by the said Simmons Sackett of the one part, and the said Levi Montthrop deceased and Erastus P. Montthrop, of the other part, bearing date the thirteenth day of October

in the year of our Lord one thousand, Eight hundred and forty two, whereby the said Levi Mouthrop deceased and Enustus Mouthrop covenanted and bound themselves to pay to the said Benjamin Sackett the said sum of \$650. (Six hundred and fifty dollars) with interest at the rate of six per cent per annum, within two years from the said date; and further to pay to the said Simmons Sackett the said sum of Thirty dollars, with like interest, within the same time; and these said Simmons Sackett on his part by the said Contract covenanted and bound himself to convey the said lands in this bill first above described, to the said Levi Mouthrop now deceased and Enustus Mouthrop, upon the said monies being paid as aforesaid.

And these Compliments further state that the said Contract was executed in two parts, one of which was kept by the said Levi Mouthrop deceased and the other by the said Simmons Sackett.

And these Compliments further state, that subsequently to the said Contract the said Levi Mouthrop was married to the said Compliment Margaret Mouthrop, and in a few months thereafter departed this life on the twelfth day of September in the year of our Lord one thousand Eight hundred and forty, leaving the said Margaret his widow, and no child or children, and that

afterwards was born of the said Murrings  
the said Compliments Veri Mouthrop sole  
heir of the said deceased, And these  
Compliments further state that at the time  
of the decease of her said husband the said  
Margaret was a minor of about the age of  
seventeen years and was not only unacquain-  
-ted with business, but the sudden prostration  
of her hopes and prospects for the future,  
which were bright, and the severing of the  
ties of affection by the death of her husband  
were too much at that tender age for her  
fortitude? that her health gave way, and  
she was sick and despondent for more than  
a year or thereabouts? and that  
in consequence thereof, the said Erastus P.  
Mouthrop possessed himself of most of  
the personal property which had been of  
her said husband, and of his books  
and papers, and among which the rest the  
said Contract, with Divinus Sackett, under  
pretence of settling up the affairs of the said  
Estate. And these Compliments further  
state, that the said Erastus P. Mouthrop  
conducted himself in relation thereto,  
wasted the said property and the effects  
of the said Estate, and wholly declined  
paying up any part of the said Monies  
Covenanted to be paid to the said Divinus  
Sackett and Benjamin Sackett as aforesaid  
and these Compliments further state,

that the said Crustus P. Mouthrop left this State in the month of June of the next Year one thousand eight hundred and forty one; that he engaged himself in the service of the said Benjamin Sackett as a laborer, on his farm at Warren aforesaid in Connecticut aforesaid, and was in such service at the time the money became due according to the said Contract.

And these Complainants charge that the said Benjamin Sackett and Simmons Sackett at that time had knowledge of and were advised of the said irregularities and delinquencies of the said Crustus P. Mouthrop in regard to the said estate. And these Complainants further state that the approach of the day of payment for the said monies mentioned in the said Contract without provision being made for such payment, was a source of great anxiety and annoyance to the said Margaret Mouthrop, in her then low state of health, and for that reason, and fearing that proceedings at law or in equity might be taken in relation to the said land, and that such disturbances might be fatal to the life of said Margaret, Ann George, mother of the said Margaret (a defendant hereto) undertook to negotiate with the said Benjamin Sackett for an extension of the time of payment

of the money mentioned in the said Contract  
the said Margaret Moulthrop being then still  
a minor. And these Compliments further  
state that for such purpose the said Ann George  
in the month of September in the year of Our Lord  
One thousand Eight hundred and forty one,  
and shortly before the said money became due,  
travell'd to Connecticut aforesaid, and call'd  
on the said Benjamin Sackett at his residence  
in Warren aforesaid. And these Compliments  
further state that upon such negotiations the  
said Ann George offer'd to pay the said  
Benjamin Sackett the sum of \$176.00 (One hundred  
and seventy dollars) of the said money on  
condition that he would wait two years for the  
residue, which he declin'd on account as he  
alleg'd of the inconvenience of breacking the  
entirety of the said Contract, relating to the same.  
And these Compliments further state, that the  
said Benjamin Sackett on that occasion  
declin'd that he had an objection to wait  
the said two years for the said money: but  
that an arrangement to that effect required  
the consent of his said brother Simmons  
Sackett in Ohio, and that he advis'd the  
said Ann George to apply to him for that  
purpose. And these Compliments further  
state that, he offer'd to write a letter on  
the subject for her to carry to the said Simmons  
Sackett, but would not let her see the contents  
thereof: which the said Ann George declin'd.



assuring the said Benjamin Sackett, that she would not carry any such letter without knowing its contents, because she feared that it might defeat her purpose.

And these Compliments further state, that the said Ann George then proposed to him that he should accompany her to Ohio to make the said arrangement; to which the said Benjamin Sackett answered, that he had brothers and sisters in Ohio, with families whom he wished to visit, some of whom he had not seen for several years, and it would be very agreeable for him to go, but he could not afford to pay his expenses, and that he would not agree to go at all until he had consulted his friends on the subject, and these Compliments further state, that the next day, the said Benjamin Sackett made to the said Ann George the following offer, that is to say, that if she would pay him one hundred dollars down, would apply fifty two dollars thereof to the payment of four per cent per annum on the said sum of six hundred and fifty dollars mentioned in the said contract, in addition to the interest thereon which would have accrued on the same by virtue of the said contract when the same should fall due, and would allow forty eight dollars, the residue of the said one hundred dollars for his time and expenses; and would furthermore, agree

to pay ten per cent per annum on the said  
sum of six hundred and fifty dollars for  
two years more, legal interest in the said  
State of Connecticut being six per cent, he  
would go with her to Ohio, and would  
endeavor to induce the said Benjamin  
Sackett to make an arrangement by which  
two years longer might be given May as  
the said money and interest, and have  
the legal title to the lands herein before  
described conveyed for the benefit of the said  
Complainants, and these Complainants  
further state, that the said Ann George  
acquiesced to the said proposition, and ac-  
cordingly paid down the said sum of one  
hundred dollars to the said Benjamin  
Sackett; and these Complainants further  
state, that she then asked him for a receipt  
for the said money, in order to show that she  
had laid out the same for the benefit of  
these Complainants; that the said Benjamin  
Sackett acknowledged the propriety of her  
taking such receipt, but declined giving it,  
on the ground that it would show that the  
receiving of the said sum of fifty two dollars  
was usurious and unlawful; and that for  
that reason he gave to the said Ann George  
a receipt for the said sum of one hundred  
dollars, specifying the same to be for his  
expenses and time in making the said  
journey to Ohio, and these Complainants

further state, that the said Emesto, P. Mountthrop was at the house of and in the service of the said Benjamin Sackett at the time of the said negotiations, and was well aware thereof and that he there without the knowledge of or consent of the said Ann George, delivered up the said Contract, of which he had possessed himself as herein before stated, to the said Benjamin Sackett. And these Compliments further state, that the said Benjamin Sackett, according to the said arrangement accompanied the said Ann George to the residence of the said Simmons Sackett at Campfield in the State of Ohio, and that on their arrival there, it was proposed by them to the said Simmons Sackett that two years more should be allowed to raise the money due the said Benjamin Sackett and the said Simmons Sackett, by virtue of the Contract aforesaid, to which the said Simmons Sackett expressed himself willing to accede. And these Compliments further state, that although willing for such extension of payment, the said Simmons Sackett nevertheless objected and refused to make the necessary arrangements therefor, unless the said Ann George would defray his expenses in travelling to the County of Wm. Wayne, aforesaid, and would pay him for his time in making such

journey, for the purpose as he alleged of  
getting a certain judgment against him  
in the Circuit Court for the County of Warrington  
aforesaid, in favor of one Percy J. Phinney,  
and would pay the costs and expenses of  
said judgment, which judgment and  
suit to obtain the same grew out of the  
mistake at the Land Office hereinbefore  
mentioned, and was recovered in the manner  
herein before stated, and these  
Complainants further state, that upon the  
said negotiation in this behalf, notwithstanding  
- doing he had received the said sum of  
one hundred dollars as aforesaid, and  
the agreement of the said Am. George to  
pay to the amount of ten per cent interest  
upon the said money mentioned in the  
aforesaid contract, on account of and for  
the benefit of these Complainants, the said  
Benjamin Sackitt concluded and instigated  
that the said Ernestus P. Mouthrop should  
have an equal share of benefit from the  
said lands, and the said extension of  
the time of payment with these Complainants;  
to which the said Benjamin Sackitt refused  
to accede, alleging as a reason therefore, that  
it was a fraud upon the said Levi Mouthrop  
contrived by the said Benjamin Sackitt  
and his wife, being sister of the said Ernestus  
P. Mouthrop, that the name of the said  
Ernestus P. Mouthrop was ever procured to be

inserted in the said contract originally?  
and these Compliments charge the fact *Idr*  
And these Compliments further state, that  
the said Ernest P. Mouthrop at that time  
had no prospect of being able to pay up  
any share of the money due by the said  
Contract; which was well known to the said  
Benjamin Sackett that the said Ernest P.  
Mouthrop acknowledged to the said Am  
George, when at Warren as aforesaid that he  
had no prospect of being able to pay his  
share of the said money; and that he  
was willing that the whole benefit of  
any arrangement which the said Am  
George might make in regard to the lands  
aforesaid might inure solely to the benefit  
of these Compliments. And these Com-  
pliments further state, that the said  
Ernest P. Mouthrop at the said time gave  
up the said Contract, of which he had  
posseped himself as aforesaid, to be  
cancelled; and thereby renounced any  
benefit which he might be entitled to  
from the same. And these Compliments  
further state the said aforesaid originated  
and the judgment therein was recovered  
in manner following, that is to say, at the  
time the said Sumners Sackett bid off the  
East half of the South east quarter of Section  
twenty, in Township forty three of Range two  
east of the third principal meridian, at the

land sale aforesaid, the undivided half thereof for the benefit of the said Percy J. Shumway, the said Summons Sackett being unable to give an unnumbered title thereto for the reason that his wife was absent in Ohio, and could not then join in a deed of conveyance thereof to release her right of dower at common law, therefore gave the said Percy J. Shumway his bond in the penal sum of Five Hundred Dollars bearing date 13 October 1839, conditioned to convey the said undivided half of the said Quarter Section to the said Percy J. Shumway within six months from the date of said bond? the said mistake in the receipt for the said half Quarter Section not being discovered, and these Complainants further state that the said mistake was discovered by the said Summons Sackett, soon after he had returned home to Ohio after the said land sale? and in consequence thereof he did not make the said deed to the said Percy J. Shumway within the time specified therein in the said bond, and the said mistake was rectified at the proper land office at the instance of the said Summons Sackett, in or about the month of February in the year of our Lord one thousand eight hundred and forty one, but he still neglected to make the said deed until after the thirty first day of May of the same year? or

which deny the said Peely. J. Shumway  
sued out a writ of Attachment on said bonds  
from the Circuit Court for the County of Wm-  
-rebugo aforesaid, against the said Simmons  
Sackett, and by virtue of that writ levied  
upon and attached the South east quarter  
of Section fourteen of Township forty three of  
Range one east of the third principal  
Meridian; and also the north half of the  
West half of the north East quarter of Section  
Nineteen in Township forty three of Range  
two east of the same Meridian; the said  
lands so attached being part of the same  
lands first above described, and which  
the said Simmons Sackett held in trust  
as aforesaid. And these Complainers  
further State; that the said Simmons Sackett  
paid no attention to making the said  
deed to Peely J. Shumway until after  
August Term of the said Court in the same  
Year when the said Peely J. Shumway recov-  
-ered a judgment against him for four  
hundred and Eighty Dollars Damages and  
Nineteen Dollars and Nineteen Cents costs,  
to be made out of the said lands attached  
as aforesaid, and the said Judgment  
became a lien thereon at common law;  
and the said Simmons Sackett was in  
equity bound to cause the same to be removed,  
and these Complainers further State that the  
whole object of the said Peely J. Shumway in  
obtaining the said Judgment, was to induce

the said Summons Packett to convey  
thine the lands mentioned in the  
said bond, according to the conditions  
thereof? And that he was willing to  
revoke the said judgment, on receiving  
such conveyance and being paid  
the costs and expenses of obtaining the same  
judgment. And these Compliments  
further state, that upon the said Summons  
Packett insisting as hereinbefore stated,  
that he would come in person to the County  
of Warrington aforesaid, to settle the said  
judgment, that the said Ann George  
should pay him for his time and expenses  
of travel and the costs and expenses of  
the said suit. She remonstrated with him  
against the absurdity of such demand,  
and assured him that the only design  
of the said Pearly of Shumway was to get his  
title, as aforesaid, and that the said  
business would be equally well settled  
without his presence as with it. And  
these Compliments further state, that the  
said Summons Packett did not nor would  
not hearken to such remonstrance, but still  
insisted upon accompanying the said  
Ann George as aforesaid, and upon the  
terms aforesaid, and that she was finally  
obliged to assent thereto: And these Com-  
pliments further state, that the said Summons  
Packett accordingly came; and that upon



his arrival at Wethersfield in said County, where the said Peary of Shumway resided, the said matter was readily settled by the said Simmons & Sackett, making a deed of conveyance to the said Peary of Shumway, according to the conditions of the said bond in that behalf, paying the aforesaid taxed costs of the said suit, and the sum of twenty dollars as a counsel fee, for the recovery of the said judgment, and these Compliments further state, that thereupon the said Simmons & Sackett set up claim to the following sums of money and insisted that they should be added to the sum charged upon the Deeds aforesaid by reason of the aforesaid loan of money and the Contract in that behalf, as a condition of his making an arrangement for an extension of the time of payment thereof? that is to say

The said Counsel fee twenty dollars	\$ 20.00
Costs of the said Suit Nineteen <sup>3</sup> / <sub>4</sub> dollars	19.37 <sup>1</sup> / <sub>4</sub>
For his Counsel in Danball this two dollars	2.00
Expense of deed to Peary of Shumway fifty Cents	.50
For other deeds one dollar	1.00
Postage on Letters Four <sup>2</sup> / <sub>10</sub> dollars	4.50
Expenses of travelling from Canfield this to Wethersfield aforesaid	34.12 <sup>2</sup> / <sub>10</sub>
Expenses of return to Canfield the like sum	34.12 <sup>2</sup> / <sub>10</sub>
For his time and trouble in the matter sixteen dollars	16.00
For his Tavern bill at Wethersfield <sup>62</sup> / <sub>100</sub>	.62 <sup>2</sup> / <sub>100</sub>
Amounting in the whole to one hundred and thirty two <sup>2</sup> / <sub>100</sub> dollars	\$ 132.19

And these Complainers further state; that  
the said Ann George acquiesced in the  
said claim and with her Counsel urged  
the said Simmons Sackett to enter into an  
agreement, so as to continue in force the said  
contract between him and the said Levi  
Moulthrop deceased, and Ernest Moulthrop  
for the conveyance of the said Lands, making  
no other Change therein, than extending the  
time of payment of the money mentioned  
therein, and omitting the said Ernest P.  
Moulthrop. And these Complainers further  
state, that the said Simmons Sackett  
wholly refused to enter into such agreement  
or to do any thing about it; until he  
should have consulted his Counsel in Ohio,  
alleging as a reason therefor that he  
was ignorant of law and of business,  
and had promised that he would consult  
in Ohio upon whom he could rely; and he  
promised that he would send such a  
writing as he should be advised by his  
said Counsel to make in that behalf.  
And these Complainers further state,  
that on the occasion of his visit aforesaid  
the said Simmons Sackett expressed him-  
self highly gratified with the liberality  
of the said Ann George towards him, that  
his conduct was kind and friendly towards  
these Complainers; that he expressed  
great sympathy for the said Margaret Moulthrop.

on account of her low state of health and  
unhappy circumstances: and assured her that  
he would give her the said interest of two  
years for payment; and if necessary other two  
years, and still other two years; that he would  
never take advantage of any latches to deprive  
her of her home on the said premises, and  
that all he wished out of them was the money  
due; And these Compliments further state,  
that they have reason to believe, and do believe,  
that the said Simmons Sackett would have  
conducted himself in accordance with his said  
assurances, had it not been for the intermed-  
-dling of interference and ill offices of Peraco  
Miles of the precinct of Northampton aforesaid  
in the said County of Winnebago (a defendant  
herein after named) who has long coveted  
the said lands, and endeavored to prevent  
the redemption thereof on the part of these  
Complainants. And this Complainant Margaret  
Moulthrop for herself, says, that had she  
so conducted herself, she would have been  
far from willing to annul or break up any  
of the arrangements aforesaid with regard  
to amount of money, although she is advised  
that they are such as could not be allowed  
in a court of equity; And these Compliments  
further state; that upon the return of the  
said Simmons Sackett to his home in Ohio,  
he by the advice of his Counsel, executed and  
sent to the said Ann Perry an agreement in

writing under his hand and seal, bearing  
date the first day of November one thousand  
eight hundred and forty one, by which  
according to the terms and purport thereof,  
the said Simmons Packett agreed to sell  
to the said Ann George in fee the said lands  
described in his aforesaid Contract, upon  
conditions that the said Ann George, her  
heirs or assigns, should on or before the first  
day of November in the year one thousand  
eight hundred and forty three, pay to him  
or to his representatives, the sum of eight  
hundred and ninety seven dollars with  
interest, at the rate of six per cent, subject  
to any equity between the said Simmons Packett  
and the heirs of the said Ven Mounthrop dec'd.,  
by virtue of the Contract aforesaid.  
And these Compliments further state, that  
it was against the wishes of the said Ann  
George to have her name inserted in any such  
agreement, or to be a party thereto, and that  
such fact was well known to the said  
Simmons Packett; that she was dissatisfied  
with the said agreement on that account,  
and submitted to the same to her Counsel  
who intimated that it was improper, but  
advised her that it would do, because it  
gave an extension of the time of payment,  
which was the object in view, and that the  
said Ann George acquiesced, because she could  
not get any Contract in that behalf satisfactory.

And these Compliments further state, that the said sum of \$897.00 (Eight hundred and ninety seven dollars), mentioned in the said Contract to Ann George, is composed of the following items. To-wit.

Six hundred and Eighty dollars mentioned in the said Contract to Levi and Ematus Mouthrop  $\$680.00$   
and interest thereon up to the said first day of November 1841, being Eight three  $\frac{66}{100}$  dollars  $83.66$

The aforesaid sum of One hundred and thirty two  $\frac{9}{100}$  dollars by the said Ann George, allowed to the said Lemmons Duckett.  $132.19$

and one  $\frac{15}{100}$  dollars for the drawing of the said Contract  $1.15$   
 $\$897.00$

And these Compliments further state, that the said Margaret Mouthrop kept and maintained the possession of the said lands and premises, and resided thereon by her self or tenants, from the decease of her said husband Levi Mouthrop, until the time of the filing of this bill of Complaint and these Compliments further state, that the said Margaret Mouthrop, attained her majority, about the time of the expiration of the said two years specified in the said Contract to Ann George? and that because she could then act for herself.

in the premises, thereafter the said Ann  
George did not act or interfere in regard  
to the above said Contracts or property, but  
left the same wholly to the management  
of the said Margaret Morethrop,  
And these Compliments further state, that  
the said Margaret Morethrop made  
diverse attempts to raise <sup>out</sup> of the said Lands  
the sum and interest therein mentioned  
in the said writing to Ann George, with the  
concurrence of the said Simmons Sackett,  
for the purpose of paying the same to him,  
to remove his liens from the said lands,  
so as to secure to these Compliments to a  
great extent, the benefit of their respective  
rights therein, but was unable to effect  
any arrangements for such purpose until  
about the month of January in the year of  
our Lord One thousand eight hundred and  
forty six. And these Compliments further  
state, that shortly previous to that time, the  
said Simmons Sackett offered to sell  
the legal right to the aforesaid lands to one  
Miles; and it was thereupon arranged and  
agreed between them that the said Miles  
should convey to the said Simmons Sackett  
certain lands in the State of Ohio, to enable  
him to raise thereon the sum he claimed  
out of the aforesaid lands sought by this bill,  
and that in consideration thereof, the said  
Simmons Sackett should make a deed of

Conveyance time of the lands herein before  
described, and that the said lands in this  
were sufficient for that purpose.  
And these Compliments further state, that  
the said Miles, previous to carrying the said  
arrangement into effect came to examine  
the said lands, and to learn the state of  
the title thereto, and having estimated  
the value thereof, and been informed of the  
rights therein of these Compliments, he was  
willing to abide the terms of his said agreement  
with Simmons Sackett, and to accept from  
him an undivided half of said lands,  
for freeing the same from the lien of the  
said Simmons Sackett, thereon, and that these  
Compliments should have the other undivided  
half thereof for their interest in the same.  
And these Compliments further state, that  
an agreement was accordingly entered into  
to that effect, between the said Margaret Northrup  
acting on behalf of these Compliments, and  
the said Miles: and that the said Miles  
and the said Simmons Sackett, were  
willing to carry the said arrangements  
and agreements into effect, and would  
have done so, had not the said arrangements  
been broken up by the management and  
intervention of the said Horace Miller, and  
his fraudulent and unlawful continuance  
to purchase the legal title to said lands  
upon speculation?

and these Compliments further state,  
that the failure of the aforesaid endeavors  
made by the said Margaret Montthrop  
to raise the said money, claimed by  
Sammons Sackett as aforesaid, was  
caused by the secret, improper and  
fraudulent conduct of Horace Miller aforesaid.  
And these Compliments further state, that  
shortly after the time of payment mentioned  
in the said Contract to Ann Perry, the  
said Horace Miller in order the better to  
enable him to circumvent, and thwart  
the said Margaret Montthrop in her en-  
deavors to raise the sum of money claimed  
by Sammons Sackett as aforesaid, entered  
into a correspondence with him, and  
proposed to aid him and the said Margaret  
Montthrop in carrying out of the said lands  
the said sum, and in disposing of the said  
lands for the benefit of these Compliments  
after satisfying thereout the said sum  
of money, and obtained the consent of  
Sammons Sackett to act as his agent in  
that behalf, and did from that time  
forward, according to appearance and  
pretence, act as such agent, and in several  
instances pretended and professed to be  
assisting the said Margaret Montthrop  
to dispose of the said lands, so as to satisfy  
thereout the said claim of Sammons Sackett  
and secure several hundred dollars over



and above the amounts of the said claim  
for the benefit of these Compliments,  
And these Compliments further state,  
that in assuming such assumed agency,  
the said Horace Miller did not act in  
truth and in earnest, but instead thereof  
endeavored to thwart, and by sinister  
and unskilful management did thwart  
and frustrate the said Margaret Mouthrop  
in all her said endeavors to raise the said  
Money, and prevented her from raising  
the same, or arranging the said claim  
of Simmons Sackett which she otherwise could  
and would have done, and that the said  
Horace Miller so conducted for the purpose  
of preventing her from redeeming the said  
lands until he <sup>could</sup> raise sufficient money, or  
other means to purchase of the said  
Simmons Sackett the legal title to the  
said lands on speculation, hoping by  
reason of his supposed greater pecuniary  
ability, to carry on or defend suits in  
equity, to worry out and defraud these  
compliments of their rights in the said  
lands, or to procure the compromise thereof  
for some small or trifling sum.  
And these Compliments further state, that  
during the time the said Horace Miller  
pretended to act as agent, as aforesaid,  
he frequently wrote to the said Simmons  
Sackett, and in such letters, and otherwise

misrepresented to him the conduct and intentions of the said Margaret Mountthrop in the premises, and the value of the said lands, and endeavored to persuade him that the said Margaret Mountthrop could not raise the sum of money claimed by him Simmons Sackett as aforesaid, and had no intention to do so, and that the same could not be raised for the benefit of these Compliments. And these Compliments further state that when the said Horace Miller ascertained that the said arrangement between the said Miles, Simmons Sackett and Margaret Mountthrop had been made and was likely to be carried into effect he the said Horace Miller in order to prevent and interrupt the same, offered to pay to the said Simmons Sackett the sum of one thousand two hundred dollars or thereabouts, about sixty dollars more than the amount of the said Contract to Ann George, for the legal title to the said lands, and that in consequence of such offer, the said Simmons Sackett refused to carry into effect the arrangements aforesaid, and afterwards executed a deed, dated the first day of March in the year of our Lord one thousand and forty six together with his wife, purporting in consideration

of one thousand two hundred dollars  
to Benjamin Sell and release to the said  
Horace Miller, his heirs and assigns  
the Lands herewith<sup>before</sup> described and  
bought by this bill, without covenant  
for the title thereof; and on the twenty  
first day of the same month of March  
in the same year acknowledged the  
said deed before a Magistrate in the  
State of Ohio, but that the said deed was  
not then or previously delivered to the said  
Horace Miller, because he had not <sup>then</sup> paid  
the said consideration money, and that  
some special agreement was entered into  
between the said Horace Miller and  
Simmons Sackett, that the said Horace  
Miller should have the said deed  
when he should pay or secure the pay-  
ment of the said consideration money,  
if he should do so. And these complainants  
further state, that the said Horace Miller  
did not disclose to the said Margaret  
Miller Mountthrop his transactions and  
negotiations aforesaid with regard to  
purchasing the legal title to the said lands  
but concealed the same from her so that  
she was unable to obtain any certain  
knowledge thereof; and that if she had  
known the same she would have raised  
the said sum of one thousand two  
hundred dollars, and paid the same

to the said Simmons Sackett, although it might not require a large and under other circumstances unreasonable sacrifice of the rights of these Complainants in the premises, and these Complainants further state, that on or about the fifteenth day of May in the year of our Lord one thousand eight hundred and forty six the said Margaret Moulthrop entered into a negotiation with one Adam Keith who then had in his hands seven thousand dollars in ready money, of which the said James Miller was aware, to go into possession of the said lands, and to pay the said sum of one thousand two hundred dollars to the said Simmons Sackett in order to redeem the said lands, and defeat any machinations in which the said James Miller might be engaged in regard to the same, and that the said Adam Keith, on the eighteenth day of the same month, received from the said Margaret Moulthrop a lease of the said lands, and on the same day went into possession thereof under the said lease, and was willing to pay the said sum to the said Simmons Sackett, and would have paid the same had it not been for the further misconduct of the said James Miller. And these Complainants further state that the said James Miller being

heard of the said negotiation with Adam  
Smith, took what money he could raise,  
amounting to a small sum over eight  
hundred dollars, and hastened away  
to the residence of the said Sumner  
Sackett in Ohio, in order to pay him  
eight hundred dollars or thereabouts  
and execute to him a mortgage of the  
lands aforesaid, for the residue of the  
said sum of one thousand two hundred  
dollars, and thereby obtain the said deed  
thereof, executed by the said Sumner  
Sackett as aforesaid, before the said  
Margaret Moulthrop should be able  
to pay up the money to release the said  
lands, and was on his way thither at  
the time of the filing of this bill.  
And these Complainants further state  
that of the aforesaid lands, the east  
half of the northeast quarter of  
Section Amietecro of township forty three  
in range two east of the third principal  
meridian, as wood land, with a consider-  
able quantity of valuable timber thereon,  
and that the east half of the South east  
quarter of Section twenty of the same town-  
ship, of which an undivided half is  
included in the Contract aforesaid is  
covered with good timber, that the  
improvements upon the aforesaid lands  
at present consist of a dwelling house

And these Compliments further state that besides the Claim of the Adversarial Land  
and another Deliberation & Deliberation Claim at present withy amicable by them not  
now been either of them any property or means of raising the money charged on the  
said Land as appears or of any way on the said

and burn and about fifteen acres formerly  
inclosed and tilled, and an enclosed  
Garden, the value of said improvements  
now being about five hundred dollars  
and that nearly all the rest of the said  
lands consists of uninclosed prairie.  
And these Compliments further state,  
that upon the said Wooded land, there  
is sufficient timber trees fit to be cut  
if the same could be disposed to advan-  
tage, to raise the sum charged upon the  
aforesaid lands as hereinbefore mentioned  
and that the same or part thereof might  
probably be so disposed of within three  
or four years so as to discharge the sum  
or a large part of the said sum, and  
that it would be most for the interest  
of both these Compliments to have the  
said sum of ultimately raised and  
paid out the said timber.

And these Compliments further  
state that, the said lands and premises  
are at this time of the value of three  
thousand dollars, or thereabouts, and  
that from the advancement of the adjacent  
Country and consequent rise of in the  
price of lands, they will within a short  
time be worth four or five thousand dollars.

And these Compliments further  
state that by reason of the disputes  
aforesaid, and the conduct aforesaid of

of the said Simmons Sackett, Benjamin Sackett and Horace Miller, and of the consequent inability of these Complainers to give or obtain a clear title at law to the said lands without the aid of a Court of equity the said money cannot be made by them out of the same, either by mortgage thereof, or by the sale of any part or parts of the same; and that if a decree of this honorable Court were made declaring and establishing the rights of these Complainers in the premises, and authorizing such sale, or mortgage, the same might be effected, and the necessary money thereby raised for the purpose aforesaid, And these Complainers further state, that the said Margaret Moulthrop has frequently, and in a friendly manner remonstrated with the said Simmons Sackett against his making any arrangement concerning the said lands whereby the redemption thereof would be impeded, and with the said Horace Miller against his in any wise interfering in the premises, and has often requested the said Simmons Sackett to allow her to dispose of the whole or some part of the said lands, and to pay the amount charged thereon out of the proceeds of such sale, and to make suitable conveyances of the said lands; and these Complainers

had well hoped that they would have complied with such requests, as in justice and equity they ought to have done. And these Complainers further state,

But now so it is, that that the said Simmons Sackett and Horace Miller, combining and confederating together with the said Benjamin Sackett and Erastus P. Montthrop, and with diverse other persons at present unknown to these Complainers, whose names are when discovered these Complainers pray they may be at liberty to insert herein with apt words to charge them as parties defendants hereto, and continuing now to wrong and injure these Complainers in the premises, they severally absolutely refuse to comply with such requests, And in justification of such their inexcusable conduct, they at times pretend that the aforesaid written Contract between the said Simmons Sackett and Erastus P. Montthrop deceased and Erastus P. Montthrop had been legally delivered up to the said Simmons Sackett to be cancelled so as to waive and discharge the whole benefit these Complainers were entitled to in or out of the said lands, by reason of the matters herein before stated?

Whereas these Complainers charge the



the contrary? and that the said Margaret  
Moulthrop, not only could not at the  
time the said Contract came into the  
hands of the said Annions Sackett  
from the said Crustus P. Moulthrop  
through the said Benjamin Sackett  
as herein before stated, but she never in  
fact gave any consent where the said  
Contract so delivered up.

And these Compliments further charge  
that the said Crustus P. Moulthrop  
improperly possessed himself of the  
said Contract after the death of the said  
husband of this Compliment Margaret  
Moulthrop and previous to his burial,  
with the other papers of the said deceased,  
under the pretext of settling his affairs;  
that he afterwards refused to deliver back  
the said Contract to the said Margaret  
Moulthrop. that he carried the same with  
him to the State of Connecticut, where  
he went thither and engaged in the  
Service of the said Benjamin Sackett as  
herein before stated; that he delivered up  
the same to be cancelled, or with liberty  
where the same cancelled when the said  
Am. Perry was in Connecticut as herein before  
stated, for the purpose of renouncing and  
releasing any claim he might have  
out of the said lands by reason of the  
matters aforesaid, believing such right

if any he had, was of no use or value  
to him? and that he so delivered the  
same under a mistake of his duty  
in that behalf to these Compliments,  
supposing that the rights of these Com-  
pliments, in the said lands would be  
wholly forfeited by the lapse of the pay-  
day, for the money mentioned, in the said  
Contract without the same being paid,  
that the same was done without the  
knowledge or concurrence of the said  
Ann George acting for the benefit of  
these Compliments as aforesaid, and  
that the Confederates well knew that the  
said Crustus P. Moulthrop had not, nor  
had any other person lawful  
authority from these Compliments for  
determining up the said Contract to be  
Cancelled.

And so the said Confederates  
will sometimes admit,

But then they  
pretend that the said Anne Miller  
never knew that the money with which  
the said lands were paid for at the land  
sale aforesaid was borrowed of the said  
Benjamin Sackett for the benefit of  
the said Levi Moulthrop deceased, nor  
ever knew or had an opportunity of knowing  
what were the rights of these Compliments  
in the premises except from the said

of the said Contract, and that it did  
not appear upon the face thereof that  
the same was a loan from the said  
Benjamin Sackett,

Whereas these Complainants charge the Con-  
-trary thereof to be the truth; and that it  
was clearly expressed in the said Contract  
that the said money was a loan, and so  
it would appear if the said Confederates or  
some of them would answer and set forth  
the said Contract, or a copy thereof; and  
they charge that the said Thomas Miller  
was a near neighbor, living within one  
Mile of the said dwelling house on said  
premises, and had been frequently informed  
by and on the part of the said Margaret  
Moulthrop that the said money obtained  
by Benjamin Sackett as aforesaid was  
by way of loan for the benefit of the said  
Evi Moulthrop deceased, and that the  
legal title to the said lands was put into  
the hands of the said Simmons Sackett  
as a trustee to secure the repayment of  
the said loan, and that according to  
the original arrangement respecting the  
same, the said Simmons Sackett had  
no beneficial interest in the said lands,  
and that during the life time of the said  
Evi Moulthrop deceased, he had no  
beneficial interest therein, unless as secu-  
-rity for the payment to him of thirty dollars  
and the interest thereof as herein before stated,

And these facts also the said confederates  
will some times admit. But then they  
give out and pretend, that the rights  
of these Compliments, and especially  
of the said Margaret Moulthrop in the  
said lands were created and avoided  
by the aforesaid arrangements, made  
by Ann George, and that the aforesaid  
Contract sent to her by the said Simmons  
Guellett as aforesaid the whole of their said  
rights were transferred to the said Ann  
George, and that the said Ann George sought  
to obtain the said lands for herself.

Whereas these Compliments charge the  
truth to be, that the said Ann George acted  
wholly on account of, and for the benefit  
of these Compliments in what she did  
in the premises, and so acted because  
these Compliments were not of age, nor in  
a condition to act for themselves; and that  
it was against her wishes that her name  
was inserted in any Contract respecting  
the same, and in proof thereof, these  
Compliments charge, that when the said  
Ann George went to Connecticut and this  
is known before Statub; to converse with the  
said Benjamin Guellett and Simmons  
Guellett, on behalf of these Compliments  
for an extension of the time of payment  
as aforesaid, she carried with her, and  
exhibited to them a document in form

of a power of Attorney executed and  
acknowledged by the said Margaret  
Moulthrop, dated the nineteenth day  
of August one thousand Eight hundred  
and forty two, purporting that the said  
Margaret Moulthrop appointed the said  
Ann Gorge her Attorney in the name of  
the said Margaret Moulthrop and  
for her use and benefit, to receive a  
deed of the Lands aforesaid, from the said  
Dimmons Paetle, according to his  
aforesaid Contract in that behalf, and  
to arrange, settle, and agree with him  
and to do all other lawful things concerning  
the said premises as fully as the said  
Margaret Moulthrop might do if present;  
into the usual clause ratifying what the  
said Ann Gorge might do lawfully as  
her Attorney do in her name.

And in further proof thereof these  
Complainants Charge, that on account of  
occasion of the said negotiations the  
said Ann Gorge fully and <sup>expressly</sup> disowned  
as well to the said Benjamin Paetle  
as to the said Dimmons Paetle and  
his counsel any intention of acting in  
the premises, for her own benefit, that  
she acted at the request of the said  
Margaret Moulthrop, and was so far  
from the intention of having any  
interest in the premises under the circumstances

presented the said paper purporting to be a power of Attorney to the said Benjamin Sackett, and Summons Sackett as an introduction, she being a stranger to them; and to shew that she acted at the request of the said Muryant Montthrop, and was a proper person to interpose her good offices in the premises under the Circumstances; and expressly informed ~~her~~ them that the same lacked validity as a legal instrument, on account of the non age of the said Muryant Montthrop, of which fact they were well aware.

And these Complainers further ~~ask~~ charge, that the said Ann George's name was inserted as a contracting party in the said paper sent to her by mail, as aforesaid, and the same was put into the form of a contract for the sale to her of the lands aforesaid for the reason that the said Summons Sackett was advised that as he held the said lands in trust for these Complainers, after the moneys charged thereon as aforesaid should be satisfied, he could not according to the rules of Equity, be allowed any such charges as compose the said sum of \$132.19 (one hundred and thirty two dollars and nineteen Cents) allowed to him by the said Ann George, as herein before stated, and

he was in hopes by such means to  
evade those rules, and obtain the said  
sum before making conveyance of the  
said lands.

And as proof that the said  
Simmons Packett was aware and  
well understood that he <sup>still</sup> held the said  
lands in trust for these Complainants as  
aforesaid, notwithstanding said agreement  
to Ann George, these Complainants charge  
that the letter inclosing the said paper  
to the said Ann George dated 23 October  
1841, and signed by the said Simmons  
Packett contains a declaration of such  
trust in the following words, that is  
to say "I enclose an article [meaning  
the said paper] within as it is my wish  
still to take an advantage of the widows  
or fatherless children as [I] have not  
my richer wish to make any money  
on the concern, more than money laid  
out and paid for my time, as I thought  
it not more than right to be kept clear  
from all claims and expenses" And  
these Complainants insist that as against  
them the said Simmons Packett ought  
not to be allowed the whole of the  
aforesaid sum of one hundred and  
twenty six dollars and twenty three cents,  
alleged and pretended to have been  
paid or allowed to him by the said

Benjamin Sackett for his travelling, expenses and time and trouble in attending the said land sale at Salem, and making the necessary arrangements with the said Per Monthrop deceased about the same, and with the said additional sum of thirty dollars claimed by the said Benjamin Sackett as a present on that occasion, and inserted in the said Contract of Levi and Ernestus P. Monthrop; and these Complainants charge that the claim for such sums was extortionate and tortious, and more than he deserved to have for such trouble and time and expenses, and that the said sums would never have been allowed by the said Levi Monthrop, had he not been in the power of the said Benjamin Sackett as to the loan of the said money, and the making of the aforesaid arrangements respecting the title to the said lands as heretofore stated. And as proof that the said sums were extortionate, these Complainants charge that the distance of the said Benjamin Sackett at Campfield in Ohio to Cleveland in the same State, thence with the usual route to Salem aforesaid town, is only about sixty miles: that the necessary travelling expenses of the said



passage from said Confield to Galena  
aforesaid, at that time were about forty  
dollars, and the same returning, and the  
time necessarily consumed therein and  
in attending the said land sale and making  
the said arrangements, only about twenty five  
days. And these Complainants further charge  
that the sending of the said Summons  
Sackett to transact the said business as aforesaid  
was an expedient to make money at the expense  
of the said Levi Monthrop deceased, and to  
afford a pretext for an exorbitant and usurious  
charge, that it was unnecessary and that the  
said business might have been safely conducted  
without it? and that the whole of the said  
sum of one hundred and twenty six dollars  
and twenty three Cents was not paid to the  
Summons Sackett by the said Benjamin Sackett  
nor was more than eighty or one hundred dollars  
thereof so paid. And these Complainants  
insist that they are entitled to have an  
account of the said sum of one hundred  
dollars paid on their behalf by <sup>the said</sup> Amos George  
to the said Benjamin Sackett at Warren  
in the State of Connecticut on the tenth day  
of September, one thousand eight hundred  
and forty one as herein before stated and the  
interest thereon, and they charge that the receipt  
of fifty two dollars thereof to make up the  
interest of the money advanced, and pretended  
to have been advanced, by him as aforesaid to

ten per cent for the time then past, was usurious  
and extortionate, and contrary to the laws of  
the said State of Connecticut in that behalf;  
and as to forty eight dollars, the residue  
thereof, paid to the said Benjamin Sackett  
for his time and expenses in accompanying  
the said Ann Gerye to this as aforesaid,  
these Complainers charge that the said  
accidents therofore extortionate and against  
honesty and good faith, and they insist,  
that if the said Benjamin Sackett were  
willing to live an arrangement made by  
the said Sumner Sackett for an extension  
of the time of payment according to the  
request of the said Ann Gerye in that behalf,  
he was in duty bound, and ought to have  
given to her a letter to the said Sumner  
Sackett to that effect, and to have exhibited  
to her the contents of such letter; and these  
charge that the reason why he refused  
to give her such letter was that after  
receiving the said fifty two dollars as a  
premium for delay as aforesaid, he wished  
partially to defeat the benefit thereof to these  
Complainers, by the <sup>secret</sup> contents of the  
letter he proposed to send by her on that  
occasion; and these Complainers charge  
that the said journey to this for which  
the said Benjamin Sackett charged  
and received the said sum of forty eight  
dollars as aforesaid was not only unnecessary,

but undertaken against honesty and good faith? and for the purpose while he pretended to advance the designs of the said Ann George in favor of these Compliments, of in part defeating them by secret and underhanded management. And these Compliments further charge, that the said Benjamin Sackett has all along insisted that the said sum of one hundred and thirty two dollars and ~~some~~ <sup>seventeen</sup> Cents charged by him to the said Ann George for his travelling expenses, time, and other expenses, for recovering the Remains of the said Ann George of the aforesaid Judgment by Attachment upon some of the lands aforesaid, together with interest thereon from the first day of November one thousand Eight hundred and forty one, the day of the date of the Contract to Ann George, together with the interest on the sum of \$83.66. (Eighty three and sixty six Cents) of by gone interest included in the sum of Money specified in the said Contract, should be paid to him by these Compliments before they should redeem the said lands. But these Compliments insist that they are such payment can be claimed or enforced according to the Rules of Courts of equity.

And these Compliments further charge that the said Benjamin Sackett assigned as a reason for sending the said Benjamin Sackett to attend the said Land sale,

and to see to the investment of the money  
loured by him to enter the said lands,  
was that he was used to such matters  
and would do the business correctly?  
And these Complainers insist that  
being well paid for such service  
he was bound at his own peril to perform  
the same correctly? And they charge that  
it was through his negligence and default  
that the mistake which caused the said  
judgment happened: and that it  
was through his negligence that neglect  
that the <sup>said</sup> mistake was not reasonably  
rectified? And they insist that under  
the circumstances of the case he ought  
to have removed the said lien at his  
own expense. And these said  
Confederates at times give out and  
pretend that the said Summons  
Debitus has made a deed or deeds  
of conveyance of the said lands or some  
part thereof to the said James Miller  
or some other person or persons in trust  
for his benefit, or by his appointments.  
Whereas these Complainers charge that  
the fee simple at Common Law of the said  
lands is still in the said Summons Debitus  
and that he has not delivered any such  
deed or deeds, and is not willing  
to do so unless indemnified against the  
claim upon the said lands of these.

Complainants, and that if he has executed any deed or deeds purporting to convey the said Lands or Tenements any part thereof, the same was or were executed by any of esroto, to take effect upon some condition or contingency which has not happened, Or if such conveyance has been made, then Complainants Charge, that the same was made to the said Horace Miller or other person in trust for his benefit or by his appointment under an agreement that the said Horace Miller should undertake and carry on and defend at his own cost and risk, all litigation which should arise concerning said the legal title and equitable title to the said Lands, or out of the claims of these Complainants thereto, and that he the said Horace Miller well knew of the claims of these Complainants to the said lands, and that disputes had arisen, and were still on foot between them and the said Simmons Packett respecting such claims and that these Complainants had for two years or more then next preceding, held the said lands claiming a right to the same against the said Simmons Packett. And these Complainants further Charge that in order to tempt and induce the said Simmons Packett to enter into an agreement to convey the

legal title to the said lands to him, the  
said Horace Miller offered to pay to  
the said Simmons Sackett twelve hundred  
dollars or some other sum greater  
than the amount of principal and interest  
which the said Simmons Sackett ever  
claimed as due to him on any contract  
respecting the said lands; and that  
an agreement to such effect was made  
between them. And the confederates at  
some times pretend, that the said  
Horace Miller received the conveyance  
aforesaid for the purpose of holding the  
said lands in trust for this Compliment  
Levi Menthrop, and that he intends to  
hold the same in trust for him till he  
arrives at the age of twenty one years  
or ~~more~~ some other period, and then to  
convey the same to him, and also to  
render him a just account of the issues  
and profits thereof; Whereas these  
Compliments charge that if such <sup>conveyance</sup> ~~agreement~~  
~~ment~~ has been made, it has been  
received by the said Horace Miller without  
any such intention, and for his own  
exclusive benefit. And the said confederates  
will sometimes admit that an such  
conveyance has been made, and that  
the fee simple at law of the said lands  
is still in the hands of the said Simmons  
Sackett, But then they give out and

pretend that the said Simmons Sackett  
has entered into a contract at some  
distant day, and upon some future  
event to convey the said lands to  
the said Horace Miller, and  
that in the mean time the said  
Horace Miller or some person or  
persons under him shall enter  
upon the said lands and impro-  
ve the same for the benefit of these  
Complainants, rendering a just  
account of the proceeds thereof  
to them, and at other times they  
give out and pretend, that some  
contract or arrangement has been  
made with the said Simmons  
Sackett, whereby the said Simmons  
Sackett, or some other person under  
him shall hold the said lands  
until they shall have made out  
of the proceeds thereof the amount  
of money and interest charged  
upon them as aforesaid, and therefore  
the said lands are to be conveyed  
to these Complainants, Whereas these  
Complainants charge that if any  
like contract or agreement as aforesaid  
has been made by the said  
Simmons Sackett respecting the said  
lands, it has been made for the  
benefit of Horace Miller, without

any intention to benefit these  
Complainants, or any intention to  
Render such account.

All which Actings, Doings  
and pretences are contrary to equity  
and good conscience, and tend to  
the manifest wrong and injury of  
these Complainants in the premises.

And these Complainants Aver  
that the said Sir Moulthrop deceased  
during his lifetime, was, and these  
Complainants since his decease have  
been grievously imposed upon and  
deprived in the premises.

On Under Consideration whereof and  
for as much as ~~you~~ these Complainants  
are remediless in the premises according  
to the strict Rules of Common Law, and  
can only have relief in a Court of Equity  
when Matters of this nature are properly  
receivable.

To the end therefore that the said  
Samuel Sackett, Benjamin Sackett,  
Erustus P. Moulthrop, and Daniel  
Miller, and the rest of the said confederates  
when discovered may upon their  
Oath and respective corporal Oaths  
full, true, exact direct and perfect  
answer unto to all and singular  
the matters aforesaid, and that not  
only as to the best of their respective,



Knowledge and remembrance, but also as  
to the best of their several and respective  
information, hearsay and belief.  
And particularly that the said confederates  
may answer and set forth what was  
the amount of money paid over or agreed  
to be paid over by ~~him~~ the said Benjamin  
Sackett to the said Sackett at the time he  
was in Connecticut as herein before stated,  
for the purpose of entering the said lands  
at the land sale aforesaid, and paying for  
his time and expenses in travelling and  
attending the same, and what agreement  
was made about compensating him therefor,  
and whether some, and what part of the sum  
of One hundred and fifty dollars alleged to  
have been on that occasion put into the hands  
of the said Simmons Sackett, and included  
in the aforesaid Contract to Levi Montthrop  
deceased and Erastus P. Montthrop deceased  
was a part, and what part was in reality  
reserved to the said Benjamin Sackett,  
either directly or indirectly. And also, that  
the said confederates, or some of them may  
in their said answer set forth the aforesaid  
Contract between the said Simmons Sackett  
and the said Levi Montthrop deceased and  
Erastus P. Montthrop respecting the payment  
of the money laid out for the said lands,  
and the conveyance thereof by the said  
Simmons Sackett to them, And also

that the said Confederates may answer  
and discover whether any and what deed  
or deeds of Conveyance has or have been  
made by the said Simmons Suckett  
of all or any part of the said Lands  
claimed by these Complainants as aforesaid;  
to whom such deed or deeds has or have  
been made, and what was the Consideration  
paid or to be paid, and therefore, and  
when the same was executed and delivered  
in whose the legal title to the said lands  
now is? and that they may set forth copies  
of any such deed or deeds? and if any  
Contract or understanding for any such  
Conveyance has been made by the said  
Simmons Suckett, that they may set forth  
the same, or discover the contents and terms  
thereof, and what sum or Consideration the  
Horne Miller or any other and what person  
has paid or agreed to pay or render for the  
said lands, and when and in what manner  
and upon what event, condition or contingency  
is the same or any part thereof to be paid,  
And also that a decree of this Court may be  
made, declaring and establishing the rights  
of these Complainants in the premises, and  
that an account may be taken of the  
monies and interest justly chargeable  
upon the said lands by reason of the matters  
afore stated and set forth, and that  
thereupon these Complainants may be allowed

To sell and dispose of the whole of the said lands and out of the proceeds thereof. To pay the sum  
to be found due as aforesaid and interest the residue of the proceeds thereof in other lands  
for the benefit of these Complainants according to their respective rights.  
And in case it shall not be found expedient to dispose of the whole  
thereof then to be authorized

a reasonable time to raise the money so  
to be found due, in order to redeem the  
said lands. And that for such purpose  
the said Margaret Moulthrop may be  
authorized and empowered to raise by  
the mortgage of the said lands or part thereof,  
the said sum or part of the same. And that  
in order to discharge finally the sum so  
to be raised, the said Margaret Moulthrop  
may be authorized to dispose of or cause  
to be cut and converted into money, so much  
of the timber standing upon the said lands  
as herein before stated, as may be necessary  
to pay off such mortgage, or such part thereof  
as shall be practicable and expedient. And  
that she may be authorized <sup>in case it shall be found expedient</sup> to sell and  
dispose of some part of the said lands to  
raise and finally pay off the said sum  
or such part thereof as shall not be raised  
by any of the means aforesaid.  
And in case the said sum of money or any  
part thereof shall not be raised by any of  
the means aforesaid, then that the said  
lands be sold in parcels to raise the same,  
and that upon such redemption or sale as  
aforesaid, the said Thomas Sackett and  
other Defendants may be decreed to make  
conveyance of the legal title to the said lands,  
accordingly. And that these Complainants  
may have such further or other relief in the  
premises as the nature and circumstances

of this case may require, and as they  
may be entitled to according to the rules  
of equity. May it please the said Judge  
of this Court that the said Summons be writt  
Benjamin Sackett, Eustas P. Moulthrop  
and Horace Miller and Ann George may  
be summoned and notified to appear  
and answer this bill of Complaint on the  
first day of the next term of this Court,  
according to the form of the Statute in such  
case made and provided.

Marynet Moulthrop.

Levi Moulthrop by  
the said Marynet Moulthrop  
his next friend.

Benjamin  
Sackett and Counsel

Schedule A  
Referred to in the foregoing Bill

The descriptions of the lands sought to be recovered in the foregoing bill, is as follows, that is to say

1. The east half of the South east Quarter of section fourteen, in township forty three north of the base line, of Range one east of the third principal Meridian, Containing Seventy eight acres and Sixty five hundredths.
2. The west half of the same quarter Section containing the like quantity of Seventy eight acres and Sixty five hundredths.
3. The east half of the South west Quarter of the same Section, Containing the like quantity of Seventy eight acres and Sixty five hundredths.
4. The east half of the west half of the same South west quarter Section, Containing thirty nine acres and thirty two hundredths.
5. The west half of the North east Quarter of Section, nineteen of township forty three north of the base line, in Range two east of the third principal Meridian, Containing eighty acres.
6. The undivided half of the east half of the South east Quarter of Section twenty in the same township, Containing Eighty acres.

7. Part of the north west quarter of section  
fourteen of Township forty three of Range one  
east of the third principal Meridian,  
bounded as follows, that is to say, Beginning  
at a Stake and Stones thirty six rods east  
of the quarter section post, in the west line of  
said section fourteen, and running thence  
north thirty three and a half degrees west,  
Sixty Eight Rods, to a leaning Sap wood tree,  
marked for a corner on the bank of Rock River,  
thence continuing the same course to the river,  
thence running north easterly by the river forty  
nine chains and five links, to a Stake  
and Stones, set for a corner, thence south  
twenty four degrees east, ninety four rods  
to a Stake and Stones, thence west  
forty four rods, to the place of beginning,  
containing twenty three acres and three  
quarters.


Margaret Moulthrop.

In the Wm. Wayne County Circuit Court.

In Chancery, Between . Margaret Mouthrop and  
Levi Mouthrop Complainants

and  
Jimmies Sackett  
Benjamin Sackett  
Erastus P. Mouthrop and  
Homer Miller. Defendants.

Margaret Mouthrop, one of the above named  
Complainants, makes the solemn oath and  
swear, that all the above named Defendants  
excepting Homer Miller, reside without the  
State of Illinois, and cannot be served with  
process of this Court, as she has always  
understood and verily believes to be true  
Margaret Mouthrop

Sworn at Rockford in the  
County of Wm. Wayne the  
25<sup>th</sup> day of May 1846. before Me.   
John W. Taylor  
Clerk in Chancery

And afterwards on the 1<sup>st</sup> day of November  
A<sup>D</sup> 1847 at the November Term of said Court  
the following appears of record in said Cause  
D<sup>o</sup>nt.

Levi Moulthrop &  
Margaret Moulthrop  
vs  
Jimmies Sackett  
Benjamin Sackett  
Ernestus P. Moulthrop &  
Horace Miller

In Chancery

On motion of the  
Complainants Solicitor leave is granted to  
amend said Bill filed herein, and it is further  
Ordered on motion of said Complainants Solicitor  
that he leave leave to file a Supplemental bill  
herein by the first day of March next.

And afterwards D<sup>o</sup>nt on  
the 27<sup>th</sup> day of May A<sup>D</sup> 1847. at the May Term  
of said Court the following was entered of record  
in this Cause D<sup>o</sup>nt.

Levi Moulthrop &  
Margaret Moulthrop  
vs  
Jimmies Sackett  
Benjamin Sackett  
Ernestus P. Moulthrop &  
Horace Miller.

In Chancery



and now come the Compliments Solicitor  
and on his motions leave is granted him  
to file a Supplemental Bill herein in ten days

and afterwards to wit on the  
Eighth day of June A.D. 1848 the said Compliments  
was filed in the Clerk's office of said Circuit  
Court. This certain Supplemental Bill against  
Simmons Sackett, Benjamin Sackett Ernest  
J. Montthrop Horace Miller, Gardner C. Miller  
and Amos Waterman, & which said  
Supplemental Bill is in the words and figures  
following to wit

In the Winnebago County Circuit Court

In Chancery

To the Honorable Jesse B. Thomas  
one of the justices of the Supreme  
Court of the State of Illinois and  
Judge of the Circuit Court for  
the County of Winnebago

Complainings respectfully state  
Margaret Mouthrop and Levi Mouthrop,  
that on the twenty second day of May in the year  
of our Lord one thousand eight hundred and  
forty six. These complainants filed in this court  
their bill of complaint in Equity against  
Simmons Sackett Benjamin Sackett  
Erastus P. Mouthrop and Horace Miller  
by which said bill these complainant stated  
that the said Simmons Sackett held the  
legal title to certain lands in the said bill  
described, to secure the payment of certain  
monies in the said bill mentioned, and that  
these complainants were equitably intitled  
to the said Lands subject to the payment of the  
said monies; that the said Horace Miller had  
fraudulently interfered between these complain-  
ants, and the said Simmons Sackett to ~~the~~  
and prevent the payment of the said monies on  
the part of these complainants, and had in-  
duced the said Simmons Sacketts to enter

into an ~~and~~ agreement to convey the said lands to the said Horace Miller in violation of his trust therein as aforesaid, and that the said Simmons Sackett had in consequence of the agreement executed and acknowledged a deed, dated and acknowledged on the twenty first day of March in the year of our Lord one thousand eight hundred and forty six purporting in consideration of the sum of one thousand two hundred dollars to convey the said lands in fee to the said Horace Miller that the same was not there delivered to the said Horace Miller, because he had not paid the said consideration money but was kept back, to await such payment; that shortly before the filing of the said original Bill of these complainants, the said Horace Miller hearing that the said Margaret Moulthrop was likely to obtain money, to pay up the sum of money devised by the said Simmons Sackett as charged on the said lands for the purpose of anticipating and preventing her in such payment, hasten'd away for the residence of the said Simmons Sackett in Ohio in order to obtain the said deed before the said Margaret Moulthrop should have time to pay the said money.

And in and by the <sup>said</sup> original bill, these complainants prayed among other things that a decree of this Court might be made, declaring and establishing their rights in the premises, that an account might be taken of the monies and interest justly chargeable upon the said lands

and that thereupon they might be allowed a reasonable time to raise the money so to be found due in order to redeem the said Lands; and that the said Margaret Mouthrop might be authorized in case it shall be found expedient to sell and dispose of the said Lands or some part thereof, and out of the proceeds of such sale to pay up the said sum of money so to be found due, or that the said Lands might be sold to raise the same and that upon such redemption or sale the said Simmons Gackett and other dependants might be decreed to make conveyance of the legal title to the said Lands accordingly; and also for general relief, as in and by the said bill now on file in this court will more fully and at large appear, And these complainants further state that the said Horace Miller had just taken his departure for the residence of the said Simmons Gackett in Ohio and was on his way thither at the time of the filing their said original Bill as in the said Bill is stated, And by way of supplement to the said original bill, these complainants state that the said Horace Miller arrived at the said residence of the said Simmons Gackett on or about the twenty seventh day of May in the year of our Lord one thousand eight hundred and forty six, after the time of the filing of the said original bill And these complainants further state as aforesaid that on the said last mentioned day and year the said Horace Miller made to the said

Summers Tackett two promissory <sup>notes</sup> bearing date that same day for the sum of two hundred and seven dollars each payable with interest, the one on the first day of November in the year of our Lord one thousand eight hundred and forty seven. And these complainants further state that by way of collateral security for the payment of the said notes, the said Horace Miller on the same day and year and at the same place executed a deed of Mortgage in fee to the said Summers Tackett of the Lands in the said Bill described and sought thereby. Except thereby the last mentioned tract of twenty three  $\frac{1}{4}$  acres described in said original bill, conditioned to become void upon the payment of the said notes as therein specified; which deed of Mortgage was on the same day acknowledged by the said Horace Miller in Mahoning County in the State of Ohio before Eben Newton president Judge of the third Judicial Circuit of the said State of Ohio and witnessed by William W Whittlesey Clerk of the Court of Common Pleas of said Mahoning County Ohio and the said Whittlesey also on the same day certified on the same deed of Mortgage to the official character of the said president judge. And these complainants further state as aforesaid that the said Horace Miller upon the execution and acknowledgment of the said deed of Mortgage is about that time delivered

the said notes and mortgage to the said  
Gimmons Sackett and also the sum of eight  
hundred dollars or thereabouts for the purchase  
of the legal title to the said Lands held by  
Gimmons Sackett as aforesaid and for the  
consideration expressed in the said deed of  
conveyance, executed and acknowledged by the  
said Gimmons Sackett on the twenty first  
day of March then next previous as hereinbefore  
stated and thereupon the said Horace Miller  
received from him the same deed of conveyance.  
And these complainants further state that  
the said deed of conveyance and the said mort-  
gage were recorded in the Recorders office of  
the said county of Winnebago on the eleventh  
day of November 1846 and that copies thereof  
with the accompanying certificate are herewith  
annexed, marked A and B respectively which  
these complainants pray may be taken as part  
of this supplemental bill. And these  
complainants further state as aforesaid  
that on the tenth day of November in the  
year of our Lord one thousand eight hun-  
dred and forty six the said Horace Miller  
executed an indenture whereby for the consider-  
ation of eight hundred dollars therein expressed  
he granted bargained bargained and sold  
to his son Gardner C Miller and Maria Watson  
his son in law, husband of one of his daughters  
defendants hereto all the Lands described in  
and sought by the said original bill, and

on the next day thereafter acknowledged the same according to the form of the statute in such case made and provided; and that the said indenture was recorded in the Recorders Office of the said County of Winnebago, on the said last mentioned day; a copy whereof with the certificate of acknowledgment of the same is herewith annexed marked C, which these complainants prays may be taken as a part of this bill.

And these complainants further state as aforesaid that the said Margaret Moulthrop kept and maintain possession of the said Lands and premises from the time of the filing of the said original bill until on or about the twentieth day of June next thereafter. And these complainants further state that about the time of the filing of the said original bill and before the delivery of the aforesaid deed of conveyance from the said Gimmons Sackett to the said Horace Miller and while the said premises were in possession of the said Margaret Moulthrop the said Horace Miller Gardner C Miller and Hiram Waterman entered upon ~~the~~ their possession thereof and commenced ploughing up a large part of the prairie of the same; that about the said twentieth day of June next after the filing of the said bill the said Margaret left the possession of the said premises and they have ever since been occupied by the said Horace Miller Gardner C Miller and Hiram Waterman; and that from the cultivation of the said Lands and from the occupation

of the said premises and from the crops raised thereon, they have made great profits.

And these complainants further state that the said Horace Miller, Gardner C. Miller and Hiram Waterman, have also committed great waste and destruction of the timber standing upon the said Lands as described in the said original bill and threaten to commit more such waste and destruction. And these complainants further state that before and ever since their entry upon the said premises the said Horace Miller,

Gardner C. Miller and <sup>Hiram</sup> ~~Hiram~~ Waterman have denied the right of these complainants to redeem or recover the said Lands and by the Sanders of the title of those complainants thereto which they have circulated, and by the claims which they have raised respecting the same and the difficulties in which they have involved the legal title to the said Lands they have rendered it impossible for these complainants to raise and pay the monies and interest charged upon the said Lands as aforesaid which these complainants otherwise might do.

To the end therefore that the said Simmons, Cackett Executors Benjamin Cackett Executors T. Moulthrop, Horace Miller Gardner C. Miller and Hiram Waterman may upon their several and respective corporate oaths full true and direct and proper answers make to all and singular the matters hereinbefore stated, And that they may answer and



and set forth particularly what amount of money or other consideration the said Horace Miller paid to the said Simrinous Tuckett for the conveyance of the legal title to the Lands herebefore mentioned, to be made to the said Horace Miller, And to the end also that an account may be taken of the profits made by the said Horace Miller Gardner C Miller and Thirum Waterman out of the said lands and of the waste committed by them upon the same and that the same may be allowed to those complainants And that the said debt of Mortgage may be decreed to be void and to be set aside and cancelled, And that the said Horace Miller, Gardner C Miller and Thirum Waterman may be decreed to convey the said Lands for the uses and purposes prayed for in the said original Bill, And that they may be enjoined and restrained by the order and injunction of this Court from committing any waste or spoilation of the timber trees standing upon the said Lands or any of them, And that in and by their deeds of conveyance of the said premises as aforesaid the said Horace Miller, Gardner C Miller and Thirum Waterman may covenant against all incumbrances brought upon the said Lands by them And that these complainants may have such and the same relief

against the said Gardner C Miller and  
Hiram Waterman as by the said original  
bill is prayed against the said defendant  
Simmons Sackett, Benjamin Sackett  
Erastus P Moulthrop and Horace Miller

May it please the said judge of this Court  
that a writ of injunition may be issued  
enjoining and restraining the said Horace  
Miller Gardner C Miller and Hiram  
Waterman, as is above in that behalf  
prayed, And that the said Simmons  
Sackett, Benjamin Sackett, Erastus  
P Moulthrop, Horace Miller, Gardner  
C Miller and Hiram Waterman may  
be summoned to answer this bill of  
complaint according to the form of  
the statute in such case made and pro-  
vided

Margaret Moulthrop  
Love Moulthrop

Barnabi Solicitor by the said Margaret his  
and counsellor } next friend

A

To all People to whom these presents  
shall come, Greeting, Know ye that we,  
Simmons <sup>and Ester Sackett wife of the said Simmons Sackett</sup> Sackett, of Canfield Masoning  
County Ohio for and in consultation of

of the <sup>sum of</sup> twelve hundred dollars in hand  
paid by Horace Miller of Kishwaukee Win-  
nebago County State of Illinois do bargain  
sell, remise, release and for ever quit claim  
unto the said Horace Miller the following  
described tract of parcel of Land situate  
in the Township of Kishwaukee County of  
Winnebago State of Illinois. and bounded as  
follows. (w<sup>ts</sup>) East half of Southeast quarter  
of section fourteen in Township forty three  
in <sup>said</sup> State of Illinois, North of the base line of  
Range number one east of the third principal  
Meridian, containing seventy eight acres and  
sixty five one hundredths of an acre. And  
also of the west half of the South East quarter  
of section fourteen in township forty three  
in said State of Illinois, North of the base  
line of Range number one East of the third  
principal Meridian containing seventy eight  
acres and sixty five one hundredths of an acre  
Also the East half of South West quarter of  
section fourteen in Township number forty  
three (in said State of Illinois), North of the  
base line of Range one East of the third  
principal Meridian, containing seventy eight  
acres and sixty five hundredths of an acre  
Also the East half of the South west half of  
section number fourteen in Township number  
forty three north of the base line of Range one  
in said State of Illinois, East of the third  
principal meridian containing thirty nine

acres and thirty two one hundredths of an  
acre Also the west half of the North East  
quarter of section number nineteen in Town-  
-ship number forty three (in said State of  
Illinois) North of the base line of Range num-  
-ber two, East of the third principal Meridian  
containing eighty acres, Also one equal  
and undivided half of the East half of the  
South east quarter of section number twenty  
in Township number forty three (in said  
State Illinois) North of the base line of  
Range two east of the third principal me-  
-ridian containing eighty acres. And also  
twenty three acres and three fourths of an acre  
being a part of North East quarter of section  
fourteen in Township in Township number  
forty three (in said State of Illinois, North  
of the base line of Range one East of the third  
principal meridian. To have and to hold  
the above described Lands and premises, with  
the appurtenances thereof, unto the said  
Morae Miller, his heirs and assigns to him  
and their own proper use and behoof forever.  
And I the said Edie Sackett wife of the said  
Sammons Sackett do hereby remise release  
and forever quit claim unto the said Morae  
Miller his heirs and assigns all my right  
and title of dower in the above described tracts  
or parcels of Land in witness whereof we have  
herunto set our hands and seals this twenty  
first day of March A. D. one thousand

eight hundred and forty six

(Signed) Simmons Sackett, L.S.

Ede Sackett L.S.

Signed sealed and delivered in  
presence of Eben Newton, Mary J Newton

State of Ohio

Mahoning County } ss Campfield March 21<sup>st</sup> 1846

Before me Eben Newton

Presiding Judge of the third Judicial Circuit  
in the State of Ohio in which is the said County  
of Mahoning, severally appeared Simmons  
Sackett signer and sealer of the foregoing  
instrument and acknowledged the same  
to be his free act and deed, Also personally  
appeared Ede Sackett wife of the said  
Simmons Sackett, and having been examined  
separate and apart from her said husband  
and the contents of the foregoing deed having  
been to her fully explained and made  
known, did declare that she voluntarily  
did sign and as her act and deed seal  
acknowledge and deliver the same without  
any coercion or compulsion from her said  
husband and that she is still satisfied  
therewith

(Signed) President Joe

Signed Eben Newton President Judge

The State of Ohio

Mahoning County } ss William W. Whittlesey  
Clerk of the Court of Common

Jews of said County of Mahoning certify that  
Eben Newton by whom the annexed and for-  
going acknowledgment was taken, was at the  
date thereof President Judge of the third  
Judicial Circuit in the state of Ohio in which  
is the said County of Mahoning, duly qualified  
and as such duly authorized to take the same  
and further I am acquainted with the hand  
writing of said judge and believe the signature  
purporting to be his is genuine and that  
the said instrument is executed according  
to the laws of the State of Ohio.

G. S.

In Testimony whereof I have  
hereunto set my hand and affixed  
the seal of the said Court at  
Canfield this 27th day of May  
A. D. 1846

(Signed) William W. Whittlesey Clerk

B

To all persons to whom these presents  
shall come greeting, Know ye that I Horace  
Miller of Kishwaukee Winnebago County  
State of Illinois, for the consideration of four  
hundred dollars received to my full satis-  
faction of Simmons Sackett of Canfield  
Mahoning County Ohio, do hereby grant

bargain, sell and convey unto him the said  
Simmons Sackett the following described parcels  
of Land situate in the Township of Kishwaukee  
County of Wernabago and State of Illinois and  
bounded as follows. (viz) East half of the South  
east quarter of Section fourteen in Township  
forty three (in said State of Illinois) North of  
the Base line of Range one East of the third  
principal meridian containing seventy eight  
acres and sixty five one hundredths of an acre  
And also of the west half of the South East quarter  
of section fourteen in Township forty three (in said  
State of Illinois) North of the base line of Range  
number one east of the third principal meridian  
containing seventy eight acres and sixty five one  
hundredths of an acre, Also the East half of the  
South west quarter of Section fourteen in Township  
number forty three (in said State of Illinois)  
North of the base line of Range one East of the  
third principal meridian, containing seventy  
eight acres and sixty five one hundredths of an  
acre Also the East half of the South west half  
of section number forty three (in said State of  
Illinois) North of the base line, Range one East  
of the third principal meridian containing  
thirty nine acres and thirty two one hundredths  
of an acre also the west half of the South East  
quarter of Section number nineteen in Town-  
ship number forty three (in said State of Illi-  
nois) North of the base line of Range number  
two east of the third principal meridian con-

containing eighty acres, Also one equal and undivided half of the east half of the South East Quarter of section number twenty in Township number forty three in said State of Illinois North of the base line of Range two East of the third principal meridian containing eighty acres, To have and to hold the above granted and bargained premises with the appurtenances thereof unto the said Simmons Sackett his heirs and assigns forever to his and their own proper use and behoof And also I the said Horace Miller do for myself my heirs executors and administrators covenant with the said Simmons Sackett his heirs and assigns that at and until the ensueing of these presents I am well seized of these premises as of a good and indefeasible estate in fee simple and have good right to bargain and sell the same in manner and form as is above written and that the same is free of all incumbrances whatsoever, And furthermore I the said Horace Miller do by these presents bind myself my heirs forever to warrant and defend the above granted and bargained premises to him the said Simmons Sackett his heirs and assigns against all lawful demands and claims whatsoever, The Condition of this deed is such that whereas the said Horace Miller has on this the twenty seventh day of May A. D. one thousand eight hundred and forty six executed and delivered to the said



Simmons Gackett his two promissory notes  
of this date for two hundred and seven dollars  
each, one payable on the first day of November  
next with use, and the other payable on the  
first day of November next with use and the  
other A. D. one thousand eight hundred and  
forty seven with use. Now if the said Horace Miller  
his heirs, assigns, executors or administrators,  
shall well and truly pay the aforesaid prom-  
issory notes according to the tenor thereof  
to the said Simmons Gackett, his heirs or  
assigns then the above deed shall be void  
otherwise to remain in full force and virtue  
In witness whereof I have hereunto set my hand  
and seal the twenty seventh day of May A. D.  
one thousand eight hundred and forty six  
(Signed) Horace Miller L. S.

Signed sealed and delivered in  
presence of Eben Newton William W. Whittlesy

State of Ohio }  
Mahoning County } 2d Winfield May 27, 1846  
before me Eben Newton President Judge  
of the third Judicial Circuit in the State  
of Ohio in which is said County of Mahoning  
Personally appeared Horace Miller signor  
and sealer of the foregoing instrument and  
acknowledged the same to be his free act and deed  
(Signed) Eben Newton President Judge

State of Ohio }  
Mahoning County } S. J. William W. Whittlesey  
Clerk of the Court of Common Pleas of said  
County of Mahoning, certify that Eben Newton  
by whom the annexed and foregoing acknowledgment  
was taken, was at the date thereof President Judge  
of the third Judicial Circuit in the State of Ohio  
in which is the said County of Mahoning duly qual-  
ified and as such duly authorized to take the  
same. And further I am acquainted with the  
hand writing of the said Judge, and believe the  
signature purporting to be his is genuine and  
that the instrument is executed according to  
the laws of the State of Ohio, I do witness whereof  
I have hereunto set my hand and affix the seal  
of said Court at Canfield this 27<sup>th</sup> day of May  
A. D. 1841. S. J. (Signed) William W. Whittlesey  
Clerk

C

This Indenture made the tenth day of Novem-  
ber in the year of our Lord one thousand eight  
hundred and forty six between Noran Miller  
of the County of Winnebago and State of  
Illinois of the first part and Gardner O  
Miller and Huron Waterman of the same  
place, of the second part, witnesseth, That  
the said party of the first part for and in  
consideration of eight hundred dollars in  
hand paid by the said parties of the second

of the second part (the receipt of which is hereby acknowledged and the said parties of the second part forever released and discharged therefrom) has granted, bargained, sold, remised, released, aliened and confirmed. And by these presents does grant, bargain, sell, remise, release, alien and confirm and by these presents unto the said parties of the second <sup>part</sup> and to their heirs and assigns forever all the following described lot piece or parcel of Land to-wit: <sup>the South East quarter</sup> the East half of the <sup>the West half of the</sup> South West quarter of Section Number fourteen (14) in Township number forty three South of the base line in Range one East of the third principal Meridian in the County of Warrsburg and State of Illinois aforesaid, containing two hundred and seventy five  $\frac{27}{100}$  acres. Also the West half of the North East quarter of section number nineteen in Township number forty three (43) South of the base line in Range No two (2) East of the third principal Meridian in the County and State aforesaid containing eighty acres. Also an equal undivided half of the East half of the South East quarter of Section No twenty (20) in Township and Range last above mentioned, containing eighty acres. And also twenty three acres and three fourths of an acre, being part of the North West quarter of section No fourteen first above mentioned.

Together with all and singular the hereditaments  
and appurtenances therunto belonging or in any  
wise appertaining and the reversion and reversions  
remainders and remainders rents issues and  
profits thereof and all the estate right title  
interest claim or demand whatsoever of  
the said party of the second part either in  
law or equity of in and to the above bargained  
premises with the hereditament and appur-  
tenances; To have and to hold the said premises  
above bargained and described with the ap-  
purtenances unto the said parties of the  
second part their heirs and assigns forever  
and the said party of the first part for him-  
self his heirs executors and administrators  
doth covenant bargain and agree, to and  
with the said parties of the second part  
their heirs and assigns, that at the time  
of the executing and delivery of these  
presents he is well seized of the premises  
above conveyed as of a good, sure perfect  
absolute and indefeasible estate of inher-  
itance in the law in fee simple, and has  
good right, full power and lawful authority  
to grant, bargain, sell and convey the  
same in manner and form aforesaid  
and that the same are free and clear  
of all incumbrances former and other  
grants, bargains, sales, leases, assessments  
judgments taxes and incumbrances of what

kind or nature soever and the above bars  
against premises in the quiet and peaceable  
possession of the said parties of the second  
part their heirs and assigns against all  
and every person or persons lawfully claiming  
or to claim the whole or any part thereof  
the said party of the first part shall and  
will forever warrant and defend, In  
witness whereof the said party of the first  
part hereunto set his hand and seal the  
day and year first above written

Signed) Horace Miller L. S.  
Sealed Signed and delivered in  
presence of Jason Marsh

State of Illinois }  
Wennebago County } H. V. Jason Marsh  
Clerk of the Circuit  
Court in and for the said County in the  
State aforesaid do hereby certify that  
Horace Miller personally known to me  
to be the same person whose name is  
subscribed to the above warranted deed  
appeared before me this day in person  
and

and acknowledged that he signed, sealed  
and delivered the said instrument of writ-  
ting as his free and voluntary act, and  
did for the uses and purposes therein set forth  
Given under my hand and seal this eleventh  
day of November A. D. 1841  
L. S. J. S. Jason Marsh Clerk this Court

and afterwards to wit on the 3<sup>d</sup> Day of November  
A. D. 1848 at the October Term of said Circuit  
Court the Defendants herein filed their certain  
Demurrer to the Complainant's Bill and Supplemental  
bill herein which said Demurrer is  
in the words and figures following to wit.

Winnabago Circuit Court  
In Chancery

The Demurrer of  
Simmons Sackett Benjamin Sackett  
Erastus P. Moulthrop Horace Miller Gardner  
C. Miller & Herim Waterman to the Original  
amended & Supplemental Bill of Margaret  
Moulthrop and Levi Moulthrop against  
them.

These defendants by prolixation &c  
do demur to the said <sup>original</sup> Bill and  
Supplemental bill, and for cause of demurrer  
show that the said ~~amended~~ Complainants

nor not by their amended and Supplemental  
= bill made such a case as entitles them  
in a Court of equity to any discovery from  
these Defendants respectively or to any of them,  
or to any relief against them as to the matters  
contained in said bill & Supplemental bill, or  
any of such matters and that any discovery  
which can be made by these Defendants or  
any of them touching the matters complained  
of in the said <sup>amended</sup> Bill & Supplemental bill or  
any of them cannot be of any avail to the  
said Complainants for any of the purposes  
for which a discovery is sought against  
these Defendants or any of them by the said  
amended & Supplemental Bills, nor entitle  
the said Complainants to any relief in this Court  
touching the matters therein complained  
of. Wherefore and for diverse other good  
causes of demand appearing in the said  
amended bill & Supplemental bill these  
Defendants do demand secrets and they pray  
the judgment of this Honorable Court whether  
they or either of them shall be compelled to  
make any further or other answer to the  
said amended & Supplemental bills, and  
they humbly pray same dismissed with  
their reasonable costs in this behalf sustained

March 18<sup>th</sup> 1846  
Solicitors for  
Defendants

and afternoon. Do not on 4<sup>th</sup> day of November  
A.D. 1848 at the said October Special Term of said  
Court, the following final Order was entered  
in this Cause to wit.

Maryant Montthrop &  
Levi Montthrop

vs  
Amos Sackell  
Benjamin Sackell  
Erastus P. Montthrop  
Homer Miller  
Gardner G. Miller &  
Hiram Waterman

In Chancery

This Cause  
coming on to be heard on the <sup>primary debt</sup> Bill and  
Supplemental bill & answer thereto, after  
hearing all rights for the defendants in  
support of said answer to said amended  
and supplemental bills and Answer James  
Solbert for the Complainants in opposition to  
said answer, and the Court being fully  
advised herein and appearing to the  
Court that by the said Bill and Supplemental  
bill in Equity is shown in favor of  
the said Complainants against the said  
defendants. It is ordered adjudged  
and decreed that the said <sup>primary debt</sup> Bill and  
Supplemental bill herein be unconditionally  
dismissed and that the defendants  
herein go hence without day and that



they may and recover of the said complainants  
their costs and charges herein, and that  
they have Execution therefor

State of Illinois

Winnemago County

3  
I Charles P. Spufford

Clk of the Circuit Court within and for said  
County & State aforesaid do Certify the foregoing  
to be a true Copy the amended & supplemental  
bills filed by the complainants in said Cause  
together with the Verdict ~~xxx~~ of the said  
Defendants to the said Amended bill & sup-  
plemental bill, and also of the final Order  
& decree entered in said Cause as appears  
of record & on file in my Office.

In witness whereof I herewith

Subscrib my name and

Appose the seal of said Circuit

Court at Rockford this 11<sup>th</sup> day

June A.D. 1849.

Charles P. Spufford

Clk

7  
Benj. Smith et al.  
vs  
Seimons Sackett et al.

Recd

Filed June 16. 1849.  
W. Ireland Clk.

Rockford 11 July 1849.

S. Selward, Esq.

Clerk Supreme Court,  
Ottawa.

I arrived here yesterday, and on mentioning to the clerk of the Circuit Court his omission to note his fees on the return to the writ of error in Smith vs. Sackett, he informed me that he had recollectd the omission, and inclosed to me a certificate of those fees to Ottawa.

I ought probably to have suggested to you the necessity of setting out the substance of ~~the~~ writ of error in your transcript to be sent down to the Circuit Court, in that case. There is nothing in the record here to shew the marriage, or how Benjamin Smith became a party to the suit, nor can any thing be introduced to shew that matter, otherwise than by means of the transcript.

The clerk's statement of his fees is on another page.

Respectfully yours,

Francis Burdick.

S. Leland Esq

Dear Sir

The Clerk has for  
the Transcript in Case of B. Smith et al vs  
J. Sackett et al. amt. to \$37.50.

In the Case of E. Smith vs Wynn & Maynard  
& M. Quincy. I think they are noted on the  
Transcript. If not, please inform me & I will  
send the amt.

Respectfully Yours

C. R. Spafford

C. R. Univ. C. Court

Roxford, 24 Feb. 1849.

Lorenza Seland, Esq.

Clerk Sup. Court.

Dr Sir,

On my return a few days ago I discovered that the writ of error and sine facias in Smith and others vs. Sackett and others were both of them so defective that they would probably fail.

I wrote the praecipe so full that I thought there could not well be any mistake. These writs do not describe any existing judgment. It was to remove a decree between Margaret Moulthrop and Levi Moulthrop complainants and the defendants. The complaint ought to be stated at large to be made by Smith, who has married Margaret, by her and Levi Moulthrop by Smith his next friend.

The person who drew the writs probably looked only to the indorsement on the praecipe.

The expense of serving the sine facias had been incurred before my return. I inclose the writs and wish you to send me correct ones, according to the praecipe; and if there is any difficulty in making them right, refer to me again. Yours, &c.

Francis Burnap.

In the Supreme Court,

Of the term of June, in the year  
of our Lord one thousand eight  
hundred and forty nine.

State of Illinois.

And now to wit on the eleventh day of  
June, in the year of our Lord one thousand eight  
hundred and forty nine, at Ottawa in the county of  
La Salle, at which day and place the aforesaid writ  
of error was returnable, before the Justices of the Supreme  
Court of the State of Illinois, come the said Benjamin  
Smith and Margaret M. Smith, by Francis Burnap  
their attorney, and the said Levi Moulthrop by the said  
Benjamin Smith his next friend, and say that in  
the record and proceedings, and in the rendition of  
the decree aforesaid, there is manifest error in this that  
in the said bill and supplemental bill, sufficient  
equity is shewn in favor of the said Margaret M.  
Smith, lately Margaret Moulthrop, and the said  
Levi Moulthrop, against the said Simmons Sackett,  
Benjamin Sackett, Erastus P. Moulthrop, Horace Miller,  
Gardner C. Miller and Hiram Waterman, to entitle  
them to a decree against the said Simmons Sackett, Ben-  
jamin Sackett, Erastus P. Moulthrop, Horace Miller, Gard-  
ner C. Miller, and Hiram Waterman; and also there is  
error in this that the decree aforesaid, by the record afo-  
said, appears to have been given for the said last men-  
tioned persons, against the said Margaret Moulthrop  
and Levi Moulthrop; whereas by the rules of law and  
equity, the said decree ought to have been given  
for them against the said persons. And the  
said plaintiffs in error pray that the decree afo-

said, for the errors aforesaid, and for other errors in  
the said record and proceedings being, may be re-  
versed.

Francis Burnap,  
Attorney and Counsel for Plffs.  
in error.

Left to join in Error

Mark Wight  
for Defts in Error

Supreme Court,

Benjamin Smith and  
Others

v.  
Simmons Sackett and  
Others.

Assignment of Errors.

Filed June 19. 1849  
at Salem Mass.

Burnap.

Supreme Court, 3<sup>d</sup> Grand Division - June Term 1849.

Benjamin Smith, Margaret  
Ch. Smith & Levi Ellsworth

vs  
Evs to Winnebago.

Simmons Sackett, Benjamin  
Sackett, Erastus P. Ellsworth, Horace Miller, Gardner  
C. Miller & Ariam Waterman.

Defts. costs. = Apper. 25,	Mo. to dip. 25,	fil. & ent. jinder 31 $\frac{1}{4}$ ,	.81 $\frac{1}{4}$
leave to withdraw June 25,	leave to answer bill 25,		.50
Bill of costs 37 $\frac{1}{2}$ , copy 25,	ent. & seal 50,	fil. & Dr. 18 $\frac{1}{4}$ ,	1.31 $\frac{1}{4}$
Supps. enter. 12 $\frac{1}{2}$ ,	Ent. pr. 25,	Dr. pr. 125,	1.62 $\frac{1}{2}$
			<hr/>
			Ant. 4.25

State of Illinois, ss.

Supreme Court—Third Grand Division, at Ottawa:

The People of the state of Illinois to the sheriff of Winnebago county---Greeting:

WE COMMAND YOU, that of the goods and chattels, lands and tenements of Simmons Sackett,

Benjamin Sackett, Erastus P. Ellsworth, Horace Miller, Gardner C. Miller & Ariam Waterman you cause to be made the

sum of four dollars and twenty five

cents, the amount of the foregoing bill, which is due and unpaid, and is a true copy from the Fee Book in my office; and hereof make due return in ninety days.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this

26<sup>th</sup> day of July

A. D. 1849.

W. Ireland Clerk of the Supreme Court.

24.75  
4.25  
29.00

Supreme Court  
Benjamin Smith et al.  
vs  
Senimond Sackett et al.

Fee Bill  $\$4.25$

Filed Feb. 12. 1850.  
C. Keland Clk.

Mr. Keland Sir  
I see that  
you will see that  
I am in the year 1849  
My executor paid  
193  
26.07  
It never that I have not  
sent it before now that  
I do not want to know  
it by your's order  
your Director  
J. C. Keland Clk.



Supreme Court, 3<sup>d</sup> Grand Division - June Term 1849.

Benjamin Smith, Margaret  
 Ell. Smith & Levi Ellenthrop

vs  
 Ever to Winchago.

Simmons Sackett, Benjamin  
 Sackett, Eastas P. Ellenthrop,<sup>3</sup> Horace Miller, Gardner C.  
 Miller & Ariam Waterman.

Pffs. Costs = Fil. fee. 6 $\frac{1}{4}$ , Wit of eva & fil. 8 $\frac{1}{4}$ , Sei. fa. & fil. 1.06 $\frac{1}{4}$ ,	1.93 $\frac{3}{4}$
Taking & fil. bond for costs 37 $\frac{1}{2}$ , appn. 25, Sh. case 12 $\frac{1}{2}$ , fil. bond 6 $\frac{1}{4}$ ,	.75
Fil. & fee. 6 $\frac{1}{4}$ , 2 <sup>d</sup> wit of eva & fil. 8 $\frac{1}{4}$ , 2 <sup>d</sup> Sei. fa. & fil. 1.06 $\frac{1}{4}$ ,	1.93 $\frac{3}{4}$
Fil. transpt. 20, fil. 4 abstracts 25, Ent. argument 25,	.70
Ent. subn. 25, Ord. taking time 25, Ord. revq. 25, Ord. remedy. 25,	1.00
Fil. opinion 6 $\frac{1}{4}$ , Ent. Decree & opinion 45 fol. 8.10	8.16 $\frac{1}{4}$
Copy of Decree, Wit of eva & opinion 7.25, Certif. & seal 50,	7.75
Ent. jud. for costs 37 $\frac{1}{2}$ , Ord. for exhn. 25, execution 50, fil. & Sh. 18 $\frac{1}{4}$ ,	1.31 $\frac{1}{4}$
Supp. wth. 12 $\frac{1}{2}$ , bill of costs 37 $\frac{1}{2}$ , copy 25, posty. 20, Sat. pr. 25,	1.20
	<hr/>
Chks for transpt. &c.	24.75
	<hr/>
Supp. for	37.50

Serv. sub. Sei. fa. 1.62 $\frac{1}{2}$ , mileage 1.31 $\frac{1}{4}$ , (Supp. Winchago)	2.93 $\frac{3}{4}$
	<hr/>
Am't. of	65.18 $\frac{3}{4}$

A true copy from my fee book as taxed & recorded therein.

L. Leland Clk. Sup. Court.

Supreme Court.

---

Benjamin Smith et al.

v

Simmons Sackett  
et al.

---

Bill of Costs \$65.18<sup>3</sup>/<sub>4</sub>

See ~~Book~~ Book page 25-

not recorded

State of Illinois, ss.

Supreme Court, Third Grand Division, at Ottawa:

The People of the State of Illinois, to the Sheriff of Winnebago County---Greeting:

WE COMMAND YOU, That of the goods and chattels, lands and tenements, and real estate of  
*Simmons Sackett, Benjamin Sackett, Erastus P. Cloughrop, Horace*  
*Miller, Gardner C. Miller & Hiram Wataman* \_\_\_\_\_  
you cause to be made the sum of *sixty five* \_\_\_\_\_ dollars and  
*eighteen & three fourth* cents costs in the said Supreme Court, which *Benjamin*  
*Smith, Margaret M. Smith & Levi Cloughrop* \_\_\_\_\_  
lately recovered against *them* before the Justices of our said Supreme Court, as appears to  
us of record, and make return hereof in ninety days.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice  
of our said Court, and the Seal thereof, at Ottawa,  
this *26<sup>th</sup>* \_\_\_\_\_ day of *July* \_\_\_\_\_  
in the year of our Lord one thousand eight hundred  
and *forty nine*.

*S. Sland* Clerk of the Supreme Court.

Supreme Court

Benjamin Smith et als.

vs  
Vinnans Sackett et als.

Execution

Bill of Costs \$65.18<sup>3</sup>/<sub>4</sub>

Fee Bill 4.25

Am't. \$69.43<sup>3</sup>/<sub>4</sub>

Received the Clerks fees of  
Winnemago Co.  
Wm Spafford  
Clerk

Feb 9<sup>th</sup> 1850 the within  
Execution satisfied in full  
Received my fees

H. R. Maynard Sheriff Wm Co.  
By H. Fuller Deputy

Received this writ for collection  
this 4<sup>th</sup> Day of August A.D. 1849  
1102  
H. R. Maynard Sheriff  
H. Fuller Deputy

Filed Feb. 12. 1850.  
Leland C.

Rockford, 17 Jan. 1849.

Lorenzo Leland, Esq.

Clerk Supreme Court

Ottawa.

Dr Sir,

I inclose a precipe for a writ of error in Benjamin Smith and others vs Simmons Sackett and others, and for the scire facias to hear errors, and also security for costs; which precipe I believe contains all the information necessary to enable you to make out the writs in proper form.

I wish you to inclose them immediately to Charles H. Spofford, clerk of the Winnebago Circuit Court, for the reason that I shall probably be on my way to Springfield at return of mail; in order that the defendants may be served seasonably.

Respectfully yours,

Francis Burnap.

FS-20617

PAID 10

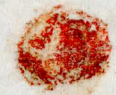
ROCK  
JAN  
17

PAID 5

Lorenzo Leland, Esquire,  
Clerk Supreme Court  
Ottawa

New Chicago  
Burns.

La Salle Co.  
Illinois



State of Illinois,  
 Supreme Court, } SS.

The People of the State of Illinois

TO THE SHERIFF OF *Winnebago* County.

Because in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the circuit court of *Winnebago* county, before the Judge thereof, between *Benjamin Smith, Margaret M. Smith & Levi Moulthrop*, Complainants, and *Simmons Sackett, Benjamin Sackett, Erastus P. Moulthrop, Horace Miller, Gardiner C. Miller & Ariam Waterman* defendant; it is said that manifest error hath intervened to the injury of the said *Complainants*

as we are informed by *their* complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said *Simmons Sackett, Benjamin Sackett, Erastus P. Moulthrop, Horace Miller, Gardiner C. Miller, & Ariam Waterman*—

that *they* be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the *second* Monday in *June* next, to hear the records and proceedings aforesaid, and the errors assigned, if *they* shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *defendants* notice, together with this writ.

WITNESS, the Hon. *Samuel H. Treat*  
 Chief Justice of our said Court, and the seal thereof,  
 at Ottawa, this *30<sup>th</sup>* day of *January*  
 in the year of our Lord, one thousand eight hundred  
 and forty-*nine*.

*H. Ireland*

Clerk of the Supreme Court.

7  
Supreme Court  
 Benjamin Smith et al.  
 vs  
 Virnumus Sackett et al.

Sci. Fa.

To June Term 1849.

Jan 29<sup>th</sup> 1849 since the  
 within writ by reading to  
 Horace Miller Gardner  
 C. Miller and Miriam  
 Waterman the other within  
 named defendants not found  
 in our county

H. R. Maynard  
 Sheriff

By J. C. Fuller  
 Deput

Fee Term \$15.00  
 Muley 1.25  
 Return 12  
2.87

Filed Feb'y 28. 1849.  
 W. C. C. C.

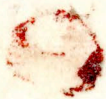
TO THE SHERIFF OF  
 The People of Illinois

the judgment of a plea which was in the circuit  
 between

County.

Clerk of the Supreme Court.

WITNESS the Hon. Justices of the Supreme Court  
 in the year of our Lord one thousand eight hundred  
 and forty-ninth





State of Illinois, }  
Supreme Court, } SS,

The People of the State of Illinois

TO THE SHERIFF OF Winnebago County.

*Greene*  
Because in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the circuit court of Winnebago county, before the Judge thereof, between Margaret Clouthrop and Levi Clouthrop by the said Margaret Clouthrop his next friend, Complainants & Samuel Sackett, Benjamin Sackett, Erastus P. Clouthrop, Horace Miller, Gardner C. Miller & Arian Waterman defendants; it is said that manifest error hath intervened to the injury of the said Complainants

*Benjamin Smith, with whom the said Margaret Clouthrop has intermarried since the making of the decree in the said case, of the said Margaret now Margaret Cl. Smith and of the said Levi Clouthrop by the said Benjamin Smith his next friend*  
as we are informed by the complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said Defendants

that they be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the second Monday in June next, to hear the records and proceedings aforesaid, and the errors assigned, if they shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said defendants notice, together with this writ.

WITNESS, the Hon. Samuel H. Treat Chief Justice of our said Court, and the seal thereof, at Ottawa, this 28<sup>th</sup> day of February in the year of our Lord, one thousand eight hundred and forty-nine.

Beland  
Clerk of the Supreme Court.

Supreme Court  
 Benjamin Smith et al.  
 vs  
 Deimonas Sackett et al.

Sci. Ia.  
 To June Term 1849.

April 15<sup>th</sup> 1849  
 served the withinly  
 dealing to Horae  
 Miller Wiram Waterman  
 and G. C. Miller the att-  
 within none dependents set  
 found in our courts

H. R. Maynard  
 By H. Miller  
 Deputy  
 Justifying 150  
 Mulay 7.81 1/4  
 retung 12 1/2  
 2,98 3/4

Filed June 16. 1849.  
 S. H. Land Clk.

TO THE SHERIFF OF  
 Superior Court,  
 State of Illinois,  
 The People of the State of Illinois  
 County.

Reasons in the record and proceedings, and also in the rendition of  
 the judgment of a plea which was in the circuit court of  
 County,

the said  
 order in this behalf; and have you then there the names of those by whom you shall give  
 signed, if  
 shall think fit; and further to do and receive what the said Court shall  
 notice, together with

WITNESS, the Hon. Governor of the State of Illinois,  
 Chief Justice of our said Court, and the seal thereof,  
 and four - 1849  
 in the year of our Lord, one thousand eight hundred  
 at Ottawa, this 22<sup>nd</sup> day of September

Clerk of the Supreme Court -  
 S. H. Land

State of Illinois, &c.

The people of the State of Illinois,

To the Clerk of the circuit court for the county of *Winnetago*—Greeting:

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of *Winnetago*—county, before the Judge thereof, between *Benjamin Smith, Margaret M. Smith & Levi Clouthrop, Complainants,*

*Benjamin Sackett, Erastus P. Clouthrop, Horace Miller, Gardiner C. Miller & Ariam Waterman*  
 plaintiff and *Simmons Sackett,*

defendants it is said manifest error hath intervened to the injury of the aforesaid

*Complainants*

as we are informed by *their* complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the county of La Salle, on the *second Monday of June*—next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

WITNESS, the Hon. *Daniel A. Treat*  
 Chief Justice of our said Court, and the  
 seal thereof at Ottawa, this *20<sup>th</sup>* day of  
*January* in the year of our Lord  
 one thousand eight hundred and forty-*nine*—

*Kelaud*

Clerk of the Supreme Court.

Supreme Court  
Benjamin Smith et als.  
vs  
Simmons Sackett et als.

Writ of Error

To June Term 1849.

There is no such judgment  
in the Circuit Court of the County  
of Vermont as is averred  
in the within writ

Charles McSpafford  
Clerk

Filed July 28. 1849.  
Richard Clark.

State of Vermont, Dist. of the County of Windsor,  
To the Clerk of the Circuit Court for the County of Windsor, Vermont:  
The Judge thereof, between  
Judgment of a plea which was in the Circuit Court of the County of Windsor, Vermont, before  
BECAUSE in the record and proceedings, as also in the recitation of the

Clerk of the Supreme Court.  
one thousand eight hundred and forty-  
in the Year of our Lord  
WITNESS, the Hon. DANIEL W. WOODRUFF  
Chief Justice of our said Court, and the  
next, that the record and proceedings, being indistinct,  
we may cause to be done therein, to correct the error, what of right ought to be done second-  
ing to law.

In the Supreme Court.

State of Illinois.  
Hassalle County ss.

A writ of error to remove the record and proceedings in a cause lately depending in the Circuit Court for the county of Winnebago, on the equity side thereof, wherein Margaret Moulthrop and Levi Moulthrop by the said Margaret Moulthrop his next friend, were complainants, and Simmons Sackett, Benjamin Sackett, Erastus P. Moulthrop, Horace Miller, Gardiner C. Miller and Miriam Waterman, were defendants, by original and supplemental bill, upon the complaint of Benjamin Smith, with whom the said Margaret Moulthrop has intermarried since the making of the decree in the said cause, of the said Margaret, now Margaret M. Smith, and of the said Levi Moulthrop, by the said Benjamin Smith, his next friend, that in the record and proceedings ~~in the~~ and also in the making of the decree in the said cause, manifest error hath intervened.

Also a writ of scire facias to hear errors, directed to the sheriff of the county of Winnebago, commanding him to summon the said Simmons Sackett, Benjamin Sackett, Erastus P. Moulthrop, Horace Miller, Gardner C. Miller and Miriam Waterman to appear before the Supreme Court, on the first day of the next term thereof to be held at Ottawa, to shew cause if any they have why the said decree should not be reversed.

Francis Burnap,  
Solicitor and Counsel for Plaintiffs in error.

In the Supreme Court.

Benjamin Smith  
Margaret M. Smith and  
Levi Moulthrop  
vs.  
Simmons Sackett,  
Benjamin Sackett,  
Erastus P. Moulthrop,  
Horse Miller,  
Gardner C. Miller and  
Hiram Waterman

I do hereby enter myself as security for costs  
in this cause, and acknowledge myself bound to pay or cause  
to be paid, all costs which may accrue in this action either to the  
opposite party or to any of the officers of this court, in pursuance  
of the laws of this state. Dated this                      day of January, 1849

Francis Burnap

7

Minor's Supreme Court,  
Benjamin Smith,  
Margaret M. Smith and  
Levi Moulthrop,  
vs.  
Simmons Sackett,  
Benjamin Sackett,  
Erastus P. Moulthrop,  
Horse Miller,  
Gardner C. Miller and  
Hiram Waterman.

Præcipe for Writ of Error and  
Sine Facias.

Filed Jan. 20<sup>th</sup> 1849.  
Mel and Clk.

Burnap.