

11848

No. \_\_\_\_\_

Supreme Court of Illinois

Farnsworth, et al.

vs.

<sup>L</sup>  
Strasler, et al.

71641  7

*Jerah B. Farnsworth et al.*  
*vs*  
*John Strasler et al. admors.*

*B. J. Davieps*

*11848*

**1851**

*Prepared*



~~The Straker et al adms.~~

Terah P. Farnsworth et al.

vs  
John Straker et al adms.

The Supreme  
Court  
June Term  
1851.

And now comes the said ~~defendant~~ <sup>plaintiff</sup> Farnsworth, by his attorney, and says that in the record and proceeding in the said case in the court below there is manifest error in this:

1. The court below erred in rendering any decree against the said defendants below
2. The court erred in decreeing the property to be sold sold absolutely and without any redemption.
3. The court erred in not rendering a decree for the defendants <sup>below</sup> instead of for the plaintiffs below.

4. For these and other errors apparent upon the face of the record the said defendants <sup>below</sup> pray that the decree of the court below may be reversed and annulled and for ought wholly esteemed.

Hempstead & Willoughby  
for def. Farnsworth

5. By leave of the court plaintiff assigns the following additional errors in the record & proceedings aforesaid

4. The said Court erred in appointing a Special Commissioner to execute said decree.
5. The ~~said~~ returns of the sheriff upon the process issued against the said several defendants below are defective and the said Court erred in rendering a decree ~~in~~ <sup>for</sup> ~~the~~ <sup>the</sup> ~~same~~ <sup>same</sup> against said defendants.

Blackwell per



Stratton et al

Francisworth

et al

signature of error.

Handwritten notes on the right side of the page, including the name 'Mackintosh' written vertically.

Vertical handwritten notes on the left side of the page, including a large circular scribble.



State of Missouri,  
Jo Daviess County

Plas in the Circuit Court  
on the Chancery side being begun and sued within  
and for said County of Jo Daviess on the first  
Monday in the month of October A D 1849 before  
the Judge of the Sixth Judicial Circuit. To wit the  
Hon. Benjamin R. Sheldon

John Strasser administrator  
Mary Ann Schrader administratrix  
of the Estate of Henry Schrader dec<sup>d</sup>

Complainants

<sup>vs</sup>  
Terah B. Farnsworth, John  
Frintk & Harriet G. Frintk

Defendants

Be it remembered that  
hereinbefore to wit on the 17<sup>th</sup> day of July A D 1849 the  
Complainants John Strasser administrator & Mary  
Ann Schrader administratrix of the Estate of Henry  
Schrader deceased, filed in the Office of the Clerk  
of the Circuit Court for said Jo Daviess County their  
Petition against the said Terah B. Farnsworth, John  
Frintk and Harriet G. Frintk, which said petition  
is in the words and figures following to wit.

To the Hon. Judge of the Circuit Court  
of Jo Daviess County in Chancery  
Sitting.

The complaint of John Strasser administrator  
and Mary Ann Schneider administratrix of the  
Estate of Henry Schneider deceased, sheweth.

That at the April Term of the Jo Daviess County  
Court for the year 1849 the said Complainants



obtained a decree on the Chancery side of said Court against Terah B Farnsworth the substance of which decree was that the said Farnsworth pay to the said Complainants in their aforesaid representative capacity the sum of One hundred and eighty seven <sup>50</sup>/<sub>100</sub> Dollars (\$187. <sup>50</sup>/<sub>100</sub>) and costs of Suit which said decree was rendered upon a bill in Chancery presented to the said Court for pay and compensation for the building & other improvements put upon the Lot of land hereinafter named by the said Henry Schraden in his life time to wit about the year 1841. That the said decree rendered as aforesaid is not satisfied and remains in full force and unreversed or annulled. And that since the rendition of said decree to wit on the 29<sup>th</sup> day of June A.D. 1849 an execution was issued out of the Office of the Clerk of said County Court upon said decree according to law and placed in the hands of the Sheriff of this County to execute.

but that the said Sheriff was unable to find any personal property belonging to said Farnsworth or liable to said execution or any real estate belonging to the said Farnsworth except the lot of Land hereinafter mentioned, and upon which the said Sheriff levied said execution. All of which things will more fully appear by the records & files of the said Jo. Camp County Court and the aforesaid execution, and the endorsement of the said Sheriff thereon reference being thereunto had. The said Complainants also show that on the thirteenth day of May A.D. 1843 the said Farnsworth being seized in fee of the aforesaid land which is known and described as Lot No. 22, fronting on Main Street fifty one feet running back and fronting on Birch Street fifty eight feet in the City of Galena in said County for the pretended



consideration of Five thousand dollars executed a deed of conveyance to one Harriet G Farnsworth a sister of said Terah B Farnsworth of the said lot of land which will appear fully and at large by reference to the record of said deed on record in the Recorder's Office of the said County.

Said Complainants also show that afterwards to wit on the 22<sup>nd</sup> day of September A.D 1845 the said Harriet G Farnsworth and one John Smith being about to intermarry & before their intermarriage they the said Harriet G Farnsworth and the said Smith made and executed a deed of conveyance purporting to convey unto the said Terah B Farnsworth the aforesaid land to hold in trust for the separate use and benefit of the said Harriet G Farnsworth which said last deed was recorded in said Recorder's Office and to which the said Complainants refer the Court for greater certainty.

That immediately after the conveyance last aforesaid the said Harriet G Farnsworth intermarried with the said John Smith.

Complainants also show that before and at all times since the conveyance first aforesaid by said Terah B Farnsworth to his said sister he the said Terah B Farnsworth has been in the continuous occupation of said lot receiving, using and disposing of as of his own right the rents and profits arising from the said lot.

Complainants also show that the said Terah B Farnsworth before and since the conveyance first aforesaid and still is utterly insolvent and has not now nor has had since said conveyance property out of which debts against



him could be collected at Law. And charges that  
the said Comyzance as aforesaid were made to defeat  
defraud hinder and delay his creditors from colle-  
cting their just demands against him and to re-  
serve the benefit thereof to himself.

In consideration of the premises and inasmuch  
as the said Complainants cannot obtain adequate  
remedy by the strict rules of the Common Law. To  
the end therefore that they may be relieved in the  
premises the said Complainants pray that the  
said Terah P. Parsonworth, Harriet G. Prink's  
and John Prink be made defendants herein  
and that they be summoned as in and by the  
statute in such case is required to appear and  
give true and perfect answer make to all and  
singular the premises. Not under oath as that  
is hereby expressly waived. And that the deeds  
of Comyzance made as aforesaid be cancelled  
and annulled and set aside and that the  
aforesaid Lot of land be sold to satisfy the  
aforesaid execution. And said Complainants  
further pray that said Court may grant such  
other & further order and relief as may seem  
most and proper in the premises.

Baker & Merriam  
for Complainants

Endorsed

Filed July 17<sup>th</sup> 1849

Wm. H. Bradley Clerk

And afterwards printed on the same day & on  
the 17<sup>th</sup> day of July A.D. 1849. two writs of Summons  
one directed to the Sheriff of Jo. Davis County, aforesaid  
and the other to the Sheriff of Cook County, Illinois  
were sent out of the Clerk's Office of said Jo.



Damp County Circuit Court. To the said defendants  
which said writs together with the returns endorse-  
-ed thereon are in the words and figures following  
to wit,

State of Illinois  
Jo Damp County } Oct

The People of the State of Illinois  
To the Sheriff of the County of Jo Damp County  
We command you to summon Terah B  
Parnsworth, John Prink & Harnett G Prink  
to appear before the Circuit Court of Jo Damp County  
at the next term to be holden at Galena on the  
1<sup>st</sup> Monday of October next to answer John  
Strasler Administrator & Mary Ann Schraeder  
Administratrix of the Estate of Henry Schraeder  
deceased in a Bill in Chancery to set aside  
conveyances, and hear you thereon this writ.

Seal  
(Circular stamp)

Attest Myself & Bradley Clark of the Circuit  
Court of Jo Damp County at Galena  
Illinois this 17<sup>th</sup> day of July A.D. 1849  
Attest Myself & Bradley Clark

Endorsed. Executed the within by delivering a  
certified copy to the within named Terah B  
Parnsworth this 20<sup>th</sup> day of July A.D. 1849. the within  
named John Prink & Harnett Prink not found  
in my County. W B Pierce Sheriff,

State of Illinois  
Jo Damp County } Oct

The People of the State of Illinois  
To the Sheriff of the County of Cook County  
We command you to summon Terah B Parns-  
-worth, John Prink & Harnett G Prink to appear



before the Circuit Court of Jo Damp County at the next  
term to be holden at Galena on the 1<sup>st</sup> Monday of October  
next to answer John Strasser administrator & Mary  
Ann Schrader administratrix of the Estate of Henry  
Schrader deceased, in a Bill in Chancery to set  
aside conveyance. And have you then there  
this 17<sup>th</sup> day of July



Circuit Court of Jo Damp County at  
Galena Illinois this 17<sup>th</sup> day of July

A.D. 1849

Attest Wm H Brady Clerk

Endorsed. Executed by reading and  
delivering 2 Copies to John Fink  
& Harriet G Fink this 29<sup>th</sup> day of July  
1849 the within named Terah B  
Parsons not being found.

J Cook Shff  
R J W Pendergast

And afterwards writ on the 17<sup>th</sup> day of October A.D.  
1849 in October Term of the Circuit Court for said  
Jo Damp County A.D. 1849 in the record of the proce-  
dings there in said cause is the following entry  
writ

John Strasser administrator and Mary Ann Schrader administratrix of the Estate of Henry Schrader deceased	} Bill in Chancery
vs Terah B Parsons John Fink & Harriet G Fink	

Now at this  
day came the complainants by their solicitor  
and the defendant Terah B Parsons being  
three times solemnly called came not but



made default. It is therefore considered by the Court on motion of the Complainant by their Solicitor that the bill as against the said Parrasworth be taken pro confesso and set aside for hearing.

And afterwards went on the 14<sup>th</sup> day of March in March term AD 1850 of said Court in the records thereof in said cause is the following entry, to wit:

John Staples administrator  
May Ann Schradu adm<sup>tr</sup> of the  
Estate of Henry Schradu deceased

vs  
Terah B Parrasworth, John Prink's  
S<sup>er</sup>vant Prink's

Bill in Chancery

Now at this day came the Complainant by their Solicitor and the defendants being three times solemnly called came not but made default. It is therefore considered by the Court that the bill be taken pro confesso and set aside for hearing.

And afterwards went on the fifth day of June AD 1850 as yet of the May term AD 1850 of the said Court in the records of the proceedings thereof in said cause is the following entry, to wit:

John Staples administrator  
May Ann Schradu adm<sup>tr</sup> of the  
Estate of Henry Schradu deceased

vs  
Terah B Parrasworth, John Prink's  
S<sup>er</sup>vant G Prink's

Bill in Chancery

And now came on to be heard this cause upon Bill exhibits and



Proofs of Record written & oral and it appearing to the Court that the said defendants had hitherto been brought into Court by due Service of Process, and a default having been hitherto taken against the said defendant, and this cause having been set aside for hearing, and the Court being satisfied upon the said bill and the proofs of Records written and oral, It is therefore ordered adjudged and decreed by the Court that the said deeds of Conveyance mentioned in said Bill from Terah B Farnsworth to Harriet S Farnsworth bearing date the 30<sup>th</sup> day of May A.D. 1843 for the said lot therein mentioned & sit. Lot number twenty two on Main Street in the City of Galena fronting on said Main Street fifty one feet, and fronting on Rock Street fifty eight feet, and also the said deed of Conveyance in said Bill mentioned from Harriet S Farnsworth and John Prink to the said T B Farnsworth as a trustee for the same lot above described, dated September 22<sup>d</sup> A.D. 1845, is fraudulent and void as against the said Complainants, and that the said conveyance and every of them as against said Complainants stand & be taken as a mere nullity and wholly void, and that the said lot in said deeds mentioned is subject to the payment of said judgment or decree of said complainants in their said Bill mentioned, It is further ordered and decreed by the Court that the said sum remaining due on said judgment or decree of said Complainant amounting up to this time to the sum of two hundred thirty one dollars and six cents, together with legal interest thereon from this date, and all the costs of this proceeding, It is further ordered and decreed by the Court that the said Terah B Farnsworth pay to the said Complainants within sixty days



from this date the said sum of two hundred and thirty one dollars and six cents together with legal interest throug from this date until paid and all costs herein. And in default of such payment at the time aforesaid that Marshall Pierce Shuff of W Damp County be appointed as a Special Commissioner for the purpose of making sale of said Lot number twenty two above described, and that after giving twenty days notice of the time and place of said sale by posting up notices in three public places in said County that he sell the said lot above described for ready money to the highest & best bidder throug, and upon making sale throug to execute and deliver to the purchaser or purchasers throug a good and sufficient deed throug as the law directs. Which said deed shall be valid in law and equity to pass all the right & title of the said T B Parrish with Harriet L. Trinks and John Trinks and each and every of them in and to said lot twenty two above described, and that so much of the proceeds as may be necessary be applied to the payment of the said sum of two hundred thirty one dollars and six cents and interest throug from this date together with the costs of this proceeding, and the surplus if any be paid herein to this Court to abide the further order of this Court. And further that the said Commissioner make return of his proceedings herein to the next term of this Court.

State of Missouri }  
W Damp County } S

J. William A. Brady Clerk  
of the Circuit Court in and for said County, do hereby



certify the foregoing transcript to be a true, full and  
correct copy of from the record of all the proceedings  
which were had in said Circuit Court of said Jefferson  
County in the aforesaid case of John Straube ad-  
ministrators & Mary Ann Schradu administratrix of the  
Estate of Henry Schradu deceased against Terah B Par-  
sons. John Smith & Harriet G Smith.

In testimony whereof I have hereunto  
set my hand and affixed the seal of  
said Court at my Office in Galena  
in said Jefferson County, this 18<sup>th</sup> day  
of July A.D. 1850

Attest William A Bradley Clerk

Fees for this transcript 2,75  
Certified Seal 35  
\$3,10

State of Illinois

Lasalle County

Let the writ of error be made  
a supersedeas in the above case upon, the said  
plaintiff in error enter into bond conditioned as the  
law requires in the penal sum of five hundred  
dollars with Edward Damon as his security

J. C. Coon  
Just Sup Court



John Thacker agent  
& Hall

no 3 Thacker  
J B Farnsworth  
Hals

Filed August 16. 1850.  
Leland Clark.

Remittance to Thacker  
for peffs.



Galena, Illinois,  
Aug. 12, 1850.

L. Selan. & Co.

Ottawa, Illinois:

Dear Sir:

Yours of the 8th has been  
duly received.

We enclose you herewith the bond of  
Geo. Farnsworth and Mr. Seaman together  
with the assignment of errors; also five  
dollars of the Western Reserve Bank No. 1503.  
Please send the supersedeas up immediately  
to Mr. B. Pierce, Esq. on sheriff.

Yours, Respectfully,

Hempstead W. W. W. W.



Farnsworth et al.  
vs  
Straeter et al. adms.

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Supersedeas.

To June Term 1851.

I Marshall B. Pierce Sheriff  
of Jackson County, Ill and  
Commissioner appointed by  
the Circuit Court to make Sale  
of certain property in case  
of default having been made  
in the payment of a certain  
sum of money in the within  
entitled Cause acknowledge  
the receipt & service of the within  
in supersedeas this 22 day  
of August A.D. 1851 & read  
same to Clerk Mr. B. Pierce Sheriff  
of Jackson County, Ill

Filed clerk. 13. 1851.  
V. Ireland Clk. S. C.



State of Illinois, ss.

Clerk's Office of the Supreme Court—Third Grand Division:

I HEREBY CERTIFY, That a Writ of Error hath issued from this office, for the reversal of a ~~Judgment~~ <sup>Judgment</sup> obtained by John Strasser admr. & Mary Ann Schrader admx. of the estate of Henry Schrader decd. against Jerah B. Fairbworth, John Frink & Harriet J. Frink in the Circuit Court of Jo Daviess county, at the May Term, in the year of our Lord one thousand eight hundred and fifty in a certain ~~action~~ Chancery cause which Writ of Error is to operate as a Supersedeas, and as such is to be obeyed by all concerned.

Given under my hand, and the Seal of the said Supreme Court, at Ottawa, this 16<sup>th</sup> day of August - A. D. 18 50.

J. Ireland Clerk of the Supreme Court.



State of Illinois,  
Supreme Court, } SS.

SCIRE FACIAS.—FREE TRADER OFFICE, OTTAWA.

The People of the State of Illinois

TO THE SHERIFF OF Godavip County.

~~Deere~~ Because in the record and proceedings, and also in the rendition of the ~~judgment~~ of a plea which was in the circuit court of Godavip county, before the Judge thereof, between John Strader admr. & Mary Ann Schrader admx. of the estate of Henry Schrader decd. Complainants — and Cesar B. Hamerworth, John Frink & Harriet G. Frink

defendants; it is said that manifest error hath intervened to the injury of the said Hamerworth

as we are informed by his 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 John Strader & Mary Ann Schrader, admr. & admx. as aforesaid

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 Strader & Schrader notice, together with this writ.

WITNESS, the Hon. Samuel A. Treat  
Chief Justice of our said Court, and the seal thereof,  
at Ottawa, this 16<sup>th</sup> day of August  
in the year of our Lord, one thousand eight hundred  
and seventy.

J. Ireland

Clerk of the Supreme Court.



Trask B. Farnsworth et al.

John Strader et al. admors.

Filed etc. 13. 1854.

A. Leland etc.

Sci. Fa. -

To June Term 1854.

I Marshall B. Pierce Sheriff of Jackson County Illinois do make return on the within writ that I did on the 29<sup>th</sup> day of August A.D. 1850 Cause this writ to be read in the hearing of each of the within named John Strader & Mary Ann Strader and at same time delivered each of them a true & certified copy of the within writ. By John Doe & Richard Roe good and lawful men of my County

Sheriff Fee  
Livery & Ret. 1.10  
2 Copies & Mileage 60  
Postage 5  
\$1.75

Mc. B. Pierce Sheriff  
of Jackson Co Ill



State of Illinois, Ect.

The people of the State of Illinois,

To the Clerk of the circuit court for the county of *Jodaviss* - 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 *Jodaviss* - county, before the Judge thereof, between *John Strader administrator and Mary Ann Schrader administratrix of the estate of Henry Schrader decd., Complainants* —

*plaintiff* and *Trak B. Farnsworth,*  
*John Frink & Harriet G. Frink* —

defendants it is said manifest error hath intervened to the injury of the aforesaid *Trak B. Farnsworth* —

as we are informed by *his* 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 in 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. Treat*  
— Chief Justice of our said Court, and the seal thereof at Ottawa, this *16<sup>th</sup>* — day of *August* — in the year of our Lord one thousand eight hundred and *fifty* —

*A. Heland*

Clerk of the Supreme Court.



Clerk of the Supreme Court

1850

in the year of our Lord  
1850  
the day of  
Chief Justice of our said Court and the  
MILITARY THE HON. JAMES A. HAMILTON

ing to law.

as may cause to be done therein, to correct the error, and if right ought to be done accord-

Terah B. Farnsworth et al.

vs  
John Strallen et al. adms

Writ of Error

This writ of error is made  
a Supersedeas vis to be obeyed  
and accordingly  
d. Ireland Clerk

Filed at the Court 16. 1850.  
d. Ireland Clerk.

5  
30  
30  
180  
12  
216 00

the judge of the circuit court for the county of ...

Do the Clerk of the circuit court for the county of ...

State of Missouri



Galena, Illinois,  
July 20. 1850.

Corango Island, Egypt.

Ottawa, Illinois.

Dear Sir:

We enclose you here with the record in the case of *Tracie Adams vs. J. Farnsworth et al.* which we desire you to place in the hands of Judge Catron and ask him to make the writ of error to operate as a supersedeas, if he should think sufficient cause exist therefor. We offer as security, Edward B. Starnes and you can state to the Judge, from us, that he is ample. Farnsworth is the defendant who takes the case up and the bond will have to be executed by him, alone, of the defendants, together with the security.

We enclose also a brief made out by B. B. Howard, Esq. which you can hand to the Judge. The error is, that the Court ought not to have entered up such a decree.

If the Judge should decline granting a supersedeas, we do not want the case entered. If he grant it, we will send down the bond and the fees.

Yours, Respectfully,  
Hempstead & Washburn



James Farnsworth  
John H. Hink &  
Harriet S. Hink  
et

Strufler &  
Schneider & Schur  
Schneider & Schur

Superior Court  
June Term 1837

In Error -

And the said  
deponents in error, comes  
and says that there is no error  
either in the record and proceedings  
aforesaid & therefore he prays that  
the said ~~judgment~~ judgment may be affirmed  
and that his costs may be adjudged  
to them -

Higgins & Strother and  
J. P. Stevens - Attorneys  
for depts in error -



Farnsworth & Shastel et al.

Jointly in Error

Filed June 20, 1854.  
L. Iceland Clerk.



Know all Men by these presents, that we Terah  
B. Farnsworth and Edward B. Damon are held  
and firmly bound unto John Stricker administra-  
istrator, and Mary Ann Shrader administratrix of Henry Shrader deceased  
in the penal sum of five hundred dollars  
for the payment of which well and truly to  
be made we bind ourselves, our heirs, execu-  
utors and administrators firmly by these presents.  
Witness our hands and seals this twelfth day  
of August A.D. 1850.

The condition of the above obligation is such  
that whereas the said John Stricker administrator  
and Mary Ann Shrader administratrix of Henry  
Shrader, deceased, did on the fifth day  
of June 1850 in the Circuit Court of the  
Savoy County, Illinois, recover a judgment against  
the above bounden Terah B. Farnsworth and John  
Frank and Harriet G. Frank for the sum of two hun-  
dred and thirty-one  $\frac{0}{100}$  dollars and the  
costs of the said suit from which said judgt.  
the said Terah B. Farnsworth has prayed that  
a writ of error may be granted <sup>from the Supreme Court of Illinois,</sup> to operate as a  
suspensum. Now if the said Farnsworth shall  
duly present the said writ of error with effect  
and in any way the amount of the judgment,  
costs, interest and damages rendered or to be  
rendered against them in case the said judgt.  
shall be affirmed, in the said Supreme Court, then  
the above obligation to be void, otherwise in force.

T. B. Farnsworth

E. B. Damon



Jerah B. Farnsworth et al.

v)

John Stasler et al. adms<sup>rs</sup>

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Bond

Filed August 16, 1850.  
J. Ireland Clk.

*[Faint handwritten notes or signatures in the bottom right corner]*