

Dana Lewis Co

Sup Court

Samuel Bennett

+ George Bennett

Agst

Daniel Bennett

and others

Copy Complaint

Jas R Perkins

Plffs Atty

Watertown N.Y.

Dec 11 1855
Filed -

Vol 1 The Supreme Court County of Lewis
Samuel Bennett
George Bennett &
Charles Perkins

Agst

Daniel Bennett
Sarah Bailey
John Bailey
Rebecca Ann Williams
Francis Williams
Francis Bennett
John Bennett
Gypporah Bailey
Hiram Bailey
Norman Whitman
Francis Whitman
Joseph Whitman
George Whitman
Frederick Whitman
Rachel Ann Whitman
Richard Whitman.

The said Plaintiffs complaining
against the said defendants allege that Francis
Bennett deceased, late of the town of Diana, in the
County of Lewis and state of New York, was in his life
time seized, in fee simple of the following
described real estate to wit: All that piece or
parcel of land situate, in lot no 841 of McComb's

purchase, number 4 in the town of Diana in the
County of Lewis and state of New York and bounded
as follows, to wit, Beginning in the centre of the
Russel Turnpike and running thence north
53° west 35 chains 7 links thence south 37° west
13 chains. Thence south 53° east 43 chains 32 links
2. Thence along the centre of the Russel Turnpike
to an angle north 7° east 6 chains 92 links.
Thence along the centre of said Turnpike
north 14° east 5 chains 50 links to the place
of beginning and containing fifty acres and
seventy-four hundredths of an acre of land.

The said Plaintiffs further allege
that the said Francis Bennett being as aforesaid
as aforesaid of the property above described, died
at Diana aforesaid, on or about the first day
of February ^{in the year} 1849 intestate, leaving Jerusha
4 Bennett his widow and the said Plaintiffs
Samuel Bennett & George Bennett and
the said Defendants Daniel Bennett
Francis Bennett John Bennett Sarah Bailey
wife of John Bailey Rebecca Ann Williams
wife of Francis Williams Hypsarah Bailey
wife of Hiram Bailey and Charles O Bennett
his children and Norman Whitman
Francis Whitman, Joseph Whitman George
5 Polutman, Frederick Whitman, Rachel Ann
Whitman & Richard Whitman his grand.

children being children of Rachel Ann Whitman wife of Peter Whitman a deceased daughter of the said Francis Bennett - his heirs at law. The said Plaintiffs further allege that the above named heirs of the said Francis Bennett are all of full age, excepting Joseph Whitman George Whitman Frederick Whitman Rachel Ann Whitman and Richard Whitman who are all infants under twenty one years of age. That said Joseph Whitman & George Whitman are over fourteen years of age, and reside in Chenango County New York that said Frederick Whitman Rachel Ann Whitman & Richard Whitman are under fourteen years of age, and whose places of residence are unknown and are ~~now~~ residents of this state.

The said Plaintiffs further allege that by the death of the said Francis Bennett intestate as aforesaid the said Samuel Bennett & George Bennett Plaintiffs and the said Daniel Bennett Francis Bennett John Bennett Sarah Bailey wife of John Bailey Zipporah Bailey wife of Hiram Bailey Rebecca Ann Williams wife of Francis Williams Norman Whitman Francis Whitman Joseph Whitman George Whitman Frederick Whitman Rachel Ann Whitman & Richard Whitman Defendants

8 and Charles O Bennett became seized in fee
as tenants in common by descent from the
said Francis Bennett of the said described
property. That is to say the said Plaintiff
Samuel Bennett of the one tenth part thereof
The said Plaintiff George Bennett of the
one tenth part thereof. The ^{said} Defendants
Daniel Bennett Francis Bennett John
Bennett, Sarah Bailey Gipporah Bailey and
Rebecca Ann Williams each of the one tenth
part thereof. The said Defendants Norman
Whitman Joseph Whitman Francis Whitman
9 George Whitman, Frederick Whitman,
Rachel Ann Whitman & Richard Whitman,
each of the one eighteenth part thereof and the
said Charles O Bennett of the one tenth part
thereof, each of said portions being subject
however to the right of dower of the said
Jerusha Bennett widow of the said Francis
Bennett.

The said Plaintiffs further
allege that the dower right of the said
Jerusha Bennett widow in the premises
10 above described has never been adjudged
or in any way set apart to her from the estate
of the said Francis Bennett.

The said Plaintiffs further allege that on the
24th day of August 1854 the said Charles O
Bennett & Jerusha Bennett sold and

conveyed to Charles Perkins Plaintiffs all their right and interest in the above described real estate. The said Charles B Bennett conveying the one sixth part of said premises to said Perkins and the said Jerusha Bennett conveying her dower right in said premises to said Perkins and that said Charles Perkins ^{Plaintiff} is now the owner thereof.

The said Plaintiffs further allege that all the parties to this action are residents of this state excepting Francis Bennett John Bennett & Hipporah Bailey & Heiron Bailey who reside at Cornuden Lorraine county state of Ohio and Frederick Whitman.

12 Rachel Ann Whitman & Richard Whitman whose places of residence are unknown.

The said Plaintiffs further alleges that the piece or parcel of land above mentioned cannot be partitioned by metes & bounds among the respective owners thereof without great prejudice to their interests, that the same comprises all the real estate owned in common by the parties to this action.

13 Wherefore the said Plaintiffs demand judgement that a fair partition and division of the said piece or parcel of land be made between said parties and all other persons who shall appear to be interested therein.

14 according to the respective rights estates and
interests therein or in case the said piece, or
parcel of land cannot be divided among the
owners thereof without material injury to the
parties interested therein then that the same
may be sold and the proceeds thereof after
paying the costs and charges of this action:
may be divided among such parties according
to their respective rights and interests therein
and for the costs and disbursements of
this action.

Attest R. A. Perkins

Plaintiffs Attorney
Watertown Jeff Co. N. Y.