STATE OF MINNESOTA IN DISTRICT COURT

COUNTY OF SCOTT FIRST JUDICIAL DISTRICT

First National Bank of Montgomery,

Plaintiff

-vs- A F F I D A V I T

Jerome Daly,

Defendant

* *

Theodore R. Mellby, being duly sworn, on oath, deposes and states:

I am the attorney for plaintiff in the above entitled action.

The procedure followed in this action is important to a thorough understanding of the deliberate attempt on the part of Martin V. Mahoney and Jerome Daly to harass bank officials, lawyers and the Court by disregarding the Order of the above Court dated January 30, 1969.

On June 26, 1967, the First National Bank of Montgomery, Minnesota, (hereinafter referred to as Bank) foreclosed its mortgage on real estate owned by Jerome Daly. The mortgage is dated the 8th day of May, 1964, and recorded in the office of the Register of Deeds for the County of Scott, State of Minnesota, as document #113751. The redemption period expired on June 26, 1968, and Jerome Daly refused to peaceably relinquish possession of said real estate.

On August 28, 1968, the Bank commenced an unlawful detainer action against Jerome Daly. Service was not effected at least three (3) days prior to date of hearing.

The unlawful detainer action was refiled with Justice Vern Mabee on 9-9-68 and 9-26-68 but service could not be effected at least three (3) days prior to the date of hearing.

On October 10, 1968, the unlawful detainer action was refiled with Justice Vern Mabee and Jerome Daly was duly served. Jerome Daly served an affidavit of prejudice against Justice Mabee and the file was transferred to Justice Ben Morlock. On October 14, 1968, I filed an affidavit of prejudice against Justice

Morlock. The file was transferred to Justice Martin V. Mahoney.

The unlawful detainer action was tried before Justice Martin V. Mahoney, Credit River Township, Scott County, Minnesota, by a jury of Twelve (12) on December 7, 1968. The Court also included Justice William E. Drexler, St. Paul, Minnesota, who informed he was an attorney.

The trial began promptly at 10 o'clock A.M. The defendant, in open Court, requested a jury of twelve (12). This was the first time defendant knew the matter was to be tried to a jury. A jury of twelve (12) was impaneled. I requested to see the list of jurors required by M.S.A. 531.34. The court was unable to furnish me with a list of petit jurors or explain the manner in which these perspective jurors were selected. Because of noncompliance with M.S.A. 531.33, 531.34, and 531.35, I challenged the jury panel and my challenge was denied. At this point Justice Drexler admonished me "Get Going, because he wasn't going to spend all day trying this case". Justice Drexler asked the jury panel several introductory questions and permitted the respective parties to conduct the voir dire. I was personally aware of the fact that William Wildinger, a member of the jury panel, was a handy man in the defendants law office. I asked several questions calling for answers intending to indicate this juror could not be fair and impartial. I moved to strike William Wildinger if

jury panel several introductory questions and permitted the respective parties to conduct the voir dire. I was personally aware of the fact that William Wildinger, a member of the jury panel, was a handy man in the defendants law office. I asked several questions calling for answers intending to indicate this juror could not be fair and impartial. I moved to strike William Wildinger for cause and Justice Mahoney granted the challenge. Next, I asked if Mr. Daly had represented any of the jury panel in the capacity of an attorney. Ray Warren, a juror, indicated that Mr. Daly had represented him and that his case had been settled on Friday, December 6, 1968. I moved to strike Mr. Warren for cause and Justice Drexler informed me that motions to strike for cause were not allowed in Justice Court. I protested very strongly and was informed by Justice Drexler that the voir dire could not be conducted on an individual jury basis and I would be permitted to ask only questions directed to the entire jury panel. Justice Drexler again announced that he wanted to "get going with this trial so it didn't last all day." With respect to my motion to strike jurors for cause in Justice Court, see M.S.A. 531.41.

At the conclusion of the voir dire the jury panel was down to eleven (11) members. Three talesmen were called making a panel of fourteen (14) jurors. The defendant waived his pre-emptory challenges but I did not. I informed the court that if I exercised all pre-emptory challenges the jury panel would be less than

the twelve (12) requested by the defendant. Justice Drexler informed me that Justice Mahoney's brother was in the back of the Courtroom and that he would be called as a perspective juror if I insisted on using all of my pre-emptories. I objected, my objection was overruled. I struck Mr. Warren and Eric Alstrand and waived my remaining pre-emptory challenges.

Prior to the submission of my evidence I sighted M.S.A. 530.03 and requested to the Court to convene the trial in a more suitable quarters. The Courtroom was connected to a saloon by two inside doors. The saloon and the Courtroom was divided by an area where groceries were on shelves. My motion was denied.

At the conclusion of the trial the defendant submitted requested questions to the jury. I objected, sighting M.S.A. 530.04 which indicates that no Justice of the Peace shall charge the jury. Justice Drexler sustained the objection. Justice Drexler indicated, however, he would allow the defendants requested instructions as an exhibit. I objected and my objection was overruled. The exhibits were numerous and included several books offer by defendant. Plaintiffs exhibits included the banks foreclosure record. The jury deliberated ten minutes.

On march 28, 1969, I was informed that Jerome Daly represented William E. Drexler, William Wildinger, and Leo Zurn in the recnet past. The legal issue raised by Jerome Daly in representing these people, all of whom were involved in

Justice Drexler indicated, however, he would allow the defendants requested instructions as an exhibit. I objected and my objection was overruled. The exhibits were numerous and included several books offer by defendant. Plaintiffs exhibits included the banks foreclosure record. The jury deliberated ten minutes.

On march 28, 1969, I was informed that Jerome Daly represented William E. Drexler, William Wildinger, and Leo Zurn in the recnet past. The legal issue raised by Jerome Daly in representing these people, all of whom were involved in the unlawful detainer action before Justice Mahoney, was the unlawful creation of money and credit. I am attaching documents to substantiate this fact. I am also enclosing a list of the jurors I prepared at the time of the unlawful detainer action trial.

The sole argument used by Jerome Daly at the time of trial of the unlawful detainer action was that Federal Reserve Notes did not constitute legal tender and that Plaintiff unlawfully created money and credit. Attached is a permanent injunction restraining Jerome Daly from commencing or prosecuting any suit, action or proceeding in any Court regarding unlawful creation of money and credit.

On December 9, 1969, judgement for defendant was entered in Justice Court, Credit River Township, County of Scott, Justice Martin V. Mahoney. Affiant verily believes Jerome Daly drafted the judgement and decree and memorandum of the Court attatched thereto.

Plaintiff duly appealed therefrom to the District Court, Scott County, Minnesota. On January 6, 1969, Justice Martin V. Mahoney, Credit River Township, Scott County, Minnesota, issued in NOTICE OF REFUSAL TO ALLOW APPEAL, a copy of which is attached. Affiant verily believes Jerome Daly drafted said document asserting the Two dollars ($2.00) remitted to Justice Mahoney was not legal tender.

On January 8, 1969, Honorable Harold E. Flynn, Judge of District Court, Scott County, Minnesota, issued an ORDER requiring Justice Martin V. Mahoney to show cause before his Court on January 17, 1969, why he should not make a return on appeal.

On January 15, 1969, defendant filed an affidavit of prejudice against the Honorable Harold E. Flynn with the Clerk of District Court, Scott County, Minnesota. On January 16, 1969, Honorable Harold E. Flynn issued ORDER TRANSFERRING TRIAL to the Honorable Arlo E. Haering, the Chief Judge of the First Judicial District. Haering on the Order to show cause was noticed for hearing on January 24, 1969.

On January 20, 1969, defendant obtained an exparte order from Justice Martin V. Mahoney ordering plaintiff to appear before said Justice on January 22, 1969, to show cause why the Justice Courts notice of refusal to allow appeal therein

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On January 20, 1969, defendant obtained an exparte order from Justice Martin V. Mahoney ordering plaintiff to appear before said Justice on January 22, 1969, to show cause why the Justice Courts notice of refusal to allow appeal therein should not be made absolute. Plaintiff did not appear.

Hearing on the District Court Order to show cause was duly held on January 24, 1969. On January 30, 1969, Honorable Arlo E. Haering, Judge of District Court, McLeod County ordered Martin V. Mahoney, Justice of the Peace, Credit River Township, County of Scott, State of Minnesota, to make return on appeal to the Clerk of District Court in and for the County of Scott, State of Minnesota.

On February 25, 1969, defendant appealed to the Minnesota Supreme Court. Defendant did not comply with Rule 107, Civil Appellate Procedure. On March 26, 1969, plaintiff made application to the Minnesota Supreme Court for an order dismissing defendant's appeal.

On April 15, 1969, the Minnesota Supreme Court dismissed defendant's appeal.

On June 11, 1969, I contacted the Clerk of District Court, Scott County, Minnesota, and was informed that Justice Martin V. Mahoney had not complied with the order of the Court dated January 30, 1969, by making a return on appeal.

Further Affiant sayeth not

Theodore R. Mellby

Wilma V. Fortney, Notary Public
County of LeSueur, State of Minnesota

My commission expires Nov. 23, 1971

Form No. 1740—Return for Personal ... ce Exhibition Judge's Signature (Rev. 1959)

☆☆☆ BLANK VOUCHER

State of Minnesota,

County of Scott } ss.

I Hereby Certify and Return, That at the Township of Cerdit River in County and State aforesaid, on the 24th day of June 1969 I served the hereunto attached Order To Show Cause, Application For An Order, Affidavit upon the within named Martin V. Mahoney personally by then and there handing to and leaving with Martin V. Mahoney a true and correct copy thereof, and at the same time and place exhibiting to Martin V. Mahoney so that he could see and read the same, the original signature of Honorable Arlo E. Haering, Judge of the District Court of Scott County, Minnesota, to said original.

Dated this 24th day of June 19 69

Sheriff Fees—Service, $4.00

Travel, $4.50

Total, $8.50

W. B. Schroeder

Sheriff of Scott County, Minn.

By Dougl D. Lee Deputy Sheriff

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 19,080

Bernard E. Koll, Appellant,
v.
Wayzata State Bank, et al., Appellees.

Appeal from the United States District Court for the District of Minnesota.

[July 5, 1968.]

Before MEHAFFY, GIBSON and LAY, Circuit Judges.

LAY, Circuit Judge.

Plaintiff brings this action against the Wayzata State Bank and its officers; the Federal Reserve Bank of Minneapolis, Joyce A. Swan, the "Federal Reserve Agent"; First National Bank of Minneapolis; Northwestern National Bank of Minneapolis; and Eileen Cronk, his former wife; for damages allegedly arising out of a conspiracy to deprive him of "rights, privileges and immunities" secured by the Declaration of Independence, Constitution of the United States and the Constitution of the State of Minnesota. The suit alleges it is for $4,250,000.00. Upon motion to dismiss the complaint for failure to state a claim

or for lack of jurisdiction, the trial court without opinion dismissed plaintiff's suit.

Beyond the above description it is impossible from the brief or record to interpret further plaintiff's contentions. The complaint occupies 16 printed pages of disconnected, incoherent and rambling statements. We dismiss for lack of jurisdiction.

Plaintiff is represented by a lawyer, whose unreachable quest is a judicial decree of unconstitutionality of the federal income tax and the federal reserve and monetary system of the United States. See *Daly* v. *United States*, ... F.2d ..., No. 18,906 (8 Cir. filed April 11, 1968).[1] Cf. *Horne* v. *Federal Reserve Bank of Minneapolis*, 344 F.2d 725 (8 Cir. 1965). The present complaint could have been dismissed for failure to comply with Fed. R. Civ. P. 8(a) and 8(e)(1)[2] in that it is "confusing, ambiguous, redundant, vague" and a completely unintelligible statement of argumentative fact. See *Wallach* v. *City of Pagedale, Mo.*, 359 F.2d 57 (8 Cir. 1966) and *Wallach* v. *City of Pagedale, Mo.*, 376 F.2d 671 (8 Cir. 1967). At best the complaint represents a euphoric harassment of bank offi-

1 According to defendants' brief, three similar cases based upon the same contentions have been filed and dismissed on summary judgment motions of the defendants in the Minnesota District Court.

2 Fed. R. Civ. P. 8(a):

"Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded."

Fed. R. Civ. P. 8(e)(1):

"Pleading to be Concise and Direct; Consistency.

"(1) Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleading or motions are required."

cials, lawyers and federal courts. It is difficult to accept that the complaint has been drafted by a person licensed to practice law. To demonstrate the muddled allegations we briefly summarize from the complaint in plaintiff's language:

II. "Congress . . . have treasonably surrendered . . . control over this power of coining and creating the Nation's credit and currency by an unlawful delegation . . . to . . . the Defendants . . . who are dominated and controlled by a small oligarchy of foreign and domestic financiers. . . . Federal Reserve Notes which are not redeemable in either gold or silver coin and are passed out for use by the general public for purposes of swindle, fraud, theft and forgery by the said Defendants."

III. "This suit is brought pursuant to, and for a violation of the following provisions:

"U.S. Constitution, Article 1, Section 8, Clause 5: 'The Congress shall have the power to coin money, regulate the value thereof and of foreign coin.'

"U.S.C.A., Article 1, Section 10—'No state shall coin money. . . .'"

and several sections of the Minnesota Constitution and statutes relating to banking, slavery, due process, government, double jeopardy, self-incrimination, bail and habeas corpus.

IV. The plaintiff is in the insecticide business and has built up in 15 years valuable good will.

V. Plaintiff and defendant Cronk were married on May 4, 1956 and have three children; that the defendant Wayzata State Bank has a mortgage on personal property of plaintiff for $6,000.00. The mortgage is void; the bank has created money and credit by bookkeeping entry and passed Federal Reserve Notes.

VI. That defendant Cronk, plaintiff's wife, knows the bank directors and is in "an unlawful combination" with them. She obtained a divorce in December 1966.

VII. All defendants formed a conspiracy to deprive plaintiff of his rights, property and liberty. This was accomplished by two false imprisonments, the first resulting in an imprisonment for 42 days and the second for 180 days. Both sentences were issued by the Hennepin District Court. This imprisonment is in some way (unexplained) related to a $11,000.00 judgment obtained by plaintiff's wife in the divorce action.

VIII. The above conduct deprived plaintiff of the use of $70,000.00 of his property, because of conduct of defendants not ascertainable at this time.

IX. That defendants have agreed to use unlawful Federal Reserve Notes not redeemable in gold or silver coin to obtain false imprisonment and deprivation of plaintiff's rights and immunities under state law.

X. That all national and federal reserve banks are correspondent banks.

XI. The United States Government does not own any stock in any of the banks and therefore has abdicated its control to private individuals by allowing them to create bookkeeping entries to create money; that such constitutes a common law conspiracy under Minnesota Criminal Statute 609.175; that all monies and properties held by the banks equitably belong to the people since the banks are constructive trustees of the Government.

XII. That the defendant banks pay for Federal Reserve Notes only the cost of the printing. The attempted loan to the plaintiff violates the usury and forgery laws of Minnesota; that after income taxes plaintiff is flat broke; that the Federal Reserve Bank is exempt from taxation, 12 U.S.C. § 531.

XIII. Defendants hold a substantial sum of United States and state securities including their subdivisions.

XIV. Plaintiff is discriminated against because he cannot buy the Federal Reserve Notes for cost as the defendant banks do; he is not permitted to redeem Notes for gold or silver coins as aliens do. That the gold in Ft. Knox is being feloniously transferred to New York where aliens are transporting it out of the jurisdiction of the United States; that this is a continuing and mounting theft.

We have briefly detailed this summary to demonstrate the total obfuscation of the pleading. It is impossible for any party or court to understand plaintiff's alleged claim or damage. No responsive pleading could intelligently be filed by defendants. Cf. *Cole* v. *Riss & Co.*, 16 F.R.D. 116 (W.D.Mo. 1954); *Wallach* v. *City of Pagedale, Mo.*, 359 F.2d 57 (8 Cir. 1966). We, therefore, conclude the complaint should have been stricken for failure to comply with Fed. R. Civ. P. 8(a) and 8(e). See *Legg* v. *United States*, 353 F.2d 534 (9 Cir. 1965); *Car-Two, Inc.* v. *City of Dayton*, 357 F.2d 921 (6 Cir. 1966). However, if this were the sole basis of the lower court's dismissal, the court should have allowed plaintiff sufficient time to amend and plead in compliance with the rules. The lower court did not specify upon which ground or grounds of defendants' motion to dismiss it was relying. We do not assume, in absence of an order giving leave to amend, that the complaint was dismissed under Fed. R. Civ. P. 8(a). In any event, it would be improper for us to affirm dismissal under Fed. R. Civ. P. 8. Cf. *Klebanow* v. *New York Produce Exchange*, 344 F.2d 294 (2 Cir. 1965). And it is clear that a dismissal under Fed. R. Civ. P. 8 would not be an appealable order since it would be lacking finality. *Dann* v. *Studebaker-Packard Corporation*, 253 F.2d 23 (6 Cir. 1958).

We affirm dismissal since the complaint fails to establish any grounds for federal jurisdiction. The federal courts

are courts of limited jurisdiction. Essential to jurisdiction must be a stated "case or controversy." This must be disclosed by the plaintiff's complaint. The only complaint we can glean from the pleading filed is plaintiff's dissatisfaction with the monetary system of the United States of America. But a party cannot seek advisory opinions of the court on constitutional issues without some direct relation or damage involved. Cf. *Flast* v. *Cohen*, 36 U.S.L.W. 4601 (U.S. June 10, 1968).

Plaintiff does not assert, nor could he, federal jurisdiction under 28 U.S.C. § 1331 or § 1391. Plaintiff has not shown that his damage "arises under" federal law or the United States' Constitution. Cf. *Pan Am. Corp.* v. *Superior Court*, 366 U.S. 656 (1961). He relies upon Minnesota law as the basis of an alleged conspiracy. He premises that conspiracy only indirectly upon construction of the Constitution of the United States and totally avoids any allegation of fact tending to show the existence of a federal question. Cf. *Givens* v. *Moll*, 177 F.2d 765 (5 Cir. 1949); *Seeley* v. *Brotherhood of Painters, Decorators and Paper Hangers of America*, 308 F.2d 52 (5 Cir. 1962). One might again struggle with the complaint to say that under *Bell* v. *Hood*, 327 U.S. 678 (1946), plaintiff has attempted to assert a federal question. But the complaint is so unintelligible to allow even this conclusion. Jurisdiction must affirmatively appear clearly and distinctly. *International Ass'n of Machinists* v. *Central Airlines, Inc.*, 295 F.2d 209 (5 Cir. 1961). A mere "suggestion" of a federal question is not sufficient. *Stanturf* v. *Sipes*, 335 F.2d 224 (8 Cir. 1964); *Martin* v. *Graybar Electric Co.*, 285 F.2d 619 (7 Cir. 1961). It must be real and substantial, not conjectural; *Gardner* v. *Schaffer*, 120 F.2d 840 (8 Cir. 941); and must relate to substance not form; *Regents of New Mexico* v. *Albuquerque Broadcasting Co.*, 158 F.2d 900 (10 Cir. 1947).

Plaintiff does not plead diversity of citizenship of the parties to establish jurisdiction under 28 U.S.C. § 1331. At best plaintiff's case sounds in tort, and as such must fail for lack of diversity of citizenship. Even the defendant Federal Reserve Bank assumes the citizenship of the state in which it resides, which is plaintiff's citizenship, to-wit, Minnesota. See 28 U.S.C. § 1348.

The last possible jurisdictional basis that we can decipher is that plaintiff seeks some relief under 28 U.S.C. § 1342 or § 1391 for violation of his civil rights. However, there is no intelligible claim that plaintiff was damaged by any one acting "under color" of state law, and within the most liberal interpretation of the civil rights cases he does not allege a proper jurisdictional bases here. See *Screws* v. *United States*, 325 U.S. 91, 142 (1945); *Wallach* v. *Cannon*, 357 F.2d 557 (8 Cir. 1966); *McGuire* v. *Todd*, 198 F.2d 60 (5 Cir. 1952) cert. denied 344 U.S. 835 (1952); *Moffett* v. *Commerce Trust Co.*, 187 F.2d 242 (8 Cir. 1951).

Judgment affirmed.

A true copy.

Attest:

Clerk, U. S. Court of Appeals, Eighth Circuit.

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT

SECOND JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

-vs-

ORDER

William E. Drexler,

Defendant.

Upon motion by the plaintiff, Gerald T. Laurio, Special Assistant Attorney General, appeared for the plaintiff and defendant William E. Drexler appeared pro se in the chambers of Judge Robert V. Rensch at 2:00 P.M. on October 14, 1968.

After hearing the arguments of both parties, it is HEREBY ORDERED

1. That defendant's counterclaim be and hereby is dismissed with prejudice.

2. That the defendant's pro se answer be and hereby is dismissed.

3. That defendant's sole remaining defense is the general denial in paragraph I of the answer and counterclaim filed by defendant's attorney James Daly.

10/12/68

Judge Robert V. Rensch
Ramsey County District Court

STATE OF MINNESOTA | DISTRICT COURT

COUNTY OF RAMSEY | SECOND JUDICIAL DISTRICT

FILE NO. 360991

State of Minnesota,

Plaintiff,

--vs-

William E. Drexler,

Defendant.

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION TO DISMISS DEFENDANT'S COUNTERCLAIM

NATURE OF CONTROVERSY

The State of Minnesota served a summons and complaint on the defendant, William E. Drexler, on September 9, 1968, alleging that he has not paid the penalty and interest on his 1965 and 1966 Minnesota individual income taxes. The plaintiff received, within twenty days after service of the summons and complaint, an answer and a counterclaim from Jerome Daly, attorney for defendant, and an answer from William E. Drexler, attorney pro se. The counterclaim alleged that the State of Minnesota is in conspiracy with the Federal Reserve and national banking system to defraud the defendant and the people generally by the illegal creation of money and bank credit. One million dollars is the relief requested in the counterclaim.

I. SOVEREIGN IMMUNITY

The State of Minnesota cannot be sued by any individual or in any court without its consent. Dunn v. Schmid, 239 Minn. 559, 60 N.W.2d 14 (1953). The legislature of the State of Minnesota has not consented to be sued in this matter. Minnesota Rules of Civil Procedure, Rule 13.04, states:

> "These rules shall not be construed to enlarge beyond the limits now fixed by law the right to assert counterclaims or to claim credits against the State of Minnesota or an officer or agency thereof."

State of Minnesota.

II. PRIOR DECISIONS

Defendant's attorney, Jerome Daly, has been permanently enjoined by Roy L. Stephenson, Chief Judge, United States District Court, Southern District of Iowa, from bringing any claims regarding unlawful creation of money and credit in any court, state or federal. (See attached photocopy of Permanent Injunction dated June 20, 1968.)

In Bernard E. Koll v. Wayzata State Bank, July 5, 1968, Eighth Circuit Court of Appeals (see attached photocopy of the decision), Jerome Daly represented the plaintiff and questioned, as he does in the counterclaim, the constitutionality of the federal reserve and monetary system of the United States. The Eighth Circuit Court of Appeals upheld the Minnesota federal district court's dismissal of the claim. The court said:

> "...The present complaint could have been dismissed for failure to comply with Fed.R.Civ.P. 8(a) and 8(e)(1) in that it is 'confusing, ambiguous, redundant, vague' and a completely unintelligible statement of argumentative fact... At best the complaint represents a euphoric harassment of bank officials, lawyers and federal courts. It is difficult to accept that the complaint has been drafted by a person licensed to practice law...
>
> "We affirm dismissal since the complaint fails to establish any grounds for federal jurisdiction. The federal courts are of limited jurisdiction. Essential to jurisdiction must be a stated 'case or controversy.' This must be disclosed by the plaintiff's complaint. The only complaint we can glean from the pleading filed is plaintiff's dissatisfaction with the monetary system of the United States of America. But a party cannot seek advisory opinions of the court on constitutional issues without some direct relation or damages involved..."

In Horne v. Federal Reserve Bank of Minneapolis, 344 F.2d 725 (1965) (8th Circuit), the plaintiffs were "residents, freeholders, voters, citizens and taxpayers of the United States" and brought suit "...on behalf of, in the interest of, and representing the people of the United States..." The plaintiffs primarily attacked the constitutionality of two federal statutes alleging that the defendants were creating illegal money and credit. The court held that the plaintiffs

did not have standing to sue. One prerequisite of standing is that the party must suffer a direct injury and the court said that the plaintiffs suffered no such injury. The defendant here has not suffered a direct injury as a result of the alleged conspiracy and hence he has no standing to sue.

The State of Minnesota has been a party defendant in at least two lawsuits where the plaintiffs were represented by Jerome Daly and raised the same claim that is raised in the counterclaim, i.e., the illegality of money and bank credit. In both lawsuits the defendants were granted summary judgment against the plaintiffs. See William Wildanger, Leo Zurn, Jo Ann Van Popperin, Richard Roe and John Doe vs. Federal Reserve Bank of Minneapolis, First National Bank of Minneapolis, Northwestern National Bank of Minneapolis, Lyndon B. Johnson, President of the United States of America, Henry H. Fowler, Secretary of the U.S. Treasury, The United States of America, State of Minnesota, Val Bjornson, Treasurer of Minnesota, Richard Roe and John Doe (United States District Court, District of Minnesota, Fourth Division, No. 4-66 Civ. 83); Leo Zurn, Jo Ann Van Popperin, William Wildanger, John Doe and Richard Roe vs. Federal Reserve Bank of Minneapolis, First National Bank of Minneapolis, Northwestern National Bank of Minneapolis, American National Bank of St. Paul, First National Bank of St. Paul, State of Minnesota, United States of America, Lyndon Johnson, President of the United States, Henry Fowler, Secretary of the Treasury of the United States, Val Bjornson, Treasurer of the State of Minnesota, Farmers and Mechanics Savings Bank of Minneapolis (United States District Court, District of Minnesota, Fourth Division, No. 4-66 Civ. 399).

In the Wildanger case the complaint alleged, inter alia, a conspiracy by the defendants under Minnesota Statutes, Sections 609.175 and 609.52 to unlawfully create money. In an order dated July 17, 1966, the federal district court granted defendants summary judgment because the plaintiffs did not have standing to sue. The court cited the Horne case.

The defendant's attorney, Jerome Daly, raises the claim of the illegality of money and bank credit at every instance. In Daly v. United States, 393 F.2d 873, 877 (1968), the court said:

> "The government urges that appellant's basic claim is not the fear of self-incrimination, but a quixotic contention that the Federal Reserve System is unconstitutional. Based upon appellant's arguments and his brief originally filed with the revenue agent, we are inclined to agree..."

For the sake of the courts, the lawyers, and the federal and state governments, it is time to enforce the permanent injunction prohibiting Mr. Daly from making any claim concerning the illegality of money and bank credit.

III. RES JUDICATA

The rules of res judicata apply to the state as well as to private persons. Restatement, Judgments, Section 78 Commentd. The Restatement, Judgments, 886 states:

> "A person who is one of a class of persons on whose account action is properly brought or defended in a representative action or defense is bound by and entitled to the benefits of the rules of res judicata with reference to the subject matter of the action."
>
> Comment i "...As to the parties, the judgment operates as a personal judgment for or against them...On the other hand, as to persons not parties, the judgment operates merely as a declaration of rights and liabilities with reference to the issue decided..."

It is settled in Minnesota that the determination in an action brought by one taxpayer binds other taxpayers the same as it binds plaintiffs. Driscoll v. Board of Commissioners of Ramsey County, 161 Minn. 494, 201 N.W. 495 (1925) The Zurn and Wildanger claims were class actions brought in the names of Richard Roe and John Doe, the named defendants, taxpayers and others. The summary judgments granted to the State of Minnesota and other defendants in those claims bars the instant taxpayer from counterclaiming as he does against the State of Minnesota. The judgments in those claims have already declared the rights and liabilities of the State of Minnesota and the instant taxpayer (and all other taxpayers) with regard to the issue raised in the instant counterclaim.

Prior decisions clearly holding that a taxpayer lacks standing to sue on claims identical to the instant counterclaim, the doctrines of res judicata and sovereign immunity, and other rules of law and procedure not herein discussed, are sufficient reasons to grant plaintiff's motion to dismiss with prejudice the counterclaim in this matter.

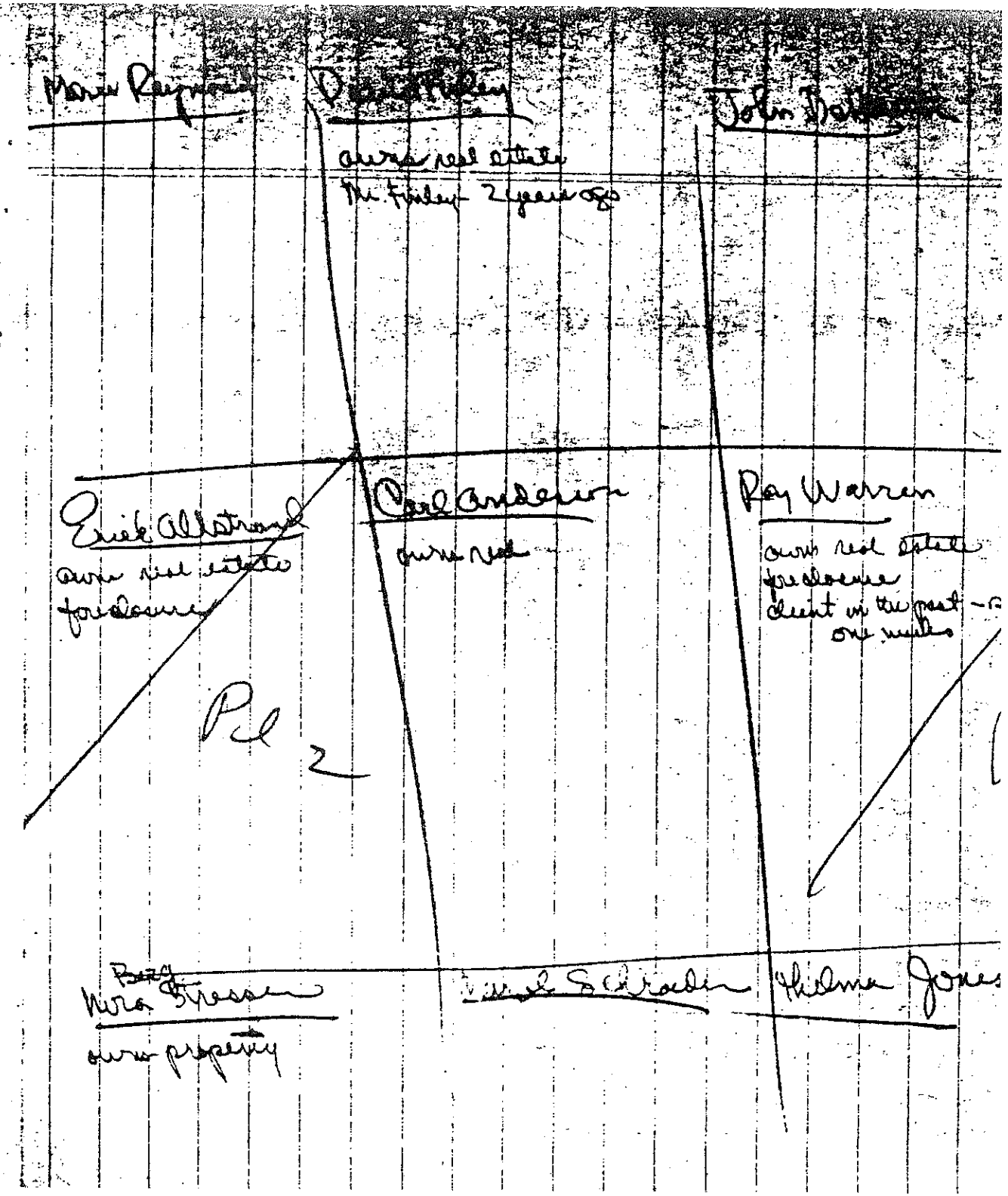
Respectfully submitted,

DOUGLAS M. HEAD
Attorney General

Gerald T. Laurie

GERALD T. LAURIE
Special Assistant Attorney General
Centennial Office Building
St. Paul, Minnesota 55101

ATTORNEYS FOR PLAINTIFF


Mary Raymond
owns real estate
Mr. Friday 2 years ago
John Dalton
Erick Allstrand
owns real estate
foreclosure
Carl Anderson
owns real
Ray Warren
owns real estate
foreclosure
client in the past -
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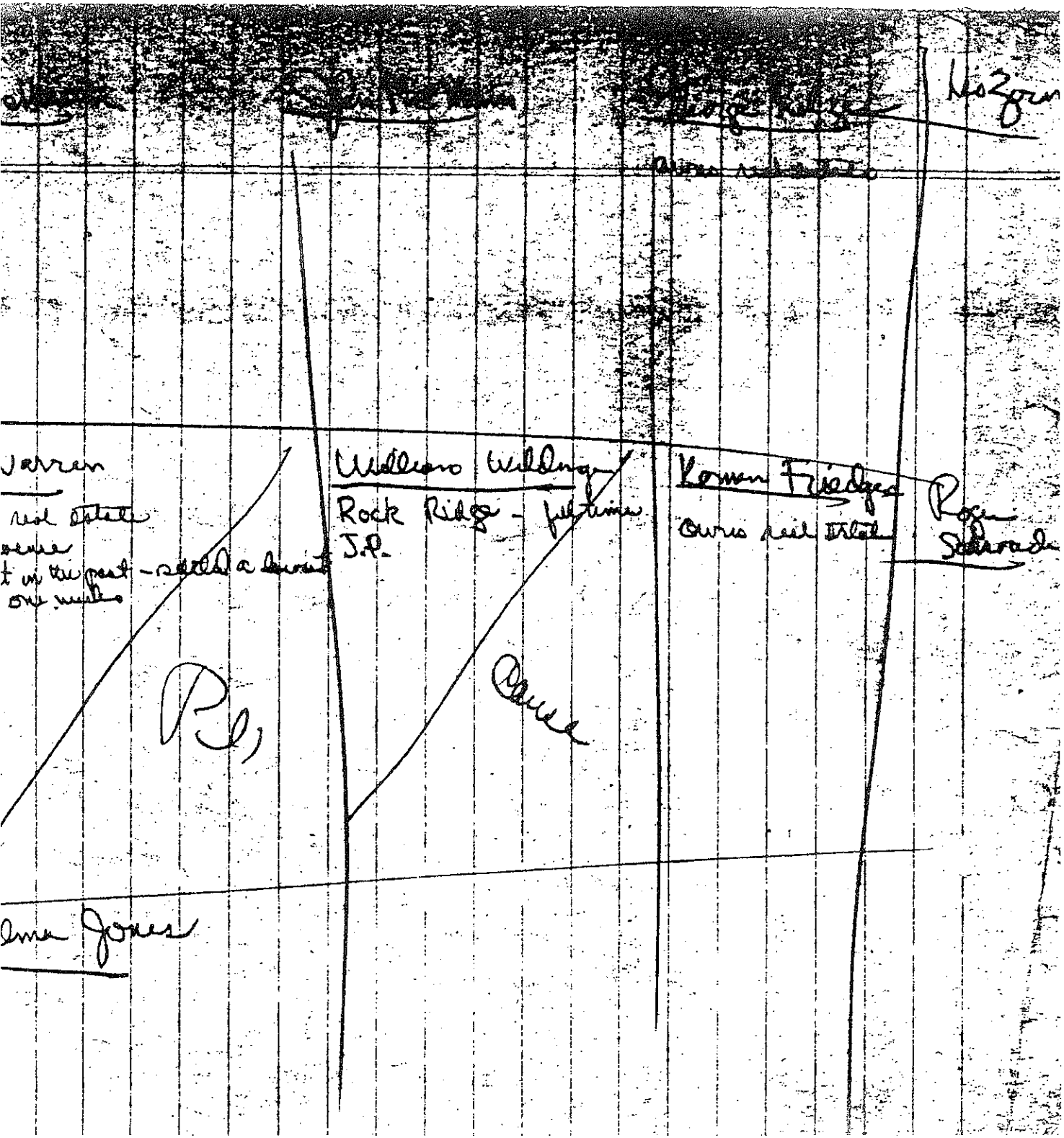
Barry
Nora Stressen
owns property
Thelma Jones



NO. 3705 CIVIL 32

ALFRED M. JOYCE,)

Plaintiff,)

vs.) PERMANENT INJUNCTION

NORTHWESTERN STATE BANK OF APPLETON, et al.,)

Defendants.

The above entitled and numbered cause coming on to be heard on the 3rd day of May, 1968, upon the motion of the defendants to dismiss and for a restraining order, and all the parties thereto having appeared by counsel and the Court having heard the pleadings, the evidence and arguments of counsel, and upon due consideration thereof, it appearing to the Court that the defendants should be granted the relief prayed for in their motions,

It is therefore, on this 20th day of June, 1968,

ORDERED, ADJUDGED AND DECREED that the preliminary injunction heretofore granted and issued orally by this Court herein on the 3rd day of May, 1968, and affirmed in memorandum and order of the Court dated June 17, 1968, be and the same hereby is made perpetual and permanent and that the plaintiff Alfred M. Joyce and his attorney, Jerome Daly, are permanently enjoined and restrained from continuing, commencing or prosecuting any suit, action or proceeding, either in this Court or in any court, state or federal, upon any claim arising out of any claimed transaction between the parties hereto at and prior to

the date of this Order, or any claims regarding unlawful creation of money and credit, or an attempt to relitigate the same cause of action, and matters previously determined in respect to the same subject matter, or based upon any right, question or fact previously decided by this Court on March 16, 1967, and by the decision of the State District Court, Eighth Judicial District, at Montevideo, Minnesota, decided on March 14, 1966.

Dated this 20th day of June, 1968.

/s/ Roy L. Stephenson
CHIEF JUDGE, UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF IOWA, (By assignment to the United States District Court, District of Minnesota, Third Division)

(M-16)

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

William Wildanger, et al
Plaintiff,

-vs-

Federal Reserve Bank of Minneapolis, et al
Defendant.

No. 4-66 Civ. 83

Clerk's Notice under Rule 77 (d) F.R. Civ. Pr. or Rule 49 (c) F.R. Civ. Pr.

You are hereby notified that in the above-entitled cause, on the 18th day of July, 1966, an order was filed granting defendants' motion for summary judgment.

FRANK A. MASSEY, Clerk,
By Gerald H. Bergquist
Deputy.
Gerald H. Bergquist

Roland Graham
Street
Minnesota

Peter Dorsey
Dorsey, Owen, Marquart, Windhorst & West
2400 First National Bank Bldg.

Peter Dorsey
Dorsey, Owen, Marquart, Windhorst & West
2400 First National Bank Bldg.
Minneapolis, Minnesota

Lawrence C. Brown
Faegre & Benson
Northwestern National Bank Bldg.
Minneapolis, Minnesota

Patrick J. Foley
Sidney P. Abramson
U. S. Courthouse
Minneapolis, Minnesota

Paul Casey, Asst. Atty. General
State Capitol
St. Paul, Minnesota

NOTE: If an appeal is contemplated, the Rules of the United States Court of Appeals and "Suggestions to Attorneys concerning Appellate

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION
No. 4-66 Civil 399

Leo Zurn, JoAnn Van Popperin,
William Wildanger, John Doe
and Richard Roe,

Plaintiffs,

v.

ORDER FOR JUDGMENT

Federal Reserve Bank of Minneapolis,
First National Bank of Minneapolis,
Northwestern National Bank of Minneapolis,
American National Bank of St. Paul,
First National Bank of St. Paul,
State of Minnesota, United States of America,
Lyndon Johnson, President of the United States,
Henry Fowler, Secretary of the Treasury of
the United States, Val Bjornson, Treasurer
of the State of Minnesota, Farmers and
Mechanics Savings Bank of Minneapolis,

Defendants.

The motion of the plaintiffs for a Three-Judge Court and for judgment by default, and the motions for summary judgment by the answering defendants came on for hearing before the undersigned Judge of the above named Court on the 7th day of March, 1967, at 10 o'clock in the forenoon on the motion day of the above named Court.

Stanley H. Green, Assistant United States Attorney, appeared on behalf of the United States; Jerome Daly appeared on behalf of the plaintiffs; Melvin L. Burstein appeared on behalf of Federal Reserve Bank of Minneapolis; Michael Gallagher, Assistant Attorney General of the State of Minnesota, appeared on behalf of the State of Minnesota and Val Bjornson, Treasurer of the State of Minnesota; John F. Kelly appeared on behalf of the American National Bank of St. Paul, Charles A. Geer appeared on behalf of First National Bank of Minneapolis and First National Bank of St. Paul, and Dennis L. Paul appeared on behalf of Northwestern National Bank of Minneapolis.

The Court being fully advised in the premises, IT IS HEREBY ORDERED:

1. That the motion for a Three-Judge Court is denied.

2. That the motion for judgment against the non-answering defendants is denied.

3. That the motion for summary judgment by the answering defendants, United States of America, Federal Reserve Bank of Minneapolis, President Lyndon B. Johnson, Henry Fowler, State of Minnesota, Val Bjornson, Treasurer of the State of Minnesota, Northwestern National Bank of Minneapolis, American National Bank of St. Paul, First National Bank of St. Paul and First National Bank of Minneapolis is granted and the action is dismissed against all parties.

Dated: March 15 1967, at Minneapolis, Minnesota.

Edward J. DeVitt

EDWARD J. DEVITT,
CHIEF JUDGE
UNITED STATES DISTRICT COURT

STATE OF MINNESOTA

COUNTY OF SCOTT

IN JUSTICE COURT

TOWNSHIP OF CREDIT RIVER
MARTIN V. MAHONEY, JUSTICE

First National Bank of Montgomery,

Plaintiff,

vs.

JUDGMENT AND DECREE

Jerome Daly,

Defendant.

The above entitled action came on before the Court and a Jury of 12 on December 7,1968 at 10:00 A.M. Plaintiff appeared by its President Lawrence V. Morgan and was represented by its Counsel Theodore R. Mellby. Defendant appeared on his own behalf.

A Jury of Talesmen were called, impanneled and sworn to try the issues in this Case. Lawrence V. Morgan was the only witness called for Plaintiff and Defendant testified as the only witness in his own behalf.

Plaintiff brought this as a Common Law action for the recovery of the possession of Lot 19, Fairview Beach, Scott County, Minn., Plaintiff claimed title to the Real Property in question by foreclosure of a Note and Mortgage Deed dated May 6,1964 which Plaintiff claimed was in default at the time foreclosure proceedings were started.

of a Note and Mortgage Deed dated May 8,1964 which Plaintiff claims was in default at the time foreclosure proceedings were started.

Defendant appeared and answered that the Plaintiff created the money and credit upon its own books by bookeeping entry as the consideration for the Note and Mortgage of May 8,1964 and alleged failure of consideration for the Mortgage Deed and alleged that the Sheriff's sale passed no title to Plaintiff.

The issues tried to the Jury were whether there was a lawful consideration and whether Defendant had waived his rights to complain about the consideration having paid on the Note for almost 3 years.

Mr. Morgan admitted that all of the money or credit which was used as a consideration was created upon their books, that this was standard banking practice exercised by their bank in combination with the Federal Reserve Bank of Minneapolis, another private Bank, further that he knew of no United States Statute or Law that gave the Plaintiff the authority to do this. Plaintiff further claimed that Defendant by using the ledger book created credit and by paying

on the Note and Mortgage waived any right to complain about the Consideration and that Defendant was estopped from doing so.

At 12:15 on December 7,1968 the Jury returned a unaminous verdict for the Defendant.

Now therefore, by virtue of the authority vested in me pursuant to the Declaration of Independence, the Northwest Ordinance of 1787, the Constitution of the United States and the Constitution and laws of the State of Minnesota not inconsistent therewith;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That Plaintiff is not entitled to recover the possession of Lot 19, Fairview Beach, Scott County, Minnesota according to the Plat thereof on file in the Register of Deeds office.

2. That because of failure of a lawful consideration the Note and Mortgage dated May 8,1964 are null and void.

3. That the Sheriff's sale of the above described premises

3. That the Sheriff's Sale of the above described premises held on June 26,1967 is null and void, of no effect.

4. That Plaintiff has no right, title or interest in said premises or lien thereon, as is above described.

5. That any provision in the Minnesota Constitution and any Minnesota Statute limiting the Jurisdiction of this Court is repugnant to the Constitution of the United States and to the Bill of Rights of the Minnesota Constitution and is null and void and that this Court has Jurisdiction to render complete Justice in this Cause.

6. That Defendant is awarded costs in the sum of $75.00 and execution is hereby issued therefore.

7. A 10 day stay is granted.

8. The following memorandum and any supplemental memorandum made and filed by this Court in support of this Judgment is hereby made a part hereof by reference.

BY THE COURT

Dated December 7,1968

MARTIN V. MAHONEY
JUSTICE OF THE PEACE
CREDIT RIVER TOWNSHIP
SCOTT COUNTY, MINNESOTA

MEMORANDUM

The issues in this case were simple. There was no material dispute on the facts for the Jury to resolve.

Plaintiff admitted that it, in combination with the Federal Reserve Bank of Minneapolis, which are for all practical purposes, because of there interlocking activity and practices, and both being Banking Instutions Incorporated under the Laws of the United States, are in the Law to be treated as one and the same Bank, did create the entire $14,000.00 in money or credit upon its own books by bookeeping entry. That this was the Consideration used to support the Note dated May 8,1964 andthe Mortgage of the same date. The money and credit first came into existance when they created it. Mr. Morgan admitted that no United States Law or Statute existed which gave him the right to do this. A lawful consideration must exist and be tendered to support the Note. See Anheuser-Busch Brewing Co. v. Emma Mason, 44 Minn. 318, 46 N.W. 558. The Jury found there was no

tendered to support the Note. See Annotated [illegible]
Emma Mason, 44 Minn. 318, 46 N.W. 558. The Jury found there was no lawful consideration and I agree only God can create a nothing of value out of nothing.

Even if Defendant could be charged with waiver or estoppel as a matter of Law this is no defense to the Plaintiff. The Law leaves wrongdoers where it finds them. See sections 50, 51 and 52 of Am Jur 2d "Actions" on page 584 -"no action will lie to recover on a claim based upon, or in any manner depending upon, a fraudulent, illegal, or immoral transaction or contract to which Plaintiff was a party.

Plaintiff's act of creating credit is not authorized by the Constitution and Laws of the United States, is unconstitutional and void, and is not a lawful consideration in the eyes of the Law to support any thing or upon which any lawful rights can be built.

Nothing in the Constitution of the United States limits the Jurisdiction of this Court, which is one of original Jurisdiction with right of trial by Jury guaranteed. This is a Common Law Action. Minnesota cannot limit or impair the power of this Court to render Complete Justice between the parties. Any provisions in the Constitution and laws of Minnesota which attempt to do so are repugnant to the

Constitution of the United States and ~~and~~ void. No question as to the Jurisdiction of this Court was raised by either party at the trial. Both parties were given complete liberty to submit any and all facts and law to the Jury, at least in so far as they saw fit.

No complaint was made by Plaintiff that Plaintiff did not recieve a fair trial. From the admissions made by Mr. Morgan the path of duty was made direct and clear for the Jury. Their Verdict could not reasonably have been otherwise. Justice was rendered completely and without denial, promptly and without delay, freely and without purchase, conformable to the laws in this Court on December 7,1968.

BY THE COURT

December 7,1968

MARTIN V. MAHONEY
JUSTICE OF THE PEACE
CREDIT RIVER TOWNSHIP
SCOTT COUNTY, MINNESOTA

Note: It has never been doubted that a Note given on a Consideration which is prohibited by law is void. It has been determined, independent of Acts of Congress, that sailing under the license of an enemy is illegal. The emmission of Bills of Credit upon the books of these private Corporations, for the purposes of private gain is not warranted by the Constitution of the United States and is unlawful. See Craig v. Mo. 4 Peters Reports 912. This Court can tread only that path which is marked out by duty. M.V.M.