

This Respondent to so much of the complainants Bill as he is advised it is material for him to answer unto answering That it may be true that the complainants erected a Furnace at the place mentioned in their Bill and it may be true that in doing so they exhausted their means as in said Bill is stated. As to the statement in the complainants Bill that the complainants had secured by purchase Entry & otherwise 3640 acres of land in sundry tracts but all adjoining this respondent doth not of his own knowledge know how that matters and can therefore neither admit nor deny that statement but from the information he has recd this Respondt doubts the truth of the statement, and if it be at all material he calls for an exhibition of the title of the complainants to said land; and that they may make full proof of their title to said lands. It may also be true that the complainants were in debted to the other defendant M.C. Rogers in the sum or to the amount stated in their Bill, and it may also be true that in discharge of a part of that debt, they complainants may have sold said lands and Furnace to the said M C Rogers and it may also be true that Exhibit A to the complainants Bill annexed may be a correct copy of the Article of Agreement entered into between the complainants and the said M. C. Rogers; but these things this Respondent doth not know of his own knowledge and can neither admit nor deny them but calls on the complainants for full proof of those matters if it be material. If it be true that the complainants sold to the other defendant M C Rogers the land and Furnace mentioned in their Bill this Respondent cannot admit that the delivery of the Pig Mital in their said Bill mentioned by the said M C Rogers formed any part of the consideration or price of said the land and Furnace so sold as him the compts. Our showing the price of said land and Furnace was \$4665 part of a debt then due and owing him the said Complainants to the said M C Rogers. But be that as it may this Respondent is advised and believes that the complainants in said trade grossly cheated and defrauded the said Micajah C Rogers in representing to him that they had a good title to the lands they pretended to sell to the said M Micajah C Rogers, and in representing to him that the ore on said lands, and within convenient distance of said Furnace was of good quality and in quantity abundant and easily obtained all of which representations this respondent is informed and believes were false, and made either the intention to deceive the said M C Rogers. This Respondent admits that on the Eight day of December in the year 1836 a partnership was entered into between the said M C Rogers David Shields & Co and Andrew Smyth in the complainants Bill mentioned a copy of which article of partnership is herewith Exhibited marked B and made part of this answer, This Respondent was present at Holston Paper Mill on the eight day of December 1836 when the aforesaid contract of partnership was entered into between the said David Shields and the said M C Rogers. The said David Shields was then and had been for some time previous thereto confined to this Room by sickness. David Shields had at that time great confidence in the statements of the said M C Rogers, and in the opinion of this Respondent placed the most implicit reliance in every thing he said. The said Micajah C then stated to the said David Shields that he had come for the purpose of endeavoring to form a partnership in the iron making business with the said Andrew Smyth and the said D Shields & Company at Bright Hope Furnace in the County of Greene and at the Short Mountain Furnace in the County of Sevier. And the said M C Rogers then stated to the said David Shields in the presence of this Respondent that he had purchased of the complainants the Short Mountain Furnace and lands appurtenant thereto in several tracts in the County of Sevier including ore Banks, Woods &c for which he stated he had given the sum of four thousand six hundred and sixty five dollars. The said Rogers left the

impression on this Respondent's mind; and on the mind of the said D Shields as this Respondent believes that he had the legal title to said land; that is that the complainants had made him a deed of conveyance for the same; and this Respondent continued under that impression until the death of the said David and for some time after that Event, had taken place. The said M C Rogers said nothing to raise even a suspicion that the complainants had any lien on said lands of any kind nor did the said M C Rogers then exhibit the article of agreement between himself and the complainants nor does this Respondent believe that the said David Shields ever saw it or knew its contents until July or August 1838 as Respr has been informed and believes nor was this Respondent informed of its contents until after the death of the said David if it be indeed truly exhibited in the complainants Bill. The statements made by the said M C Rogers to the said David Shields in the presence and hearing of this Respondent were that he had made an Engagement with the complainants to furnish them with what Pig Metal they could work into Bar Iron at their Forge on Little Pigeon River, not to exceed five hundred Tons per year to be delivered at the Short Mountain Furnace; for which the complainants were to pay him one Ton of week assorted bar ~~xxxx~~ iron for every four Tons of Pig metal they might get of him, the said Rogers to be paid quarterly and in case the complainants failed to pay the said Rogers at the end of every quarter for whatever amount of Pig metal they had reced the contract was to terminate & be null & void. The bar iron was to be delivered at the compts Forge in Sevier County or within that distance of Sevierville as the said (sic) stated. From an Inspection of the Article of Partnership herewith exhibited marked B it will appear that the said M C Rogers agreed to put into said concern the aforesaid land and Furnace by him then represented as purchased from the complainants at the price aforesaid as so much capital by him to be invested and had any suspicion been entertained by the said David or this Respondent that the said Reprs had not a good title to said lands and Furnace the proposition to invest it as captl never would have been acceded to by the said David. It is true the said M C Rogers then stated that one William C Roadman held a deed of trust on said lands and Furnace to secure the payment of seven hundred and fifty dollars due by the complainants to the said Roadman which sum he stated the complainants were to pay off and which the said M C Rogers agreed to pay himself and remove the incumbrance of it if the complainants failed to do so; and it was positively stipulated on the part of the said M C Rogers that the said Smyth Shields & Co should have nothing to do with the extinguishment of the liev which the said Roadman had on said Lands and Furnace and the said Rogers further stated that when the aforesaid deed of Trust to Roadman was removed there was no other incumbrance on said land and Furnace and that a good title to the same could and would be vested in said Partnership concern. The said M C Rogers further stated to the said David Shields at the time said Partnership was entered into that the Ore at the Short Mountain Furnace was of first rate quality, abundant in quantity, and so conveniently situated that a cart and one horse or a yoke of oxen with one hand could after the ore was raised haul enough to supply the Furnace, and that the raising the ore from the Bank was a matter of little expense. From the Terms of the partnership aforesaid as contained in Exhibit B it will appear that said partnership was to continue five years subject however to be dissolved by either of the partners by giving forty days notice of the intention to do so; and within sixty days after the termination of a blast in said Furnace. In the month of August 1838 the said David Shields informed this Respondent that he intended in a

Humbly complaining sheweth unto your orator Wm. K. Love, James T. Love & Preston A. Love all of the County of Sevier- of the firm of Wm. K. Love & Brothers in the manufasure of Iron in sd County.

Your orators prior to the year 1836 upon a tract of Land to them then belonging in the County of Sevier- Erected a furnace of large dimensions and great value in the doing of which they exhausted all their means- The object they had in said erection was to supply themselves with a full quantity of Pig metal to work the same into Bar Iron at their forge on Little Pigeon river in said County.

Your orators as an appendage to said Furnace had for the supply of Timber, ores, Rock &c- secured by purchase by entry and other modes of assurance about 3640 Acres of Land in sundrie tracts principally adjoining (all in Sevier County). After erecting the Furnace aforesaid- in settlement of accounts with a certain Micajah C. Rogers- your orators were found indebted to said Rogers in the about the sum of \$5000. and finding it impracticable to conduct the Furnace and Forge- owing to the shortness of means in the hand of your Orators a negotiation with the said Micajah C Rogers took Place in the sale by your orators and purchase by sd Rogers of said Furnace and the Lands aforesaid appertenant there to as before mentioned. The sum agreed to be given your orators was a bout the sum of \$4665. for said Furnace and appertenant Real estate (including the usual appendages, of Patterns flasks &c).

In closing said contract with said Micajah C your orators took from him sd Micajah C. the covenant and agreement herewith exhibited (a copy) and which marked A is made a part of this Bill of complaint.

By this agreement it will be seen that part of the consideration above the \$4665. for said sale was the supply of Pig Iron mentioned in said covenant made an exhibit- Nothing but the stipulation for the Pig Iron could have induced your orators to have sold said furnace, but for this stipulation would have been so greatly under its Real value-

After the contract by your orators with the said Micajah C Rogers he Micajah C- entered into a partnership in conducting said Furnace establishment with David Shields, Milton Shields, Samuel Shields- Andrew Smith, John Guthery, John Rice and perhaps others- conducting said Business under the names of Shields, Smith and Company.

What the terms of the contract of the company amongst the members of the thereof your orators are informed only so far as your orators is informed by the said Micajah C- who informed your orator Wm K- that the said firm of Shields Smith & Co had in their article of association adopted the agreement with your orators as entered into with said Micajah C. for the supply of metal &c and therefore had notice of sd Equitable Tim- Your orator shews that the sd Rogers and the firm with whiche ~~the~~ he stood associated failed to supply the Pig Iron as agreed- your orators were wholly disappointed and Ruined in their prospects of Iron making by Reason of said failure- and to indemnify themselves as far as possible- your orators was compelled to sue the said Micajah C Rogers at Law upon the covenant made an exhibit here with- and in the Circuit Court of Sevier County at the last term recovered

the sum of \$6000. damages for the first year, specified the two subsequent years the said M.C. Rogers is in like manner liable for and for Recovery of the damages consequent upon the Breach for these two years- your orators will have to prosecute a suit and the damages can not in the nature of things be less for each year than that already recovered and greatly more- your orators having no privity of contract with the firm of Shields Smith & Co cannot in a court of Law sue said Firm for the Breach of said covenant but in a form of law can only resort to the said Micajah C-

Your orators further charges that from present prospects the said Micajah C is insolvent- for since ~~the recovery of the said \$6000.~~ and immediately after the recovery of the said \$6000. the said Rogers by a deed of Trust executed to a certain John Muhlendore Trustee and to secure other creditors in exclusion of your orators in the payment of certain debts said to be due them All the estate (as your orator believes) of him sd Rogers- Both Real and personal even chases ? - in action and his the said Rogers interest in the Furnace establishment has been transferred in trust in so much if your orators if they cannot Resort to said Furnace property by extending to the same their equitable lien secured as well implicitly by the covenant as by the Rules of your honorable court of Chancery they will be deprived of all prospect of securing any thing under the said covenant expresses to be in part consideration of the purchase of said Furnace and the appertenant estate of sold and delivered to said Rogers.

Your orators seek no advantage of the said Micajah C- or of the Company with whom he stands associated- their desire was to have the Iron to supply the Forge they still want it and will be content if the same can be had according to said covt. But from the newly formed Company of Shields Smith & Co. they have no hopes as they have in express terms Refused the supply of Pig Iron for the two past years and have stoped Blowing said Furnace with the verry verry Little of the Iron on hand and even that Refused your orators.

Your orators shew to your honor that David Shields one of the firm of Shields Smith & Co is dead since the making of the said covt, since sd Rogers became a partner and by consent of the surviving partners a decree has been entered in Greenville State of Tennessee the object of which is to close the concern of the firm- and to do so that a sale of said Furnace property whall be had by the Clerk and Master of said property on the 16th day of this Instant- month of September 1840 at the premises in Sevier County on the proceedings had in the court at Greenville.

Your orators were not made parties and had no day in court- there fore could not Resist said decree as fare as the interest of said orators are concerned - But your orators are advised their lien still exists and will be enforced being part of a consideration of the Furnace property- as expressed in said covenant.

But in as much as on a sale of said property to thers not concerned in the contract as it at present stands- but the coming in of a new purchaser- your orators may be greatly embarrassed if not defeated of their equitable lien upon said property.

Your orators are constrained in justice to themselves to call to their aid the interposition of your honorable court.

Your orators charge that the contract for the supply of Pig metal as seen in the convenat cannot be less then Ten Thousand Dollars per year and this is no vissionary estimate for your orators have submitted said cont. to the inspection and Judgement of skillful and experienced Iron Makers whose depositions taken between said Rogers and your orators fully establish the fact.

The suet for the two past years- 1838-1839 is brought before the filing of this bill of complaint by which it is entened to fix the damages for said two years- and if will be preceived that their will still be five years of said convt- for which your orators will be entitled to like damages- unless said firm or some of them shall supply the Pig metal as stipulated- which is all that is asked for- your orators asks for nothing but their contract.

The said David Shields left a widow Mary Shields and one child an Infant to whom your orators understand Reese B Brabson has been appointed Guardian- who if needs be can be made parties to this Bill. But as your orators understand the sale is to be had at the instance of the surviving Partners- your orators is advised it is not material unless it may be seen that a decerst ? has been cast upon them the said widow and child by the death- to learn how this is your orators call for the Partnership a greement touching said property.

Your orators will insist upon their lien- The partnership formed by the said Rogers with his said partners in the Furnace estate without securing your orators interest in the Pig Iron was a fraud upon your orators- and since has put by the deed of Trust all the proparty he owned out of his hands for the Benefit of others- and in exclusion of your orators and especially as your orators have been so wholly defeated of their supply of metal as a greed and of their said Judgement. And by theedecree obtained by consent a greement and connivance between said Micajah C - and his other partners.

But now so it is may it please your honor the said Micajah C- the said firm of Shields, Smith & Co combining and confederating themselves & to cheat and defraud your orators & c. In tender consideration whereof and for as much as your orators cannot have Relief at law and can only be Redressed in this Honb. court where matters of fraud and of Trust are cognizable and Relievable to the end

Therefore that the said Rogers Shields Smith and Company and if n needs be the widow of sis Shields and her Infant by its said Guardian Reese Brabson be made defendants to this bill with apt words- to charge them- how to cheat and defraud your orators- that they be compelled to make full true and perfect answers to these presants and that in as full a manner as if the same by way of entarogatory was put to them seperately as to every fact and charge herin contained.

The premises considered your orators pray that the said firm be enjoined from proceeding in so contemplated sale of said estate on the 16th

as aforesaid or of any other time until the further of your Honor--

That upon final hearing of this complaint that your honor will decree that your orators- shall have the benefit of their said lien of and upon said Furnace property and estate to the whole extent of the consideration whatever it may be ascertained- and that whome so established That said furnace and estate shall be held liable in such manner as your honor may provide for the same- either by a sale thereof or by extending the same into the hands of your orators until by the proffits thereof the said sum whatever it may be can be made deducting all expence.

And if in any thing your orator has mistaken his Remedy then your orator asks such other and further relief as may be consistant with equity. This is the first application for an injuaction. Your orators prays the states writs of subpa, and Injunction & c &c.
Peck sol

State of Tennessee

Personally appeared before me Robert M. Anderson one of the Circuit Judges of the State Wm K. Love one the within complainants and made oath in one form of law that the facts stated in the withing bill are as of his own Knowledge are true and those stated on information he believes to be true and that this is the first application for writ of injuaction on the pemises. Sworn to and sunscribed before me the 12th day of September 1840

Robt M. Anderson

Wm K Love

To the Clerk and Master of the chancery court at Sevierville- Let writs of subpa, and Injunction issue agreeable to the prayer of the within bill of complaint staying & injoining all persons within named from selling the Furnace property described

On compts giving bond and security for costs of suit & for payment of such damages as may be Recovered if any for improperly suing out this Injuaction hereby granted. Given under my hand at Taswell the 12th day of Sept 1840.

Robt. M Anderson
Juge of the 12th Judicial Circuit

State of Tennessee)

Sevier County) This agreement entered into this first day of November in the year of our Lord Eighteen hundred and thirty-six by and between Micajah C Rogers of the one part- and Wm K Love & Brothers of the other part and all of the County of Sevier and state of Tennessee .

Wit nesseseth that whereas the said Rogers hath this day purchased of the said Wm K Love and Brothers their Furnace in the upper end of Sevier County on the little east fork of little Pigeon River Known by the name of the Short Mountain furnace.

In part consideration of which the said Rogers binds himself to furnish the said Loves with what merchantable Pig Iron they may be able to manufacture into Bar Iron or Blooms at their Forge or Forges in Sevier County, no exceeding five hundred Tons of Pig Iron pr annum- to be delivered to them at the Furnace aforesais as they need them.

And the said Loves on their part agrees to pay the said Rogers one Ton of merchantable Bar Iron for every four Tons of pig Iron they may get of the said Rogers- payable quarterly from and after the first day of April next at Pigeon Forges or not more than that distance from Sevierville that is at the end of each quarter they are to pay for what Pig Iron they may have had for a violation of on the part of either the party in default shall be answerable in damages to the other.

The said Rogers further agrees to let said Loves have what metal they may need for their own use at their Forge cast into hammers, Plates Barrelling &c at the same price they receive pig Iron the said Loves paying the moulders for casting them the customary prices.

This contract to take effect and Remain in full force for and during the term of Eight years from and after the first day of Aprile next. For the true performance of which said parties to this agreement bind themselves to each other in the penal sum of Twenty thousand Dollars.

It is further understood that the Pigs are to be gossed according to the rules laid down at Iron establishments in Tennessee.

Witness our hands this day and year above written signed duplicates each party holding a copy of this agreement.

Test
JPH Porter Jr., I.A. Miller

M.C. Rogers
Wm K. Love & Brothers

State of Tennessee)
Sevier County) I Wilson Duggan Clerk and Master of the Chancery Court at Sevierville do hereby certify that the foregoing is a full true & perfect copy of the Bill of Complaint (and the Exhibit thereunto annexed) filed in my office by Wm. K. Love & Brothers against M.C. Rogers, Shields Smith & Co filed 15th Sept. 1840. Witness my hand at office in Sevierville

Wilson Duggan
Clerk and Master
By J C Heasman ?
Dept Clk & Master