12427

No._____

Supreme Court of Illinois

Beadley, et al.

vs.

Whiting.

71641 7

March Term 1854

Job 1

State of Illinois
Cook County } ss.

Pleas before the Honorable Buckner S. Morris Judge of the Seventh Judicial Circuit Court of the State of Illinois and presiding Judge of the Circuit Court of the County of Cook at the Court House in the City of Chicago in said County at a Vacation Term on the Fourth Monday (being the Twenty Seventh day of March in the year of our Lord One thousand eight hundred and fifty four and of the Independence of the United States the Seventy Eighth.

Present—

Hon. Buckner S. Morris Judge of said Court.

Cyrus P. Bradley Sheriff of Cook County.

Attest—

Louis D. Hoard
Clerk of said Court.

Be it remembered that on the 20th. day of December in the year A.D. 1853, one Mary Whiting filed in the office of the Clerk of the Circuit Court of the County of Cook in the State aforesaid, her certain affidavit made in writing

[12427-1]

which is in the words & figures following, to wit,

State of Illinois
Cook County Circuit Court
Cook County ss.

Mary Whiting of Chicago in said County being duly sworn deposes and says that she is now lawfully entitled to the possession of the goods, Chattels and Household furniture described in the Schedule marked "A" hereto attached, of great value, to wit, of the value of Seven hundred Dollars, and that the same has not been taken for any tax, assessment or fine levied by virtue of any law of this State nor seized under any execution or attachment against the goods & Chattels of this deponent liable to execution or attachment.

And this deponent further says that the said goods, chattels and Household furniture set forth in said schedule are now wrongfully detained at Chicago in said County by Cyrus P. Bradley, Michael Regan and Paul B. Ring — and that said schedule is a part of this affidavit.

Subscribed & sworn to, before me this 15th. day of Dec. 1858

F. A. Howe J. P.

Mary Whiting
"

Schedule "A"

One Dark Sorrel Horse called "George" purchased of Kellogg & King by N. B. Ells.
One nearly new covered Buggy (single) & Harness of said Horse "George" kept at Donnelly's stable
One large Mahogany Marble top bureau with large glass Mirror on top,
One large Mahogany French bedstead with Mattresses and clothing
One Mahogany Marble top wash stand,
One large sofa bottom Mahogany Rocking chair,
One fancy plush bottom sewing chair.
One Rose wood Piano stool.

One large Iron safe of Herring & Co's
One large Counting Desk, One Letter Press,
One small counting Desk
One Bureau wash stand & appurtenances,
One Centre Table and
One Large Stove & pipe (office)

And the said Mary Whitney by her Attorneys thereupon filed in the office of the Clerk aforesaid her certain praecipe which is in the following words & figures viz.

[12427-3]

Cook County Circuit Court

Mary Whiting
vs.
Cyrus P. Bradley
Michael Regan &
Paul B. King

The Clerk of said Court will please issue writ of Replevin as per within affidavit. property valued at $700 — Dam. $1000

& oblige Yours &c.
Chicago Dec. 20, 1853 — G. W. & J. A. Thompson
Plff's. Attys.

Whereupon on the day & year last aforesaid and out of the office of the Clerk of the Court aforesaid, there issued a certain writ commonly called a "Replevin Writ" under the seal of said Court and directed to the Coroner of said County to execute, which is in the words & figures following, to wit,

State of Illinois
County of Cook } ss.

The People of the State of Illinois to the Coroner of said County Greeting.

Whereas Mary Whitney Plaintiff, complains that Cyrus P. Bradley, Michael Regan and Paul B. Ring Defendant, unlawfully and wrongfully detain the following described goods and chattells, to wit, One dark sorrel Horse called "George" One (nearly) new covered single Buggy & harness of said Horse George, One large Mahogany marble topped bureau with a large glass mirror on the top, One large Mahogany french Bedstead with Mattrass and clothing, One Mahogany marble topped washstand, One large sofa Bottomed Mahogany Rocking chair, One fancy plush bottomed sewing chair, One Rosewood Piano stool, One large Iron safe of "Herring & Co" One large Counting desk, One letter press, One small Counting desk, One bureau washstand and appurtenances, One centre table and one large stove and pipe at office, all of the value of seven hundred dollars.

Therefore we command you, That if the said Plaintiff shall give you bond with good and sufficient security in double the value of the said goods and chattels as required by law, to prosecute his suit in this behalf to effect and without delay, and to make return of the said goods and chattels

[1047-3]

if return thereof shall be awarded, and to save and keep you harmless in replevying said goods and chattels, you cause the said goods and chattels to be replevied and delivered to the said plaintiff without delay; and also that you summon the said defendants to be and appear before the Circuit Court for said County, on the first day of the next term thereof, to be holden at the City of Chicago, in said County on the fourth Monday of March next, to answer said plaintiff in the premises. And you have then and there this writ, with an endorsement thereon in what manner you have executed the same, together with the bond which you shall have taken from the said plaintiff as before commanded before executing this writ.

Witness, Louis D. Hoard, Clerk of our said Court, and the seal thereof at Chicago, in said County the 20th. day of Decr. A. D. 1853

Seal

L. D. Hoard Clerk

The aforesaid writ was afterwards returned into Court with an endorsement thereon & also a bond attached, which endorsement & bond are in the words & figures following viz.

The Plaintiff having given bond as required I have taken the within described property and delivered the same to the within named Mary Whitney this 21st. day of December 1853, and also I have read this writ to the within named Mich. Regan and Paul B. Ring this 21st. day of December 1853, and Cyrus P. Bradley sheriff

Austin Hynes

Coroner's fees

3 services - -	1,50
4 miles	20
1 Replevin	50
Af B.d	1,00
1 Return	10
	3,30

Know all men by these presents that we Mary Whitney of Chicago Principal and Saml B. Pomeroy of the same place Surety are held and firmly bound unto Austin Hines Coroner of Cook County Illinois in the sum of Fourteen Hundred Dollars, to the payment of which well & truly to be made & done we bind ourselves, our Heirs, Executors, administrators

and assigns jointly & severally firmly by these presents. Sealed with our seals & dated this 20th. day of Decr. A.D. 1853.

The condition of the above obligation is such that whereas the above bounden Mary Whitney has this day sued out of the Cook County Circuit Court a writ of Replevin against Cyrus P. Brazley, Michael Regan & Paul B. King for the goods, chattels & furniture described in said writ & valued at seven hundred dollars. Now therefore if the said Mary Whitney shall & will prosecute said suit of Replevin to effect and without delay, and make return of the property described in said writ, if return thereof shall be awarded, and save & keep harmless the said Coroner in replevying said property, then this obligation shall be void else to remain in full force

In presence of
Jno. A. Thompson

Mary Whitney (L S)
Saml. R. Pomeroy (L S)

And afterwards, to wit, on the 17th. day of March in the year of our Lord One thousand Eight hundred & fifty five the said plaintiff by her said Attorneys filed in this Cause her certain declaration, which is in the words & figures following, to wit,

Circuit Court of Cook County

Mary Whitney
vs.
Cyrus P. Bradley
Michael Regan &
Paul B. Ring

} of the March Term 1854

Cook County ss.

Cyrus P. Bradley, Michael Regan and Paul B. Ring defendants in this suit were summoned to answer Mary Whitney plaintiff in this suit of a plea wherefore they took certain goods & chattels of the said plaintiff and wrongfully detained the same against sureties & pledges &c. and thereupon the said Plaintiff by G. W. & J. A. Thompson, her Attorneys, complains for that whereas the said defendants heretofore to wit, on the 21st day of December A. D. 1853 in the City of Chicago in the County aforesaid, to wit, at Donnelly's stable on Randolph St. at the office of one N. B. Ells No 14 Dearborn St. and at the residence of said Ells on Buffalo St. in the said City, took the goods & chattels to wit, "One dark sorrel Horse called "George" (formerly purchased by one N. B. Ells of Messrs. Kellogg & Ring) One nearly new covered single Buggy and one single Harness for said Horse "George" (formerly kept at Donnelly's stable in said City)

[12427-5]

also one large Mahogany marble top bureau with large glass or mirror on the top – One large Mahogany French bedstead with mattrass & bedding – One Mahogany Marble top washstand – One large sofa bottom ~~[illegible]~~ Mahogany Rocking chair, One fancy plush bottom sewing chair, one rosewood piano stool (formerly kept at No 155 State Street and subsequently at the residence of one N. B. Ells on Buffalo Street in said City) also one large iron safe of Herring & Co's. – One large Counting room desk – One letter press – One small counting room desk – One bureau washstand with appertenances – One centre table and one large stove & pipe (formerly kept at the office of one N. B. Ells at No 14. Dearborn St. in said City) from the said plaintiff and of which the said plaintiff was then and now is lawfully entitled to the possession, of great value, to wit, of the value of seven hundred dollars and wrongfully detained the same against sureties &c. until &c. to the damage of said plaintiff of seven hundred dollars and therefore she brings her suit &c.

G. W. & J. A. Thompson
Plff's. Attys

And afterwards to wit on the Second day of May in the year last aforesaid the said Plff. by her said Attys. filed in said Court her certain motion which is in the words & figures following to wit

Cook Co. Cir. Ct.

Mary Whitney
vs.
Cyrus P. Bradley
Michael Regan &
Paul B. King

} May Term 1854

And the said Plaintiff by Thompson her Atty. moves the Court for Judgment in this Cause for the reason that the defendants have failed to appear & plead to the Plffs. declaration

Dated May 2. 1854

G. W. & J. A. Thompson
for Plff

And thereupon the 3d day of the month & year last aforesaid and of the regular May Term of said Circuit Court the following among other proceedings in said Court were had and entered on record in this Cause to wit,

[12427-6]

Mary Whitney
vs
Cyrus P. Bradley
Michael Regan and
Paul B. Ring

Replevin

This day comes the said Plaintiff by her Attorney and it appearing to the Court that the said defendants have been duly served with process and the having been three times solemnly called come not nor any one for them but herein fail and make default which is ordered to be entered of record.

Wherefore the said Plaintiff moves that nominal damages of one cent be entered against the said defendant by reason of the wrongful detention aforesaid, which is ordered.

Therefore it is considered by the Court that the said Plaintiff do have and recover of the said defendants her damages of one cent entered as aforesaid together with her costs and charges by him about his suit in this behalf expended and have execution therefor.

And afterwards to wit on the 3d day of June A. D. 1854 it being one of the days of the June Special term of said Court - The following among other proceedings in said Court were had and entered of record in this cause to wit,

Mary Whitney
vs.
Cyrus P. Bradley
Michael Regan &
Paul B. King
} Replevin

This day come the said defendants by their Attorneys and on their motion it is ordered by the Court that the default and judgment in this cause heretofore entered be set aside and that leave be given to the said defendants to file their Plea

[12427-7]

And the said defendants by Messrs Judd & Frink their attorneys afterwards to wit on the 11th day of December in the year last aforesaid filed in this cause their certain plea to the said plaintiffs declaration herein nunc pro tunc as of the 3d day of June A. D. 1854 which plea is in the words & figures following to wit,

Cook County Circuit Court

Cyrus P. Bradley
Michael Regan &
Paul B. Ring
ads
Mary Whitney

And the said defendants

by Judd & Frink their attorneys come and defend the force and injury when &c. and say that they did not take the goods and chattels in the said declaration mentioned or any part thereof in manner and form as the said plaintiff has above thereof alleged against them and of this they put themselves upon the country.

And for a further plea in this behalf, by leave of the Court first had and obtained the said defendants say that the said plaintiff ought not to have or maintain her action aforesaid thereof against them because they say that the goods and chattels in said declaration mentioned at the same time when &c. were the property of one Nelson B. Ells and not the property of said plaintiff as in said declaration alleged - and that Paul B. Ring one of the defendants above named on the twelfth day of December in the year One thousand Eight hundred and fifty three by the consideration and judgment of the Cook County Court of Common Pleas recovered a judgment against the said Nelson B. Ells as well for the sum of One thousand and fifty dollars damages as for his costs and charges in and about his suit in that behalf expended, and that execution issued out of said Cook County Court of Common Pleas directed to the Sheriff of said Cook County commanding him that of the land & tenements

goods and chattels of the said Nelson B. Ells he cause to be made the said sum of money so recovered as aforesaid to satisfy the said judgment rendered in said Cook County Court of Common Pleas against the said Nelson B. Ells, and that under and by virtue of said execution the said sheriff levied upon and seized the goods and chattels in said declaration mentioned. And this the said defendants are ready to verify.

Wherefore they pray judgment if the said plaintiff ought to have or maintain her action aforesaid thereof against them and they also pray a return of the said goods and chattels together with costs in this behalf to be adjudged to him &c.

Judd & Kirk
for Defts

Whereupon the said plaintiff by her Attys. on the day and year last aforesaid filed herein her certain Replication to the said Plea of the said Defendants which is in the words & figures following to wit.

Cook County Circuit Court

Mary Whitney
vs.
Cyrus P. Bradley
Michael Regan &
Paul B. King

Nov. Term 1854

And the said Plaintiff, as to the plea of the said defendants by them first above pleaded and whereof they have put themselves upon the Country doeth the like.

And the said plaintiff as to the plea of said defendants by them secondly above pleaded says that by reason of anything in the said plea alledge she ought not to be barred from having & maintaining her aforesaid action against the said defendants, because she says, as before that the goods & chattels in said declaration mentioned at the said time when &c. were the property of the said plaintiff & not the property of one Nelson B. Ells as in said plea is alledged and of this she the said plaintiff puts herself upon the Country &c.

And the said defts. doeth the like

Judd & Frink
for Defts

G. W. & J. A. Thompson
Attys. for Plff

And afterwards to wit, on the 25th day of April A.D. 1856, it being one of the days of the April Special Term of said Court for said year. The following among other proceedings in said Court were had and entered of record in this Cause to wit,

[12427-9]

Mary Whitney
vs.
Cyrus P. Bradley
Michael Regan &
Paul B. King } Replevin

This day come the parties by their Attorneys and issue being joined it is Ordered that a Jury come. Thereupon come the Jurors of the Jury of good and lawful men to wit, John Gray, D. C. Johnson, J. D. Carpenter, Daniel Mullins, William Sawyer, James Duffy, W. H. Norwood, D. C. Huntington, E. G. Mather, Dan'l Davidson, William Coleman, Edward Crafts. Who being duly elected tried and sworn well and truly to try the issue joined according to law and the evidence, after hearing the evidence adduced, the arguments of Counsel and instructions of the Court, retire under charge of an officer of Court to consider of their Verdict and afterwards come into Court and say We of the Jury find the property replevied in this cause to be the property of the plaintiff and assess the plaintiff's damages for the detention of said property at one cent.

Therefore it is considered by the Court that the said Plaintiff retain the property

United States of North America
State of Illinois
County of Cook } ss

Pleas

Before the Honorable George Manierre Judge of the Seventh Judicial Circuit of the State of Illinois and presiding Judge of the Circuit Court of Cook County in said State at a vacation term thereof begun and held at the Court House in Chicago in said County on the fourth Monday being the twenty fourth day of March in the Year of Our Lord One thousand Eight hundred and fifty six and of the Independence of the United States the Eighteenth

Present The Honorable George Manierre Judge of the 7th Judicial Circuit

James J. Beach
Coroner acting Sheriff of Cook County

Daniel McFling
States Attorney

Attest

Lewis D. Houn
Clerk

{12427-10}

and Afterwards to wit On the 9 day of April A D 1856 being as yet of the said March Term of said Court the following among Other proceedings were had and entered of Record to wit

Ordered by the Court that a Special Term of this Court for the trial of Civil and Criminal Causes be held at the Court House in Chicago on the fourth Thursday being the twenty fourth day of April instant (1856)

State of Illinois }
Cook County } ss

Pleas before the Honorable George Manierre Judge of the Second Judicial Circuit Court of the State of Illinois and sole presiding Judge of the Circuit Court of the County of Cook in said Circuit at a Special term of said Court held at Chicago in said County on the fourth Thursday being the twenty fourth day of April in the year of Our Lord One thousand eight hundred and fifty six and

of the Independence of the United States the Eighteenth in pursuance of an Order of this Court Entered of Record at the last March Term

Present His Honor Geo. W. Maurice Judge

Daniel W. Sloan States Attorney

James L. Beach Coroner & Ex-Officio acting Sheriff

Attest Louis D. Coon Clerk

Ordered that a Venire issue for Twenty four Petit Jurors returnable forthwith

The Sheriff returned the Venire issued to him for the Petit Jury for the first week of this Term Served by reading to Th. K. Stewart and twenty three Others who on being Called Answered to their names and gave their attendance —

[12437-11]

State of Illinois }
Cook County } ss

I William L. Church Clerk of the Circuit Court of Cook County in the State aforesaid do hereby Certify that the above and foregoing Ole's Orders Commencing at "A" are true and perfect copies of Orders had and Entered of Record in the above mentioned Cause wherein Mary Whiting is Plaintiff and Michael Regan Cyrus P. Bradley and Paul B King are defendants. and I do further certify that said Orders are in addition to the foregoing transcripts

In Witness Whereof I have hereunto set my hand and the Seal of Our said Court this 30th day of April A.D. 1857

Wm L. Church
Clerk

In the Supreme Court
of the state of Illinois

Paul B Ring & Cyrus P.
Bradley survivors of Michael
Ryan deceased
vs
Mary Whiting

Error to Cook
circuit court

My action to the writ
of error issued in this cause appears
by the foregoing transcript duly
certified — Dated April 21st 1857 —

Thos. L. Lynch
Clk.

[1242713]

In the Supreme Court of
the State of Illinois
of April Term A D 1857

Paul B King and Cyrus
P Bradley Survivors of
Michael Regan deceased
Plaintiffs in error
vs
Mary Whiting

Error to the
Cook Circuit Court

And now comes the said
King and Bradley and suggest to the
Court now here that since the rendition
of the aforesaid judgment the said Michael
Regan hath departed this life, - to wit on
the first day of January A D 1857

And the said Plaintiffs in error
by William T Burgess their Attorney
come and say that in the record and pro-
ceedings aforesaid & in the judgment
aforesaid there is manifest and
material error appearing of record in this
that the Special term of said Court
was not held at a time & upon
such notice given thereof as is required
by law. when the said cause was tried below
and judgment rendered upon the finding

2d That the order appointing a term of said Court to be held on the 24th day of April A D 1856 having been made on the Ninth day of the same month was a mere nullity, and no term of said Court could by law be held under such order

3 That it does not appear that the notices required by law to be given of the time and place of holding such special term on the 24th day of April A D 1856 were in fact given, — nor that the board of Supervisors selected a grand and petit jury

4 That none of the notices required by law to be given either by the Clerk to the Sheriff or by the Sheriff posting up notices were in fact given or posted as required by law

That the judgment of the Court below was for the Defendant in error against the said Ring Bradley & Regan whereas in law and in fact it should have been for the said Ring Bradley and Regan and against the Defendant in error

And the said Plaintiffs in error pray that the judgment of the Court below for the errors aforesaid and for other errors manifest and material appearing of Record may be reversed annulled and altogether holden for nought, and they restored to all things which they thereby have lost &c

W J Burgess
for Pffs in error

Sup Court

Ring et al
vs
Whiting

Asst of Errors

Filed Jan 5th 1857
S Leland
Clerk
by J. B. Rice Deputy

3d.

Mary Whitney

Et vs.

Cyrus P. Bradley et al

Complete Record

Filed June 11. 1857

L. Leland
Clerk

Pr Deu $4.45

In the Supreme court
of the State of Illinois
Paul B Ring & Cyrus
P. Bradly Survivors of Michael
Ryan deceased
vs
Mary Whiting

Error to Cook
Circuit Court

State of Illinois
County of Cook } ss: William T. Bunyp of
said county being duly sworn says
that the said Mary Whiting hath gone
out of this State so that process cannot
be served upon her and that her
place of residence is not known
to this deponent.

Subscribed and sworn to
before me this Ninth day
of June A.D. 1857
witness my hand and
official seal

W. T. Bunyp

Moses Hallett
Notary Public

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Bradley et al
vs
Whiting

Filed June 11. 1857
L Leland
Clerk

Chicago, July 1, 1857.—3-6w

STATE OF ILLINOIS—ss. SUPREME COURT within and for the Third Grand Division of the State of Illinois.—Paul B. Ring and Cyrus P. Bradley, survivors of Michael Regan, deceased, vs. Mary Whiting.—Error to Cook.

AFFIDAVIT OF THE NON-RESIDENCE of Mary Whiting, defendant in error above named, having been filed in the office of the Clerk of said Supreme Court, notice is hereby given to the said Mary Whiting that Paul B. Ring and Cyrus P. Bradley, survivors of Michael Regan, decease , the plaintiffs in error aforesaid, sued out a writ of error from said Supreme Court, on the 10th day of April, A.D. 1857, and that a writ of scire facias thereupon issued out of said Court against said defendant in error, returnable on the first Tuesday after the third Monday in April next (1858), as is by law required.

Now, notice is hereby given to you, the said Mary Whiting, that you be and appear before the Justices of the said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April next (1858), to hear the record and proceedings in this cause and the errors assigned, if you shall see fit; and further to do and receive what said Court shall order in this behalf.

Attest: L. LELAND, Clerk.

Dated, June 11, A.D. 1857.—13-4w-w94

We, the undersigned publishers of the CHICAGO TRIBUNE, do hereby certify that a notice, of which the annexed is a true copy, was published four consecutive weeks next after the 12th day of June 1857, in the daily edition of the CHICAGO TRIBUNE, a newspaper published in, and of general circulation throughout, the County of Cook, State of Illinois.

Chicago, Illinois, Oct. 13 1857

Ray Medill & Co.

Publishers.

C. Smiths Fee Paid
Ray Medill & Co
Pubs. Tribune

[12427-16]

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Bradley & Ring
vs
Whiting
Certif. of Publica.

Filed Nov. 15th 1857
S. Leland
Clerk

STATE OF ILLINOIS, } ss. The People of the State of Illinois,
SUPREME COURT,

TO THE SHERIFF OF THE COUNTY OF Cook GREETING:

BECAUSE, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of Cook county, before the Judge thereof, between Mary Whiting plaintiff and Paul B. King, Michael Regan, and Cyrus P. Bradley

defendant, it is said that manifest error hath intervened, to the injury of the said

Paul B. King and Cyrus P. Bradley

as we are informed by their complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; THEREFORE, WE COMMAND YOU, that by good and lawful men of your county, you give notice to the said Mary Whiting as we have heretofore done

that She 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 first Tuesday after the third Monday in April next, to hear the records and proceedings aforesaid, and the errors assigned, if She shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said Mary ~~Whiting~~ Whiting notice, together with this writ.

WITNESS, The Hon. WALTER B. SCATES, Chief Justice of our said Court, and the Seal thereof at Ottawa, this 11th day of June in the Year of Our Lord One Thousand Eight Hundred and Fifty-seven.

L. Leland
Clerk of the Supreme Court.
by J. B. Rice Deputy

[12427-17]

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Sheff

A

Paul B. Ring et al

vs

Mary Whiting

89

Scire facias

The Defendant not found in my County
this 10th of April
1858 / Return 10c

John L. Wilson Sheff
By George Anderson
Sheff

Filed April 14. 1858.
L. Leland
Clk

In the Supreme Court
of the State of Illinois

Paul B. Ring & Cyrus
P. Bradley survivors of
Michael Ryan deceased
vs
Mary Whiting

} Error to Cook

The Clerk of said court will issue writ of Error to the circuit court of Cook county to send up the record in a cause wherein said Ring Bradley & Ryan since deceased are Defendants and said Mary Whiting Plaintiff — also Scir. fa. ad Jurd. Ev. to Cook co —

Yours &
Hannibal Hough
for Plff
in Error

Inclosed is a $5. bill

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Filed April 1857
L. Leland
Clerk

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Cyrus P. Bradley
& Paul B. Ring
vs
Mary Whating

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1858