

No. 12884

Supreme Court of Illinois

May

vs.

Symms et al

71641  7

STATE OF ILLINOIS,
SUPREME COURT,

} ss. The People of the State of Illinois,

To the Clerk of the Circuit

Court for the County of Rock Island Greeting:

Because, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of Rock Island County, before the Judge thereof, between James May

plaintiff, and Robert Symmes, Thomas Symmes, James Symmes, Jeremiah H. Lyford, Tillotson B. Temple, Nathaniel Dowance, Nathaniel Belcher, Jacob Dickerson, Thomas Robinson, & Isaac Helbrecht, defendants, it is said manifest error hath intervened, to the injury of the aforesaid James May

as we are informed by his complaint and we being willing that error should be corrected, if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the first Tuesday after the third Monday in April next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 15th day of March in the Year of Our Lord one thousand eight hundred and fifty-nine.

L. Leland

Clerk of the Supreme Court.
by J. D. Caton Deputy

James May
vs
Robert Symmes & others

Writ of Error

Filed March 15, 1839
L. Leland
Clerk



STATE OF ILLINOIS,
SUPREME COURT,

The People of the State of Illinois,

To the Sheriff of the County of

Rock Island

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 Rock Island County, before the Judge thereof, between James May

plaintiff, and Robert Symmes, Thomas Symmes, James Symmes, Jeremiah H. Syford, Tillotson C. Temple, Nathaniel Dowanee, Nathaniel Belcher, Jacob Dickerson, Thomas L. Robinson and Isaac Hitchcock

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

James May

as we are informed by his complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; Therefore, We

Command You, That by good and lawful men of your County, you give notice to the said

Robert Symmes, Thomas Symmes, James Symmes, Jeremiah H. Syford, Tillotson C. Temple, Nathaniel Dowanee, Nathaniel Belcher, Jacob Dickerson, Thomas L. Robinson and Isaac Hitchcock

that they be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April next, to hear the records and proceedings aforesaid, and the errors assigned, if they 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 Robert Symmes, Thomas Symmes, James Symmes, Jeremiah H. Syford, Tillotson C. Temple, Nathaniel Dowanee, Nathaniel Belcher, Jacob Dickerson, Thomas L. Robinson and Isaac Hitchcock notice, together with this writ.

Witness, The Hon. JOHN D. CATON, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this fifteenth day of March in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine

L. Leland
Clerk of the Supreme Court.

By J. B. Rice Deputy

James May
138 or

Robert Symmes, Thomas
Brothers

Seifer

Shiffs Fees

Service	2.00
Amity Thier Rules and	4.60
Return	1.00
	\$7.60

Filed April 13. 1859
Leland Blk

I have executed this writ by executing the same to Robert Symmes
Jenniah H. Symmes. William C. Symmes, Chauncey Symmes, William
Recher and James J. Robinson who 7th day of April A.D. 1859.
By C. A. May Dayton, deputy sheriff
West & Hunt County Ill

Please, before the Honorable Ira C. Wilkinson, Judge of
the Sixth Judicial Circuit of the State of Illinois, at a
Term of the Circuit Court, sitting as a Court of
Chancery, begun and held at the Court House,
within and for the County of Rock Island and
State aforesaid, on the first Monday, the 3^d day of —
November One thousand eight hundred and fifty
one, Present Hon Ira C. Wilkinson, Judge
Ireman B. Gorton, Sheriff
Fraser Wilson, Clerk

James May

vs.

Robert Symms

Thomas Symms

James Symms

Jeremiah H. Lyford

Tillotson C. Temple

Nathaniel Dorrance

Nathaniel Belcher

Jacob Wickerson

Thomas J. Robinson

Isaac Hitchcock

Complainant,

In Chancery.

Defendants.

Be it remembered that heretofore, to wit: on
the third day of September in the year of our Lord
one thousand eight hundred and fifty one, the above
named James May, sued out of the Clerk's
Office of the Court aforesaid his certain summons

which is in the words and figures following, to wit:
State of Illinois
Rock Island County } 3^d Oct^r
The People of the
State of Illinois, To the Sheriff of the County of Rock
Island, Greeting: We command you to summon
Robert Symms, Thomas Symms, James Symms,
Jeremiah Syford, Tillotson L. Temple, Nathaniel
Donanee, Nathaniel Belcher, Jacob Dickerson, Isaac
Hitchcock, and Thos. S. Robinson to appear before
the Circuit Court of Rock Island County, Illinois, at the
next term thereof, to be holden at Rock Island on
the first Monday of November next to answer unto
a Bill in Chancery this day filed in the Clerk's
Office of the Circuit Court of said County by James
May, and have you there and there
this writ

Seal

Witness Frazer Wilson, Clerk of the said
Circuit Court and the Seal thereof at
Rock Island this 3^d day of September
A.D. 1851

Attest

Frazer Wilson, Clerk
By Luncy McNeil, dyp.

Which said summons was afterwards, to wit: on the
19th day of September, 1851, returned by the Sheriff
of the County aforesaid, into the Clerk's Office of the Court
aforesaid with the following endorsement of
service thereon.

I have executed this Summons by reading the same, and handing a true copy to Jeremiah Lyford, Williston C. Temple, Nathaniel Dorrance, Nathaniel Belcher, Isaac Hitchcock & Thomas D. Robinson the 12th and by leaving a copy at the residence of Jacob Dickerson on the 12th, and Thomas Symms, & Robert Symms on the 19th of September A. D. 1851, James Symms not in my County.
J. B. Boston Sheriff of
R. I. Co., Ill.

Which said summons was on the said 19th day of September 1851, filed in the clerk's Office of the Court aforesaid and became a part of the records in this cause.

And afterwards, to wit: on the aforesaid 3rd day of September, 1851, the said James May sued out of the clerk's Office aforesaid his certain alias summons causing the same to be directed to the Sheriff of Knox County and against one of the Defendants above named, which said summons is in the words and figures following, to wit:—

State of Illinois

Rock Island County

3rd Sec. The People of the State of Illinois to the Sheriff of Knox County, greeting; We command you that you summon James Symms, if he shall be found in your County, personally to appear before the Circuit Court of said County, on the first day of the next term thereof to be holden at the Court House in the town of Rock Island in said County, on the first Monday in the month of November next, to answer

unto a Bill in Chancery this day filed in the Circuit Court Clerk's Office of Rock Island County by James May, and have you then and there this writ, with an endorsement thereon in what manner you shall have executed the same.

Witness George Wilson, Clerk of our said Circuit Court, and the Seal thereof at his office in said County, this 3^d day of September A.D. 1851

George Wilson, Clerk,
By Quincy McNeil, dpy.

Which said summons was afterwards, to wit: on the 17th day of October A.D., 1851, returned by the Sheriff of the County aforesaid into the Clerk's Office of the Court aforesaid with the following endorsement of service thereon.

I have this 19th day of October A.D., 1851, served the within writ on the within named James Symons by leaving "at his usual place of abode" ^{the} a copy of the same said writ with a white member of the family over the age of ten years and informing said person with whom the copy of said writ was left, of the contents thereof.

Lamuel W. Brown,
Suff. Knox Co.

And afterwards, to wit: on the said 3^d day of September 1851, the said James May filed his certain bill of complaint which is in the writ and figures following to wit

State of Illinois
Rock Island County ss

Of the November Term
of Rock Island County
Circuit Court A.D. 1851 -

To the Hon. Ira C. Wilkinson Judge
of the Sixth Judicial Circuit Court of the State of
~~the State~~ Illinois in Chancery sitting.

Humblly complaining sheweth unto your Honor Your
Orator James May of Pittsburgh in the state of Pennsylvania
to wit of the County of Rock Island in the State of Illinois,
that heretofore to wit on the 24th day of June A. D. 1835
by virtue of a certain deed of conveyance of that date
executed by Robert Symmes and Thomas Symmes to your
Orator in due form of law and properly acknowledged,
Your Orator became the owner except as to the United
States Government of the following lands and real
estate discribed, ~~and~~ in said deed discribed as follows,
namely, all their (the said Robert & Thomas) right, title
interest claim & improvement that they (the said
Robert & Thomas) now have or hereafter may have
in two certain peices or parcels of land one being
a fractional peice with improvements laying at and
near the head of the rapids (Rock Island Rapids)
the other the quarter section back adjoining said
fraction, for which said lands or real estate Your
Orator at the time said deed was executed and
afterwards as stipulated in said deed paid the
said the said Robert & Thomas the sum of three
hundred dollars and in consideration thereof.

And Your Orator shows that under the description aforesaid it was intended by said Robert & Thomas & Your orator to convey to your orator the South West fractional quarter of Section twenty five (25) in Township No Nineteen (19) North of the base line of Range No one (1) East of the Fourth Principal Meridian, which said fractional quarter of Section twenty five is situate and being in said County of Rock Island at and near the head of the Rock Island Rapids so called but inasmuch as at the date of said deed the Government Survey of said lands was unknown to your orator & the said Robert & Thomas, they could not conveniently embody in said deed a better or more definite description nor was it thought needful so to do particularly as the said fractional quarter of said section twenty five and mentioned & described in said deed as "being a fractional piece", that being the only fractional piece of land lying at and near the head of Rock Island Rapids upon which the said Robert and Thomas or either of them at the date of said deed had or ever after had any right title interest claim and improvement.

And Your Orator shows that in and by said deed the said Robert & Thomas agreed and bound themselves to secure to your orator the Government title to said South West fractional quarter (mentioned in said deed as being a fractional

piece) free of expense to your Orator which said undertaking of said Robert & Thomas was also in consideration of said sum of three hundred dollars so paid by your orator to them as aforesaid and specified in said deed, and your orator shows that said deed at the date of the acknowledgement thereof to wit on the 29th day of June A. D. 1835 was duly delivered to your Orator & that on the said 29 day of June A. D. 1835 he caused the same to be recorded in the Recorders office of said Rock Island County where titles of land are found of record, a copy of which said deed your Orator herewith files and prays that the same may be taken as part of this his bill of complaint & marked "Exhibit A."

And your Orator shows that the said Robert and Thomas one or both from and after the date of said deed remained in possession of, and in the occupancy & improvement of said south west fractional quarter, openly avowing and proclaiming your Orators paramount title thereto and acknowledging themselves as tenants of your Orator in respect of said fractional quarter until on or about the 28th day of June A. D. 1842 when the said Thomas acquired a title thereto from the Government of the United States as in and by said deed he and the said Robert had agreed to do.

And your Orator shows that the said Robert and the said Thomas for a long time previous to the

date of their said deed to your Orator occupy and possessed said fractional quarter and had improvements thereon so as to entitle them ~~or~~ one of ~~them~~ or the other to preempt the same at the time they conveyed to your Orator as aforesaid, that at that time and long before the claim of the said Robert and Thomas to and their occupation of and improvement ~~of~~ said South West fractional quarter was notorious to all people in the country round about and particularly in the vicinity of said land and also to the people passing and repassing the same on the Mississippi River and was entitled to legal protection & that thereafter to the time that the said Thomas acquired the Government title thereto, the claim and title of your Orator to said South West fractional quarter was also notorious to the people of the country round and to those passing and repassing on said river and was also evident of record in the records office of said Rock Island County. And your Orator shows that the said Thomas on & from the time that he acquired the title ~~from~~ ^{of} the Government to said South West fractional quarter in his own name held and possessed the same in trust for your Orator and that from said last mentioned time to the present your Orator's title to said South West fractional quarter was well known & notorious to all the people resident in the neighborhood and vicinity of said South West fractional quarter and to the people of the country round about.

Thur. M.

2

And Your Orator shows that the said Thomas soon after he acquired the title of the Government to said South West fractional quarter to wit on or about the 12th day of Sept A.D. 1842 applied to your orator and represented to him that he said Thomas had been put to considerable trouble and expense to to secure for your Orator in his name the Government title to said South West fractional quarter and besought your Orator to make him further compensation therefor accordingly your Orator did agreeable to said request of said Thomas to wit on the said 12th day of Sept. A.D. 1842 cause to be paid to said Thomas through Your Orators then Agent Nathaniel Belcher (hereinafter named) the further sum of twenty nine dollars and thirty seven cents said sum being the government price for said South West fractional quarter and took his the said Thomas receipt therefor which is in the words characters and figures following namely

" Sep 12th 1842

" Received of James May by the hand of Nathaniel
" Belcher twenty nine dollars $37/100$ being in full
" for the entrance money for the South West fractional
" quarter of Section (25) Twenty five in Township
" No (19) nineteen North of the base line of Range
" No one East of the fourth principal meridian
Witness B. F. Barrett

his
Thomas X Symmes
Mark

A copy of which said receipt Your Orator herewith files marked Exhibit B, and which your Orator prays may be taken as part of this his bill of Complaint. And Your Orator shows that said South West fractional quarter of section twenty five contains twenty three and forty nine one hundredths acres as your Orator is informed and believes and so charges the fact to be.

And Your Orator further shows that the said Thomas Symmes to wit on the twenty second day of Sept A. D. 1843 by his deed of conveyance of that date conveyed to his brother James Symmes of Knox county in this state twenty two and forty nine ^{one} hundredths ^{acres} off the South end of the said South West fractional quarter of section twenty five aforesaid which conveyance last mentioned so far as regards said South West fractional quarter of said section twenty five Your Orator shows was wholly and entirely without consideration and fraudulent as to Your Orator.

And Your Orator shows that the said James Symmes at the time he accepted of or took a conveyance of said South West fractional quarter from said Thomas ^{aff} had due notice of your Orators equitable
x title to the same and that said Thomas therefore held & possessed the same in trust for your orator. And Your Orator shows that afterwards to wit on the Seventh day of October A. D. 1844 the said James Symmes made and executed his certain

power of attorney in and by which he constituted and appointed Robert Symmes aforesaid his attorney to dispose of sell and convey at his discretion the said twenty two acres and forty nine hundredths of an acre so conveyed by said Thomas to said James as aforesaid and part and parcel of said south west fractional quarter of section twenty five aforesaid which said power of attorney was duly acknowledged and was made of record in the recorders office of said Rock Island County immediately after its execution as aforesaid to wit on the 8th day of October A. D. 1844.

And your Orator further shows that there appears in the Recorders office of said Rock Island County and of record therein a similar power of attorney from said James to said Robert dated day of February A. D. 1844 acknowledged July 12th A. D. 1844 & recorded September 30th A. D. 1844 authorizing & empowering said Robert to sell dispose and convey at his discretion the same part of the said south west fractional quarter specified in said first mentioned power of attorney and both of which said powers of attorney your Orator shows and charges were made & executed for the ~~purpose~~ intent and for the purpose of defrauding your Orator in respect to said south west fractional quarter, that your Orators equitable title thereto was at the time said several powers of attorney bear date and long before and even after well known, both to said James Symmes and said Robert Symmes.

And Your Orator further shows that the said Robert Symmes afterwards to wit on the tenth day of October A. D. 1844 under and by virtue of one or the other or both of said powers of attorney conveyed in due form of law to Jeremiah H. Lyford then and now of said Rock Island County a part of said south west fractional quarter as follows namely, a part of the South West fractional quarter of Section twenty five in Township number nineteen north of base line of range No one East 4th P. M. meaning to convey two acres of said south west fractional quarter being the fourth and fifth acres from the north end ~~from~~ of said fractional quarter meaning first to cut off three acres from the north end of an equal width on the river and on the east line of said fraction then to take the fourth and fifth acres ^{above conveyed} of an equal width on the river and on the East line of said South west fractional quarter section which said last mentioned deed of conveyance was duly recorded in the recorders office of said Rock Island County on the tenth day of October A. D. 1844 and your Orator shows that said Lyford at the time and before he took a conveyance of the land last before described had due notice of your Orators equitable title therein and that the same was in fraud of your Orators just and equitable rights.

And your Orator further shows to yr Honor that afterwards to wit on the thirteenth day of August A. D. 1848.

the said James Symmes by his said attorney Robert Symmes and under and by virtue of one or the other or both of said powers of attorney, sold and conveyed to said Jeremiah H. Lyford by his deed of that ^{date} and the same day acknowledged for the consideration therein named of twenty five dollars a part of the said south west fractional quarter of section twenty five, namely, two acres of said south west fractional quarter, being the sixth and seventh acres from the north end of said south west fractional quarter, and being the two acres south (as described in said deed) and next adjoining land now (then) owned by the said J. H. Lyford and being of an equal width on the river and on the East line of said south west fractional quarter, and your Orator shows and so charges the fact to be that at the date of said last mentioned deed and for a long time before and ever after the said Lyford & the said James and the said Robert well knew your orators equitable title to the premises conveyed by said last mentioned deed and that the same was wholly fraudulent as to your Orator; which said deed last mentioned was made of record in the recorder's office of said Rock Island County March 5th A.D. 1849

And your Orator further shows that the said James Symmes by his said attorney Robert Symmes to wit on the seventh day of June A.D. 1849 sold and conveyed to the said Jeremiah H. Lyford a

part and parcel of said south west fractional quarter, namely,
part of the south west quarter fractional quarter
of section twenty five township nineteen north
of the base line of Range No one East 4th P. M.
one and a half acre of said south west fractional
quarter, being the south half of the ninth acre
and the tenth acre from the north end of said
fractional quarter, being the acre and a half (as ex-
pressed in said deed south & next adjoining land
owned by Robert Helton, being of an equal width
on the river and on the east line of said
south west fractional quarter which said last
mentioned ~~land~~^{deed} was acknowledged the 8th day
of June A. D. 1849 & on the same day recorded
in the Recorders office of said Rock Island County.
And your Orator shows that the said Wyford
at the time he took the conveyance of the land
mentioned in the deed last aforesaid and for a
long time before and ever since well knew of your
orators equitable claim and title thereto and that
said deed and conveyance last aforesaid was in
fraud of your Orators just rights and that said
James and Robert Symmes in making said con-
veyance acted in bad faith towards your Orator
and with intent to defraud him of all which
said Wyford had due notice.

And your Orator further shows that the said James
Symmes by his ^{said} attorney Robert Symmes do sit on the

Twenty fourth day of April A. D. 1845 by his deed of conveyance of that date and on the same day acknowledged and recorded in the Records office of said Rock Island County sold and conveyed to one John Sigsworth the second and third acres on the north end of said south west fractional quarter of Section twenty five extending from the Mississippi river to the east line of said fraction and being of the same width through from the river to said east line and that said John Sigsworth afterwards to wit on the thirteenth day of October A. D. 1848 by his said Sigsworths deed of that date sold and conveyed to said Jeremiah H. Lyford part and parcel of said south west fractional quarter, namely, one acre being the third acre from the north end of said fractional, being the acre (as specified in said deed) north and next adjoining land now (then) owned by said J. H. Lyford being of one equal width on the Mississippi river and on the east line of said south west fractional quarter, which said deed last mentioned was acknowledged on the 14th day of October A. D. 1849 and made of record in the records office of said Rock Island County the 5 day of March A. D. 1849.

And your Orator shows that the said deed from the said Symmes to said Sigsworth was wholly & entirely fraudulent as to your Orator that said Sigsworth at the time said deed bears date & for a long time before had due notice of your Orators equitable estate and title in

and to the land thereby conveyed and that said deed from said
Sigsworth to said Lyford was fraudulent in like
manner as both said Sigsworth and said Lyford
well knew at & before the date of said deed from
said Sigsworth to said Lyford Your Orators equi-
table title and estate in and to said south west frac-
tional quarter, and particularly to that part thereof
so conveyed by said Sigsworth to said Lyford.
And Your Orator further shows to your honor that
he is informed and verily believes that the said
Lyford neither at the time he took the said several
conveyances from the said James Symmes by his
said attorney Robert Symmes as hereinbefore set
forth nor ever before or after, paid any adequate or
reasonable compensation therefor, that the same
were regarded by said Robert and James & said
Lyford as covinous speculations and in fraud
of your Orators just & equitable rights, and that
said Lyford never agreed to pay an honest and
fair consideration therefor, that the said
Robert appropriated to himself the avails of said
conveyances without accounting to said James
therefor & claiming them as his own, and that
said James disclaimed all or any participation
thereof, and disavows any title in fact in or to any
part of said south west fractional quarter all
which was and is well known to said Lyford
And your Orator further shows that a part of

the consideration (as he is informed and believes) that said Lyford paid or pretended to pay for some of the lands so conveyed by said James through his said Attorney Robert to said Lyford consisted of or originated from a certain note for the sum of one hundred dollars signed by said Robert Symmes & Thomas Symmes & which the said Lyford extorted from said Thomas or said Thomas and Robert by threatening to oppose said Thomas in the procurement of a preëmption to said south west fractional quarter, which said note your Orator shows was wholly without consideration and which nevertheless said Lyford obtained payment and satisfaction of by a conveyance to him of some part of said south west fractional quarter, but whether said note was cancelled by a conveyance to said Lyford from said Thomas of the north acre of said fractional quarter by a deed never recorded and afterwards cancelled in consideration of some of the ^{to him, or whether said note was directly or indirectly applied in consideration of some of the conveyances from said James} said conveyances from said James, by his attorney said Robert to said Lyford & hereinbefore set forth your Orator cannot say, but charges and avers that some such note wholly without consideration of about the amount of one hundred dollars signed by said Robert & Thomas or one or the other directly or indirectly entered into the consideration of some one or more of the said conveyances from said James by his attorney said Robert to said Lyford

And Your Orator further shows to your Honor that the said Thomas Symmes to wit on the twenty fourth day of February A.D. 1845 by his deed of that date duly acknowledged, conveyed to the same John Sigsworth heretofore named the north end of the said south west fractional quarter of Section twenty five, extending east and west across said fraction, and south on said fraction far enough to include an area of one acre which said deed was recorded in the Recorders office of said Rock Island County on the 25th day of February A.D. 1845- And Your Orator shows and charges that said deed was a fraud upon your orator, said last mentioned conveyance being made by said Thomas and taken and accepted by said Sigsworth with intent to defraud your Orator, they the said Thomas and said Sigsworth well knowing your Orators equitable estate to the premises thereby conveyed, & that said Thomas therefore held the same in trust for your Orator, - of all of which said Sigsworth had due notice long before the date of said last mentioned deed

And Your Orator further shows that afterwards to wit on the ninth day of June A.D. 1849 the said John Sigsworth by his deed of conveyance of that date duly acknowledged conveyed to Tillotson

O. Temple and Nathaniel Worrance the first and second acres on the north end of said south west fractional quarter of said section twenty five extending from the Mississippi river to the east line of said fractional quarter, being the same width through from the river to said east line, which said deed is recorded in the recorder's office of said Rock Island County under date of August 4th A.D. 1851. And your Orator shows and charges that said last mentioned conveyance was fraudulent, the parties thereto having due notice of your Orator's said equitable title to the land thus conveyed and long before the time of such conveyance. And your Orator further shows that the said Gillotson O. Temple and his wife Ann Eliza Temple & Nathaniel Worrance by their deed bearing date the 20th day of March, 12th 1851, conveyed to one Jacob Dickenson part and parcel of said south west fractional quarter and described as being all that part and so much land as lies east of the main road leading from Port Byron to Hampton being the first and second acres on the north end of said south west fractional quarter extending from the Mississippi river to the east line of said fraction, having the same width through from the river to said east line of said fraction, excepting and reserving so much of said land as lies between

said River and said Port Byron and Hampton road,
containing one acre and a half more or less,
which said deed was recorded in the Recorder's
Office of said Rock Island County June 3^d 1851
and your Orator charges that the same was
fraudulent the parties thereto at its date and
long before having due notice of your Orator's
equitable title to the premises and lands thereby
conveyed. And your Orator further shows that the
said James Symmes by his said attorney
Robert Symmes on the day of A. D.
1851 by his deed of that date and acknowledged
the 6th April A. D. 1851 conveyed to said Tillotson
L. Temple, Nathaniel Dorrance Jacob Dickenson
and Thomas J. Robinson the twelfth acre of
land in said south west fractional quarter,
commencing its number on said fraction at
the north end and numbering one two three
and so on south, each acre making one lot of
equal width from the east line of said fraction
to the Mississippi river, which said last men-
tioned deed your Orator charges to be fraudulent,
all the said parties thereto at the date thereof
and long before well knowing your Orator's
equitable title to the land so conveyed as
aforesaid And your Orator further shows
that said James Symmes by his said attorney
Robert Symmes to wit on the 13th day of June A. D.
1849

by his deed of conveyance of that date and on the same day acknowledged conveyed to said Tillotson & Temple the fourteenth and fifteenth acres of land in said South West fractional quarter of said Section Twenty five, commencing to number on said fraction at the north end numbering one two three and so on meaning said two acres to run the whole width of said fraction and of equal width on the Mississippi river and on the east side of said fraction so as to make two acres, and your Orator shows that said last mentioned deed was fraudulent the said Temple and said Robert & James well knowing your Orators equitable title to the land conveyed by said deed at the date thereof and long before.

And your Orator further shows that the said Tillotson & Temple and his wife Ann Eliza Temple and the said Nathaniel Worrance to wit on the 23^d day of January A.D. 1851 by their deed of conveyance of that date and the same day acknowledged conveyed to Jacob Dickerson the undivided one fourth of two thirds of an acre more or less situated in the north west quarter of the South west fractional quarter of said Section Twenty five being all that part and so much of the North two acres of said fractional quarter, ~~at last west~~

extending of equal width the way across said fraction
from the Mississippi ~~River~~ to the east line
of said fractional quarter, as lies west of the
road leading from Port Byron to Hampton
and your Orator shows that the conveyance last
aforesaid was fraudulent the parties thereto having
due notice of your Orators equitable title in the
premises thus conveyed and long before the
time of such conveyance

And your Orator further shows that the said
Jacob Dickenson ^{and his wife Ann Dickenson} afterwards to wit on the 15th
day of July A.D. 1851 by their deed of conveyance
(commonly called a quit claim deed) of that date
conveyed to said Tillotson & Temple and Nathaniel
Dorrance and Thomas J Robinson that part and so
much of the first and second acres of land on the
north end of the south west fractional quarter of
said Section Twenty five as lies west of the
main road leading out of main street in the
town of Port Byron to Hampton containing two
thirds of an acre more or less, also the ~~twelfth~~
twelfth acre in said fractional quarter from the
north end, and your Orator shows that said
conveyance was fraudulent all the parties
thereto, at and before such conveyance was made
having full notice of your Orators equitable title
to the land thereby conveyed.

And your Orator further shows that the said

Jacob Dickenson and his wife Ann Dickenson do wit
on the 21st September A. D. 1850 by their deed
of that date duly acknowledged conveyed to said
Thomas J Robinson part and parcel of said
south west fractional quarter as follows, namely,
the second acre of land in said south west
fractional quarter commencing to number
on said fraction at the north end and
numbering one two and so on south each lot
to contain one acre, ^{extending} from the east line of said
fraction to the Mississippi River and of sufficient
width to contain one acre, always excepting and
reserving so much of said second acre as
lies west of the Port Byron & Hampton Road and
containing one third of an acre more or less
which said deed was duly recorded the 3^d day
of June A. D. 1851 in the Recorder's office of said
Rock Island County, and your Orator shows
that said last mentioned deed was fraudu-
lently obtained by the parties thereto at the date thereof and
long before having due notice of your Orator's
equitable title to the premises thereby conveyed
And your Orator further shows to your Honor that
the said Nathaniel Belcher before named some time
in the latter part of the year A. D. 1850 or in the
first part of the year A. D. 1851 (the precise time
your Orator cannot state) purchased, and took
a deed of conveyance from the said Tillotson & Co.

Temple a part and parcel of said South west fractional quarter, namely, the fourteenth acre from the north end thereof, extending each acre from the Mississippi river to the east line of said fractional quarter each acre to be of uniform width from said ~~east~~ line river to said east line and numbering south-
erly from the north line of said fractional quarter each acre, one two three & so on until said fourteenth, ^{is obtained}
and being the same land upon which the said Belcher now resides, and your Orator shows that under the ^{conveyance} last mentioned said Belcher went into possession of said fourteenth acre of said frac-
tional quarter sometime in the Spring of A.D. 1851, that he has ever since occupied & possessed the same and now claims title thereto adverse to your
Orator, that he has frequently, since in possession of said premises, informed your Orator that he had a warrant deed thereof from said Temple, but upon examination at the Records office of said Rock Island County your Orator cannot find that said last mentioned deed has ever been left for record therein And your Orator further shows that since said Belcher has been in possession of said fourteenth acre of said South west fractional quarter the said Elliottson C. Temple has informed your Orator that he had conveyed the same to said Belcher and your Orator charges that said deed from said Temple to said

6

Belcher is in full form and in existence unless said Belcher
had fraudulently cancelled destroyed or disposed of it. And your Orator shows that said
Belcher has for a long time past, namely from
the year A. D. 1838 been the agent of your Orator
to look after and oversee your Orators lands
in the County of Rock Island aforesaid including
said South West fractional quarter section, and as
such agent said Belcher stood in a relation
of trust & confidence in regard to your Orator,
which agency was by your Orator continued, ^{and its duties and obligations properly assumed} and
accepted by said Belcher until on or about the 4th
day of August 1851 when your Orator discovering
that said Belcher was endeavouring to defraud
your Orator ^{out of lands} of ^{the} entrusted to his care and agency,
your Orator revoked his powers as such agent, and
dissolved the apparent relation of trust & confidence
before then existing between them. And your
Orator further shows that he has from time to time
paid said Belcher liberally for acting as such
agent, and that he has not even the apology of
bad pay to urge as an excuse for bad faith
towards your Orator.

And your Orator shows that the said Belcher
at the time he took the conveyance aforesaid
from the said Temple and for a long time ^{before}
namely from the year A. D. 1838 well knew
your Orators equitable title to said South West

fractional quarter and to that part thereof so conveyed by
said Temple to said Belcher as aforesaid that on
the 12th day of Sept A. D. 1842 he took a receipt
from said ^{Thos} Thomas Symmes for the entrance
money, as it is called for said South West frac-
tional quarter, which receipt, herein before copied
verbatim Your Orator charges to be in the hand
writing of said Belcher and Your Orator further
shows and charges that said Belcher as early
as the year A. D. 1841. Knew of the existence and
record of said deed from said Robert and Thomas
Symmes to your Orator, that in the year A. D.
1844 said Belcher ^{in his own hand writing} ~~records in the~~
took a copy thereof from the ^{records in the} recorder's office of
said Rock Island County, and well knew that the
description of lands contained therein was,
with other lands, intended to include said South
West fractional quarter of said section twenty five,
- that the deed of said Temple to said Belcher
is fraudulent, that said Belcher became a party
to it and took the delivery thereof in bad faith
and with a design to defraud your Orator
of the land thereby conveyed that said Temple
also at the date of said last mentioned deed
and long before had due notice of your Orator's
equitable title to the land thereby conveyed &
that said deed was fraudulent as to your
Orator.

And your Orator further shows that the said Thomas J. Robinson, to wit: on the sixteenth day of July A.D. 1851 by his deed of conveyance of that date conveyed to one Isaac Hitchcock that part and so much of the second acre from the North end in the said South west fractional quarter of said Section twenty five, lying East of the Port Byron Road leading in a direct line out of Port Byron being two thirds of an acre more or less. And your Orator charges that said last mentioned deed is fraudulent as to your Orator, that said Robinson and the said Hitchcock at the date of said deed and for a long time before had due notice of your Orators equitable title to the land thereby conveyed.

And your Orator further shows to your Honor that he has frequently and in a friendly manner applied to the said parties defendants herein named and requested them to reconvey and release to your Orator all their right and title that they severally or jointly have, in and to said South west fractional quarter of said Section twenty five, and do your Orator justice in the premises your Orator well hoping they would comply with such reasonable request of your Orator.

But now so it is may it please your Honor the said Robert Symmes Thomas Symmes James Symmes Jeremiah H. Lyford Tillotson C. Temple. Nathaniel Dorrance Nathaniel Belcher Jacob Dickenson

Thomas J Robinson & Isaac Hitchcock contriving and confederating with divers other persons at present unknown to your Orator (whose names when discovered your Orator prays may be made parties thereto with apt and proper words to charge them) and contriving how to wrong and injure your Orator in the premises, they pretend that said Thomas Symmes & Robert Symmes never gave your Orator a deed of said South west fractional quarter as set forth in this bill of Complaint and that the same was never recorded as herein set forth, whereas your Orator charges the contrary thereof to be true and that said deed was made executed acknowledged and recorded as charged in this bill, and at other times they or some of them pretended that they did not know of your Orators equitable title to said South west fractional quarter, whereas your Orator charges that they were and each and all of them had due notice of your Orators equitable title therein at the time each respectively became parties to the several conveyances as stated in this bill and that your Orators title was notorious as herein stated. And at other times they or some of them pretended that your Orator did not pay to said Robert Symmes and Thomas Symmes or either of them the full sum by your Orator stipulated to be paid them for said South west fractional quarter whereas your Orator charges the truth to be that he did fully pay them all the

7
money and more than he agreed to pay therefor.

And at other times they or some of them pretend that the said James Symmes paid a full consideration for such part of said South west fractional quarter as was conveyed to him by said Thomas Symmes as stated in this bill, whereas your Orator charges and so the truth really is that said James paid no consideration therefor and that such deed from said Thomas to him was wholly and entirely without consideration and fraudulent as to your Orator, and sometimes they pretend that the several conveyances set forth in this bill of complaint (with the exception of that from said Robert Symmes & Thomas Symmes to your Orator) were all made in good faith and without due notice of your Orators equitable title to the land thereby conveyed, whereas your Orator charges that said conveyances were made in bad faith and are fraudulent as to your Orator and that the several parties thereto had due and proper notice of your Orators equitable title to the several pieces of land thereby severally conveyed. All which actings and doings, refusals and pretences are contrary to equity and good conscience, and tend to the manifest wrong and injury of your Orator in the premises. In consideration whereof, and inasmuch as your Orator can have adequate relief in a Court

Equity only, where matters of this nature are properly cognizable and releivable

To the end therefore that the said Robert Symmes, Thomas Symmes, James Symmes, Jeremiah H. Lyford, Tillotson C. Temple Nathaniel Donance, Nathaniel Belcher, Jacob Dickenson, Thomas J. Robinson and Isaac Hitchcock may on their several corporal oaths to the best and utmost of their several knowledge remembrance, information and belief full true direct and perfect answers to make to all and singular the matters aforesaid and that as fully and particularly as if the same were here repeated, and they distinctly severally interogated thereto, and especially that the said Jeremiah H. Lyford may in manner aforesaid answer & set forth what consideration he paid for the fourth and fifth acres, so called, of said south west fractional quarter and what said consideration consisted, whether of money or property and if property, what property, and what value was placed upon it, and to whom paid, whether any note or notes signed by said Robert and Thomas Symmes or either of them, formed any part directly or indirectly of such consideration and if so what was the consideration of such note or notes - Whether he said Lyford ever obtained a note from said Robert and Thomas Symmes

or either of them for the sum of about one hundred dollars,
or what sum, by threatening to oppose said Robert
and Thomas or either of them in obtaining a preemption
or title to said South West fractional quarter of section
twenty five, from the United States, and if so whether
such note was afterwards paid and surrendered
or cancelled in consideration of a conveyance to
him said Lyford of any part of said South West frac-
tional ^{quarter}, and if so what part thereof and by whom
such conveyance was made, and whether such
conveyance was ever recorded & where recorded,
and whether any conveyance of which such note
formed the consideration or ~~part~~ thereof was ever
cancelled or surrendered and another conveyance
made to him of any part of said South West
fractional quarter in place thereof, and if so, what
part of said South West fractional quarter was
substituted and conveyed and by whom conveyed-
And that the said Lyford may in manner
aforesaid answer and set forth, what consideration
he paid for said sixth and seventh acres of
said South West fractional quarter and what
such consideration consisted of (if any) and to
whom the same was paid, and that said
Lyford may in like manner answer and set forth
what consideration he paid for the south half
of the ninth acre and the tenth acre so called
of said South West fractional quarter, and what

Such consideration consisted of and to whom the same was paid, if any consideration was ever paid, and that the said Lyford may in like manner answer and set forth whether it has not been notorious in the neighborhood of said south west fractional quarter that your Orator was the owner thereof & that he had a deed thereof on record and whether such notoriety did not prevail in the neighborhood as far back as 1835 or how far back with the knowledge or remembrance of him said Lyford and whether such notoriety has not continued to the present time. - And that said Lyford in like manner may answer and set forth fully and particularly what consideration ^{he paid} (& how how & in what paid & to whom paid) for all the several parts and parcels of said south west fractional quarter that he now or ever claimed title to & how & where and through whom he ^{derives} ~~demands~~ such title.

And that the said Nathaniel Belcher may answer and set forth to what part of said south west fractional quarter he has ever or still does claim title, and the consideration paid therefor and to whom paid. And whether he did not purchase of said Gillotson C. Temple or the said Gillotson C. Temple & his wife said fourteenth acre so called in said south west fractional quarter, or what other acre or part thereof, and

Whether he did not take a deed of conveyance from said Temple or said Temple & wife for said fourteenth acre of said South west fractional quarter or of what part ^{and what amount} of the same such conveyance was made, and of what date such deed of conveyance bears or bore, and what was the consideration thereof and how the same was paid and before whom such deed of conveyance was acknowledged & when, and may set ~~forth~~ in like manner ~~a~~ particular description of such part of said South west fractional quarter as was conveyed to him said Belcher by said Temple or said Temple and wife verbatim from said deed. And that said Belcher may in like manner answer and set forth where said deed of conveyance from said Temple or Temple & wife to him now is and in whose custody, and if not now in the custody and keeping of said Belcher who has the custody thereof, and when the said Belcher parted with the same & how he disposed of himself of the same, and for what object and to what intent, and whether such deed is now in existence, and if not why the said deed same was destroyed and with what understanding or agreement such destruction was made and who was party to such understanding or agreement, or privy thereto, and what such understanding or agreement was or is and with whom it exists

And whether said Belcher has not informed your Orator that he had a warantee deed from said Temple of said ^{of said fractional quarter} said fourteenth acre, and whether he has not frequently informed your Orator that he had purchased from said Temple that part of said south west fractional quarter whereon the house in which he Belcher now lives, stands, and have a deed therefor, and whether the house wherein he lived on the first of August A.D. 1851 does not stand on said south west fractional quarter, and on the fourteenth acre thereof, or if some other acre, what acre, and what amount of land was conveyed to him said Belcher by the deed of said Temple or Temple & wife parcel of said south west fractional quarter, and that the said Belcher may in like manner answer and set forth whether and how long he has been your Orators agent to take charge of and care for your Orators lands in the County of Rock Island aforesaid, and whether and how long he has known of your Orators title to said south west fractional quarter as set forth in this bill of Com^t.

And whether he has not formerly (& if so when) proclaimed and avowed to others your Orators title in & to said south west fractional quarter, and whether he did not continue to do so until he or some of his friends or relations became interested in the title to some part of said

South West fractional quarter. And whether he is now & has been for some time past confederate and conspiring with others to defeat your Orator of his equitable title to said South West fractional quarter, or parts thereof, and defraud him of the same. And that the said Belcher may in like manner answer and set forth whether he did not on the 4th day August last accept of and receive from your Orator all money demanded ~~from your Orator~~ and full pay for acting as your Orator's agent as charged in this bill, and whether on the day aforesaid after receiving pay for such agency your Orator discharged him from the further performance of the duties of such agency assigning as a reason, his bad faith towards your Orator. And that the said Belcher may in like manner answer and set forth when he first knew of your Orator's title to said South West fractional quarter as set forth in this bill, and how your Orator derived title thereto, and whether it was not notorious from the time your Orator took his said deed from said Robert Symmes and Thomas Symmes, that your Orator was the owner of the said South West fractional ^{quarter}, and that he had a deed thereof on record from the said Symmes; and whether anterior to 1844 said Belcher did not frequently converse with said Jeremiah H. Lyford and inform him of your Orator's equitable title to said South West

fractional quarter, and whether said Lyford did not fully understand the same, and whether he did not soon after the date of said receipt from said Thomas Symmes acknowledging the receipt of the entrance money of said south west fractional quarter, exhibit and read the same to said Lyford and divers other persons. And whether the said Belcher did not take a copy of said deed from said Robert and Thomas to your Orator as stated in this bill, and if so, for what purpose the same was taken, and state also if such copy was not immediately after the same was thus obtained exhibited to said Lyford & divers other persons, and if it was not well understood both by said Belcher & said Lyford that the description of therein was designed and intended to embrace said south west fractional quarter. And that the said Belcher may in like manner ~~answer~~ and set forth whether his said deed from said Temple or said Temple and wife is of record in the Records office of said Rock Island County, and if not, why the same is withheld from record therein, and for what purpose and to what intent.

And that all the said defendants herein named may in manner aforesaid answer and set forth all and singular the matters and things herein set forth charged ~~and~~ or averred severally to the best and

utmost of their respective knowledge information remembrance and belief directly and truly and without evasion or mental Reservation.

And your Orator respectfully prays that the said Robert Symmes, Thomas Symmes James Symmes, Jeremiah H. Lyford Tillotson C. Temple, Nathaniel Romance, Nathaniel Belcher, Jacob Dickerson Thomas J. Robinson and Isaac Hitchcock may be made party defendants to this your Orators Bill of Complaint, and that they severally be required to make full and perfect answer thereto under their several and respective oaths, and that upon a hearing of this cause that your ~~Orator~~^{Orators} will be pleased to decree that the said several conveyances following the said conveyance from said Robert Symmes and Thomas Symmes to your (Orator) specified in this Bill of Complaint to be set aside and declared null and that the said Jeremiah H. Lyford, Tillotson C. Temple Nathaniel Romance, Nathaniel Belcher, Jacob Dickerson Thomas J. Robinson and Isaac Hitchcock be ordered directed adjudged and decreed to convey to your Orator by a good and valid deed of conveyance their joint and several interests claim and title in and to said south west fractional quarter of said section twenty five or so much thereof as they or any of them or any portion of them hold and claim under the conveyances herein set

forth or in any manner claim inconsistent with your ~~Orator~~
Orators equitable rights therein and surrender the
possession thereof to your Orator and that your
~~Orator~~ Honor will grant to your Orator such other
and further relief in the premises as to equity
and good conscience appertain.

And finally that your ~~Orator~~ ^{Honor} will grant to your
Orator the writ of summons in chancery
issuing out of and ^{under} the seal of this court against
the said defendants commanding them &c
requiring &c and as in duty bound your Orator
will ever pray - Dated this 26th day of August
A.D. 1851.

J. J. Beardsley }
Solicitor for Orator }

James May

State of Illinois.

Rock Island County }
} ss

James May the complainant
in the foregoing bill of complaint being duly sworn
on oath states that he has heard the foregoing
Bill of Complaint read and has read the same
and knows its contents that the statements therein
made upon the knowledge and belief
of said May, complainant, are true

Sworn & subscribed to
before me this 29 day
of Aug. A.D. 1851.

E. B. Bean J. P.

James May.

Exhibit "A"

This is a memorandum of agreement made and entered into on Rock Island the Twenty fourth day of June A. D., Eighteen hundred and thirty five by and between Robert and Thomas Sims of Rock Island County, State of Illinois of the one part and James May of Pittsburgh, Pennsylvanian, Merchant, of the other part, With the path that the said Robert & Thomas Sims has conveyed and sold in fee simple to said May all their right, title, interest, claim & improvement that they now have or hereafter may have in two certain pieces or parcels of land, one being a fractional piece with improvement laying at and near the head of the Rock Island Rapids; the other is the Quarter Section back, adjoining said fraction, in consideration of which said May agrees to pay to said Sims' or assigns Three Hundred dollars in three payments, the first of which is hereby acknowledged by said Sims', One Hundred & Fifty Dollars in Cash - Fifty Dollars in twelve months; and the remaining One Hundred Dollars when the Patent from the Land Office is delivered. Which said R. & T. Sims bind themselves to secure and pay for in the Land Office free of any expense to said May, on ^{the} said fraction. Said May is to pay to the Land Office the government price for the said Quarter Section. In witness whereof we each have hereunto set our hand and seal

Witness

James M. Bowling
Geo L. Havensport

his

Robert & Thomas Sims
James May

State of Illinois }
Rock Island Rapids }

State of Illinois }
Rock Island County }

Secy. This day personally ~~appeared~~
appeared before me Joseph Conway,
Clerk of the Circuit Court in and for the said County
of Rock Island James M. Bowling and George G.
Varenport, who is personally known to me to be the
subscribing witnesses to the foregoing instrument of
writing, and who being by me duly sworn, on ~~at~~
their oath, do say that Robert Sims, Thomas Sims and
James May, whose names appear to the foregoing
instrument of writing are the real persons who executed
the same, and that they subscribed their names
as witnesses to the said instrument of writing in
the presence at the request of the said Robert
Sims, Thomas Sims and James May, for the uses and
purposes therein mentioned.

Given under my hand this 29th day
of June A.D. 1855

Joseph Conway

State of Illinois }
Rock Island County }

I, Frazer Wilson, Clerk of
the Circuit Court and ex-officio
Recorder of Rock Island County in said State, do hereby
certify that the within is a true and perfect
copy of a Deed or Article of Agreement now on record
in my Office — Given under my hand and official
seal at Rock Island this 26th day of Augt A.D. 1855

Frazer Wilson, Clerk,
and ex-officio, Recorder

(Seal)

Exhibit "B"

Sept 12th 1842

Received of James May, by the hands of Nathaniel Belcher, Twenty nine dollars $37/100$ being in full for the entrance money for the South West fractional quarter of Section (25) Twenty Five in Township No. (19) nineteen, North of the base line of Range No. One East of the Fourth Principal Meridian.

Witness

B. J. Barrett

his
Thomas & Symms
marks

And afterwards, to wit: November Term A.D. 1851 of the Court aforesaid, the following proceedings were held in the above entitled cause —
James May vs R

23
Robert Symms et al.

This day came Knox & Bourry and entered defendants appearance and Beardsley Solicitor for complainant moved the Court, and by the agreement of parties, it is ordered by the Court that defendants be ruled to answer by the first day of March next.

And afterwards, to wit: on the 23^d day of January A.D. 1852, the said defendants by Knox & Bourry their Solicitors, filed their certain demurrer in the Clerk's office of the Court aforesaid — which said Demurrer is as follows, to wit:

State of Illinois

Rock Island County

3rd

Vircuit Court

On the Chancery Side

The demurrer of Robert Symmes,
James Symmes,
Thomas Symmes, J. H. Syford, J. C. ~~Symmes~~, N. Harrance,
N. Belcher, Jacob Dickerson, S. D. Robinson and Isaac
Witchcock to the Bill of Complaint of James May

These defendants by protestation not
confessing or acknowledging all or any of the matters
and things in the said Complainant's Bill contained
to be true in such manner and form as the same are
therein and thereby set forth and alleged, do demur to the
said Bill, and for cause of demurrer show that the
said Complainant ~~does~~ ^{has} not by his said bill made
such a case as entitles him in a Court of Equity to any
discovery from these defendants respectively or any of them,
or to any relief against them, as to the matters contained
in the said Bill, or any of such matters, and that any dis-
covery which can be made by these ^{defendants} or any of them,
touching the matters complained of in ^{the} said Bill, or
any of them, cannot be of any avail to ^{the} said Complainant
for any of the purposes for which a discovery is sought
against these defendants by the said Bill, nor entitle
the said Complainant to any relief in this Court,
touching any of the matters therein complained of,
Wherefore, and for divers other good causes ^{for demurrer}
appearing in the said Bill, these defendants do demur
thereto, and pray the judgement of this Honorable Court
whether they or either of them shall be compelled to make
any further or other answer to the said bill, and they humbly pray to
be hence dismissed with their reasonable costs in this behalf sustained
This & I say Subscribed &c
J. C. Symmes

And afterwards, to wit: at the November Term 1853 of the Court aforesaid, the following proceeding was held in said cause

James May

vs
Robert Symms et al.

On this fourteenth day of November, 1853, came the parties by their Solicitors, and respondents filed their Demurrer to Plaintiffs Bill and the Court having considered said demurrer, sustains the same, and by agreement it is ordered that complainant have leave to amend his bill

+ And afterwards, to wit, at the May Term 1854 of the Court aforesaid, the following proceeding was held in said cause

James May

vs
Robert Symms et al.

On this 12th day of May, 1854, came the parties by their Solicitors, and the demurrer by defendants to complainants Bill, having heretofore been sustained by the Court, and the complainant now electing to abide by his said Bill of Complaint. It is therefore ordered, adjudged and decreed, by the Court that said complainants Bill of Complaint be dismissed, to which the complainant by his counsel assents. Whereupon it is by the Court considered and adjudged, that defendants have and recover of complainant their costs in this

behalf by them expended, and that execution issue
therefor as in a judgment at law

State of Illinois }
Rock Island County } I Quincy Merrill clerk
of the circuit court in and for the county
aforesaid do hereby certify that the foregoing
is a true complete and perfect copy
of the above entitled cause, that I have
compared the same with the originals
now filed in my office and find them to
be correct.

In Testimony whereof I
have hereunto set my
hand and affixed the
Seal of said court the
23rd day of February 1887
Quincy Merrill
clerk

State of Illinois 3rd Grand Division
Supreme Court, April Term 1859.

James May
vs
Robert Symms & al

3 Error to Rock Land
3

And the said James May, Plain-
tiff in Error comes by his attorneys
and says that manifest error
hath intervened in the proceedings
whereof the foregoing is a record
and he assigns the following as
Error therein, to-wit

1. The Circuit Court erred
in sustaining the demurrer to
the Complainant's Bill.

2^d The Circuit Court erred
in dismissing the Bill and ren-
dering the judgment for costs

Wherefore he prays that the
judgment & decree below be
reversed &c.

Gandy Spalding

Attorney for Plaintiff in Error

And the said &c. defendants in error
come and say there is no error in
the ~~written~~ Record & say that the
judgment of the Court below is
well affirmed by this Court
Manning Mcmenamin

James May
vs
Robert Symmes & others
Record

Filed March 15th 1859,
L. Deland
Clerk