

No. 12993

Supreme Court of Illinois

Clark

vs.

Livingston County

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION.

JOHN CLARK, Appellant, vs. LIVINGSTON COUNTY, Appellee.

Appeal from Livingston County.

ABSTRACT OF THE RECORD.

RECORD.

2 ON the 24th day of August, 1857, the appellant filed his bill in Chancery in the Circuit Court of Livingston County, which said bill is in substance as follows, to wit: That on or about the 14th day of September, A. D. 1855, your orator (the said appellant) did, in accordance to the rule of the General Land Commissioner of the General Land Office, and concurred in by the Secretary of the Interior at Washington City, District of Columbia, make and enter, on the records in said office, as the said Commissioner had a legal right to do, a select list of lands, by forty acre tracts, amounting to the amount of 15,835 86-100 acres, according to the government surveys, as made and filed in the said General Land Office, by the order of the government of the United States of America, and approved by the said government of the United States; that on the said 14th day of September he made application, in accordance with the rules of the General Land Office, for the privilege of contesting the right of the State of Illinois to the list herein, marked A., (see Record, pages 21, 22, 23, 24, 25, 26 and 27,) and made a part of this bill, by numbers, sections, townships, and ranges; that the said department did regard the said application as being properly made by you orator and binding on the said government; that in the month of May, A. D. 1856, the said department issued an order, in accordance to the form in such case made provided, accompanied with a list, that your orator had a right to contest, attached to the said order, (A.) copy of which will be exhibited on the final hearing of this case, and the grounds on which I, your orator, should be allowed to enter the said lands, named in said application, exclusively as against all the world was, that your said orator should cause the lands to be surveyed and properly marked, and show a time to be named, that such time as he should be called upon so to do, to prove that more than twenty acres out of each forty acre tract (or over one-half of each quarter quarter section) was dry and fit for cultivation of all ordinary seasons, without artificial drainage or embankment, and that this was the character of the lands on the 28th day of September, 1850, being the day on which the swamp land act was passed; that your orator has complied, on his part, with all the requirements of the department required of him, and the conditions have been, on his part, fully complied with, and he is and was prepared to prove from the date of his said application; and further, your orator charges that on or about the first day of the month of January, A. D. 1857, that the Commissioner of the General Land Office issued his directory notice to the Register and Re-

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ceiver of the Land Office of the United States at Springfield, Illinois; the said Commissioner commanded the said Register and Receiver to give your orator notice to produce his proof in the case, and report the same to the said Commissioner for his approval or disapproval, first having submitted the same to the Surveyor General at his office in the city of St. Louis and State of Missouri. The Register and Receiver received
4 the said notice on or about the 10th day of January, A. D. 1857. And your orator charges that he went in person to the said Register and Receiver of the said Land Office at the said city of Springfield, Illinois, on or about the 12th day of January, A. D. 1857, and demanded of the said Register and Receiver of said office to set a day for the hearing of the evidence in the said contested case of this your orator and the said State of Illinois; and your orator charges that, by the wrong acts of the said Register and Receiver, your orator was prevented from completing his contest, and from getting said lands described in said list of lands; and your orator avers that the Register and Receiver were the agents of the government of the United States of America, and that the government of the United States is bound to make good all wrongs done by them as such agents to your orator; and your orator avers that, by the act of Congress, passed on the twenty-eighth day of September, A. D. 1850, that the State of Illinois had no legal or equitable right to select any tract of land, as swamp or overflowed lands, except such tracts of land as were more than one-half of each forty acre tract, or other legal sub-division, covered with water, or so spongy or wet and swampy that it could not
5 have been plowed on the twenty-eighth day of September, 1850, (and those lands were to be selected by the Secretary of the Interior from the original maps and plats, as returned by the government surveyors, and in no other way,) and on no other day, for the lands that were more than one-half not wet and swampy or overflowed on the date of the grant, did not pass by virtue of the grant, and that all selections that were made by the agents of the said State of Illinois, that was not covered more than one-half of each legal sub-division in water, or was a swamp or wet that
6 it could not have been cultivated in some way or other, without artificial drainage or embankment, was a fraud on the government, and could not pass by or under the grant, and therefore is not within the meaning of the act of Congress of the third of March, 1857, confirming all the original selections, (except those in said act.) Your orator avers that the intention of the last mentioned act proceeds on the ground that the original selections were in accordance with the letter and spirit of the original grant. Your orator further avers, that not a tract of land named or described or meant in the list of lands made part of this bill, that was of that class; but, on the contrary, there was no one tract in said list but was more than one-half of each legal sub-division of qr. qr. section, or each forty acre lot or tract, either fractional or whole, but what was dry land and fit for cultivation on the 28th day of September, A. D. 1850; and further, your orator avers, that the list of lands selected and claimed by the said State of Illinois, by said State transferred to said County of Livingston, meaning the list here claimed and set out by your orator, did need the construction of levees or artificial drain to reclaim the said list of lands, nor any tract of said land, on the said twenty-eighth day of September, A. D. 1850, that being the day on which said

grant was made by the General Government to the said State of Illinois; and if not covered in water by being overflowed, or so swampy that it could not be cultivated, say more than one-half of each tract, it could not legally and, therefore, did not pass to the said State of Illinois; and if it did not pass to the said State, the said State could not pass any title to said County, as claimed by said County; and further, your orator avers that the said State of Illinois did, on the 22d day of June, 1852, by virtue of an act of the legislature, in general assembly assembled, did enact to convey, by their acts, all the right and title that they had to all the lands named in this bill—but the express conditions on which the said County was to have the lands on was, that the said County should fully and legally do to said lands, in order to reclaim them, the same as the said State of Illinois was bound to do; and your orator avers that the said County of Livingston did not comply with the condition precedent, which was the very essence of the grant from the said State to the said County, meaning fully to enjoin on the said County every enjoinder by said act of June 22d, 1852, and the condition was to be mutual on the part of both; and your orator avers that there was no consideration passing from the County to the State, unless the said County complied fully with all the conditions named in said act; and your orator avers that said County did not comply and has not complied with the requirements of the said act of the legislature, and that thereby the original grant to the said State became forfeited; and that further, that by subsequent acts of the legislature, the said State has forfeited her right to the lands by granting said lands to the counties in which they, the lands, lie, in not requiring the said counties to expend the proceeds of said sales to levees and drains to render the said land susceptible of cultivation, the said State of Illinois forfeited all right under the original grant from the said government of the said United States of America to the said lands described in this bill; and further, your orator avers, that by the grant of the Commissioner of the General Land Office, made to your orator on condition that he would prove that more than one-half of each tract or parcel—meaning a quarter quarter of section or tract named in this bill—to be dry or fit for cultivation, without artificial drainage or embankment, because a binding contract by which government by her proper agents is bound to convey to your orator the said lands herein described; and the express condition on the part of the government was, to receive one dollar and twenty-five cents in money, or its equivalent in government scrip or land warrants, and that the said government would sell the land to no other person except your orator, on the condition that your orator would prove that more than one-half of each quarter quarter section, or other legal sub-division of said tracts by forty acre tracts, was dry and fit for cultivation, without artificial drainage or embankment, and that was the character of the said lands on the said 28th day of September, A. D. 1850; and your orator avers that he was prepared, on the 14th day of September, A. D. 1855, to prove at any time—that the government might have called for the same—that more than one-half of each legal sub-division of each quarter quarter section, or other legal sub-division of the said described lands, was dry and fit for cultivation, without artificial drainage or embankment, and that was the character of the said lands on the 28th day of September, 1850; and

your orator avers that he always has been and still is ready and able and desirous and demands the privilege of proving that said lands are not of the character named in the act of September 28th, 1850, to comply with each and every request—that the said government of the United States of America enjoins by her agents, to wit: The Commissioner of the General Land Office, located at the city of Washington, D. C.; and your orator avers that more than one-half of each tract of land was dry and fit for cultivation on the 28th day of September, A. D. 1850, and still is the character of the same, and was fit for cultivation without artificial drainage or embankment; and your orator avers that he has always been ready and able and desirous to have paid the government for all the lands in this bill described, according to the contract with the said government, at any day that the said government should have called on him to do by virtue of the said contract; and that your orator has frequently and in a friendly manner called on the government, by calling on the Commissioner of the General Land Office, and desiring him to set a day for the determination and closing up of the said contract, but he neglected to do—promising that he would. Your orator charges that he has delayed the same to a time far beyond what was necessary, and that he now refuses to comply with and carry out his contract, on the part of the general government, with your orator—and that your orator is still willing and ready to pay, and hereby tenders the proof required of him to carry out his contest successfully with the government, hereby asking and desiring that your orator may be permitted to bring the money into Court and pay the same over to a commissioner to be appointed to receive the said money from your orator, and convey each and every tract of the said lands named in this bill, or the schedule attached, to your said orator; and your orator further avers, that he has expended the sum of three thousand dollars in carrying out the directions of the government, which is part of the consideration money between your orator and the government for the said lands, and that he has only been prevented from completing his contest by the bad faith of the government in conveying the said lands to the said County of Livingston and State of Illinois, through the said State of Illinois, and not by any laches on the part of your orator. He further avers, that he has done each and everything that the said government required of him until they, the said government, fraudulently, wrongfully and unlawfully refused to complete their contract by passing a retrospective law, which they, the said general government, by their representatives in Congress assembled, had no legal right so to do, and therefore the government had no legal right to refuse to carry out their contract with your orator in the contest about the said tracts of land with the said state of Illinois. And further, your orator avers, that the government has no legal right to cause a citizen or subject of her government to expend money to detect frauds committed against the government, committed by other citizens or subjects, and when it became apparent that he would show that he was successful in the matter to then turn around and defraud the said subject out of the reward by contract he was promised or agreed to be paid for performing the services, nor to permit him to do part of the contract on his part, and then prevent him from completing the whole, and then make that, their wrong acts, an excuse to not perform their part of the contract in any manner nor under

any pretext, for if the lands were not of the character specified and named in the original grant, then your orator avers, that he is entitled to the said lands by virtue of his right of application, and that a prior right for having been at an expense of detecting the frauds of the original selector of the said lands; and further, your orator represents, that on or about the 22d day of June, A. D. 1852, and on divers other days, the said legislature of the state of Illinois has passed laws granting the said lands to the several counties in the state of Illinois, and, amongst others, to the county of Livingston in said state of Illinois; and that, by said acts, the said state of Illinois conveyed to the said county the said lands named in and made a part of this bill. Your orator avers, that the said state of Illinois has no legal right to grant the said lands, what the State of Illinois could rightfully have taken, except the right had been conferred upon the said State by the act of Congress granting, much less to have granted the said lands without enjoining on the County receiving the same to have performed the whole contract with government that the said State was bound to do, in order to hold the said lands; and your orator avers, that the said State did not bind the said County in the same manner that the said State was bound to the general government. Your orator avers, that the said State of Illinois had no legal right to grant the said lands, that would pass to the said State by virtue of the act of the 28th September, 1850, rightfully sold to the County in which the said lands lie, from the fact that the grant was not equal amongst the whole people of the State of Illinois, all had an equal right in and to the fee of said lands, that right fully passed under the grant; and your orator avers, that those land did not pass, for they were not the class of lands that did pass by the grant; and your orator prays that the County of Livingston and State of Illinois be made parties, defendants to this, your orator's bill, as by statute in such case made and provided; and that your orator charges that the selecting of each and every tract of land named in this bill of complaint was a fraud on the government of the United States of America, and that not a tract of them could possibly, under any circumstances, be called swamp or overflowed lands. Your orator prays your honor to grant to your orator the following reliefs: that you will direct that a commissioner be appointed to receive the sum of one dollar and twenty-five cents, in lawful funds, for each and every acre of the said lands named and described in the schedule of lands to this bill annexed, and on the payment aforesaid to make and execute to your orator a good, clear and perfect title to the said lands as against the said County of Livingston and the said State of Illinois, in the said State of Illinois, could or may have by the said grant from the said State of Illinois. Second, that your Honor will name the time, the place where, and the kind of funds or money that your orator shall pay to the said County of Livingston and State of Illinois for the said lands, provided that your Honor shall find that said County had any legal or equitable right to said lands named in the said bill. Third, that your Honor will decree that your orator is entitled to the said lands named in said bill by virtue of his contract with the said government of the United States, on the ground that the said lands did not pass by virtue of the said grant, because they are not among the class of lands named in said grant. Your orator prays that the said defendants be compelled to, on their corporeal oaths, to the

best and utmost of their knowledge, remembrance, information and belief, full, true, direct and perfect answers, make to all and singular the matters aforesaid, and that as fully and particularly as if the same were here repeated, and the said County, by her authorities, distinctly interrogated thereto, and especially that said County, by her authority, may, in manner aforesaid, answer and set forth in their answer whether the selector went on to each and every tract of land claimed by said County that is named in this this, your orator's bill of complaint, and found by proper measurement that more than one-half of each quarter quarter section, or other legal sub-division, was overflowed or swampy on the said 28th day of September, A. D. 1850; and, further, whether each and every tract of land, named in said bill of complaint, was, on the twenty-eighth day of September, in the year of our Lord one thousand eight hundred and fifty, meaning to say, that to have them say, whether more than one-half of each quarter quarter section, or other legal sub-division of said lands, was, on the said 28th day of September, A. D. 1850, covered by overflow or actual swamp, so that it could not be cultivated without artificial drainage or embankment, and to have them point out in their answer what part of each of said lands was so overflowed or swampy on the said 28th day of September, 1850, aforesaid. Your orator prays that the grant of the said State to the said County may be set aside, and that whatever patents that said County, or whatever title the said County may have shall be surrendered to your Honor and cancelled, and that your orator have, by the decree of your honorable Court, the full fee and perfect title to said lands, all which, for your orator charges that he has frequently called on the said defendants and requested them to surrender their pretended title to the said tracts of land, and they still persist, saying that they have a title to said lands, all of which actings and doings and refusal of said County or said defendants, meaning the said County of Livingston in the State of Illinois, by the said authorities, against equity and good conscience and tend to the manifest wrong and greatly to the injury of your said orator in the premises, and in consideration whereof, and forasmuch as your orator cannot have adequate relief in the premises in a court of equity only, where matters of this nature are only conisable and remediable; and further, your orator prays your Honor to grant to your orator all the several reliefs that your orator has asked for, and all the general reliefs that your Honor may see, from the nature of the case and facts exhibited on the final hearing of this case, that he is entitled to in addition to those named and provided for, and on the equity arising between your orator and the general government of the United States of America, as may be in force in favor of your orator, against the government and the said defendants by the decree of this honorable Court, and if this honorable Court cannot decree title to your orator, that then your orator prays your Honor to decree that the said defendants pay to your orator what your orator can show, that all of the said lands in said bill, that he can show, does not come under the meaning of the act of the 28th of September, 1850, is worth per acre in lieu of said lands, if the said defendants should sell any or all of the said lands, named in this bill, the said money to be paid under the order or decree of this honorable Court. Your orator charges that said lands are worth now the sum of one hundred and fifty thousand dollars in lawful

money; and further, is provided by your orator, that no sale that has been made or might be made of said lands by the said defendants shall have no prejudice against the title of your orator in any manner, and shall grant such other and further relief, in the premises, as to your Honor shall seem meet, &c.

Prayer for subpoena, &c.

Demurrer to complainant's bill, demurrer sustained with leave to complainant to amend his bill.

Feb. 5, 1858, complainant filed his amended bill, which is in the words and figures following, to wit:

Your orator, John Clark, represents unto your Honor that the Government of the United States of America was the owner of the following described real estate, situated in said Livingston County, State of Illinois, to wit:

- 33 Reference being had to the list of lands filed with and made part of the original bill filed in this cause on the 24th day of August, 1857. And the said Government of the United States of America being so possessed, the said Government of the United States of America, by virtue of the acts of the Congress of the United States, had said lands, with others, surveyed and platted in accordance with the aforementioned description, offered the same for sale at their Land Office at Danville, at the said State of Illinois, at public vendue, and the said lands, not being sold at said public sale, they became subject to private sale at said Land Office at Danville, at the price of one dollar and twenty-five cents per acre. And
- 34 whereas, said government of the United States, in Congress assembled, passed an act entitled "An Act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits;" which said act was approved by the President of the United States on the 28th day of September, 1850, and on said day became a law, by which law all swamps and overflowed lands within the State of Illinois were donated to said State, and by which act the proceeds and overflowed lands were to be used for the purposes of draining the same. Reference being had to said act of Congress. And afterward the legislature of the State of Illinois passed an act entitled "An Act to dispose of the swamp and overflowed lands to pay the expense of selecting and surveying the same," which said act was approved by the Governor of the State of Illinois on the twenty-second of June, 1852, and which said act became a law and in full force in said State of Illinois; and by the terms and conditions of said law, and the act of the State of Illinois and directory thereto, all the swamps and overflowed lands which had been donated to the State of Illinois by the said act of Congress, approved September 28, 1850, were donated to the several counties in which the same were situated, and the county surveyors of the said several counties in the State were authorized to survey said swamp and overflowed lands—reference being had to said lands named last.
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Your orator would further represent unto your Honor, that by virtue of said law of Congress, and said law of the legislature of Illinois, the County Surveyor of Livingston county selected and reported all of the before referred to tracts of land to the Auditor of the State of Illinois as

money; and further, is provided by your orator, that no sale that has been made or might be made of said lands by the said defendants shall have no prejudice against the title of your orator in any manner, and shall grant such other and further relief, in the premises, as to your Honor shall seem meet, &c.

Prayer for subpoena, &c.

Demurrer to complainant's bill, demurrer sustained with leave to complainant to amend his bill.

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- 33 Reference being had to the list of lands filed with and made part of the original bill filed in this cause on the 24th day of August, 1857. And the said Government of the United States of America being so possessed, the said Government of the United States of America, by virtue of the acts of the Congress of the United States, had said lands, with others, surveyed and platted in accordance with the aforementioned description, offered the same for sale at their Land Office at Danville, at the said State of Illinois, at public vendue, and the said lands, not being sold at said public sale, they became subject to private sale at said Land Office at Danville, at the price of one dollar and twenty-five cents per acre. And
- 34 whereas, said government of the United States, in Congress assembled, passed an act entitled "An Act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits;" which said act was approved by the President of the United States on the 28th day of September, 1850, and on said day became a law, by which law all swamps and overflowed lands within the State of Illinois were donated to said State, and by which act the proceeds and overflowed lands were to be used for the purposes of draining the same. Reference being had to said act of Congress. And afterward the legislature of the State of Illinois passed an act entitled "An Act to dispose of the swamp and overflowed lands to pay the expense of selecting and surveying the same," which said act was approved by the Governor of the State of Illinois on the twenty-second of June, 1852, and which said act became a law and in full force in said State of Illinois; and by the terms and conditions of said law, and the act of the State of Illinois and directory thereto, all the swamps and overflowed lands which had been donated to the State of Illinois by the said act of Congress, approved September 28, 1850, were donated to the several counties in which the same were situated, and the county surveyors of the said several counties in the State were authorized to survey said swamp and overflowed lands—reference being had to said lands named last.
- 35

Your orator would further represent unto your Honor, that by virtue of said law of Congress, and said law of the legislature of Illinois, the County Surveyor of Livingston county selected and reported all of the before referred to tracts of land to the Auditor of the State of Illinois as

swamp and overflowed lands, and the same were reported by the Auditor to the United States. Your orator would further represent unto your Honor, that all of said before described lands are good, arable lands, are susceptible of cultivation, and that the same are not swamp and overflowed lands, and that they need no draining whatever to render them susceptible of cultivation, and that all of the said lands are dry and as good as the average of the lands in the State of Illinois, and that the same do not come within the meaning of said law before referred to.— Your orator would further represent unto your Honor, that after the passage of said law before referred to, and before the commencement of this

36 suit, to wit: on the fourteenth day of September, in the year eighteen hundred fifty-five, your orator applied in writing to the Commissioner of the General Land Office of the United States of America for leave to contest the right of the County of Livingston, State of Illinois, in and to said lands through the proper officers of the government of the United States, that said lands did not come within the purview and meaning of said law of Congress donating the said lands to the State of Illinois, and for leave to purchase the said lands from the government of the United States at their Land Office at Danville in the State of Illinois; and the said Commissioner, acting under the direction and by the authority of the government of the United States, authorised your orator in writing, in his official character, to prepare his proofs and to contest the right of the State and the County of Livingston in and to said lands. And in consequence of said promises of said government of the United States, by their officers, to your orator, he caused said lands to be surveyed and examined by a competent surveyor and chainman, and that he was to great expense in employing the surveyor, chainman, axman, and the necessary hands and teams to mark and examine the said lands and ascertain the quality of the same, and in paying such surveyor, chainman, axman and teamsters. And your orator further charges, that said lands being owned by the United States of America, and not being swamp and overflowed lands, within the meaning of the said law, that he applied to the Register at the Land Office at Danville, Illinois, in the month of December, in the year 1855, for leave to purchase from said government of the United States all of said lands, and he tendered to the Receiver of the Land Office at Danville, Illinois, the purchase money for said lands at the rate of one dollar twenty-five cents (\$1.25) per acre, in gold, American gold coin, under the authority of the said government, and that the said Register refused to let your orator enter the same, or to acknowledge the application in writing; and the said Receiver refused to receive said purchase money in gold coin for said lands, or to acknowledge the tender of the same in writing; and that, after making the survey of said lands and obtaining the proof as to the character and quality of said lands, and including the expense in regard to the character and quality of the same, your orator is still anxious and willing to purchase said lands from the

38 government of the United States, and hereby offers, and still ready and willing and claims the equitable right to purchase the same from the government of the United States at the price of \$1.25 per acre, but that said officers and servants of the government refused to permit your orator to purchase the said land from the government, or any part thereof.— Your orator would further represent unto your Honor, that the Congress

of the United States of America, on the third day of March, A. D. 1857, passed an act entitled An Act to confirm to the several States the swamp and overflowed lands selected under the act of September 28, 1850, and act of 2nd March, 1849, by the terms and conditions of which act all the swamp and overflowed lands lying within the State of Illinois, which had been selected by the agents of the State of Illinois, which were at the time owned by the government, were confirmed to the State of Illinois. Your orator would further represent unto your Honor, that none of the said before described lands are swamp and overflowed lands, and do not come within the purview and meaning of said act or law of the Congress of the United States. Your orator would further represent unto your Honor, that in all the actings and doings of your orator, that he has acted in good faith with the government of the United States, and by the direction and instruction of the said government, by the officers thereof who had the charge of the public lands thereof. Your orator further charges, that said government put your orator into peaceable possession of the said land, when they, the said government, by the written direction of the said Commissioner of the said Land Office, directed him to have the said tracts of land surveyed and marked, and to prepare his proof, to prove that they were not swamp and overflowed lands; and that said government agreed, if he could prove the said tracts of land to not be swamp or overflowed land, that he, your orator, should have the said lands for the sum of one dollar twenty-five cents per acre; and your orator avers and charges, that he did do in a reasonable time all that he was directed or told by the government that he should do to complete the contract on his part. And further your orator charges, that the County of Livingston claims, or pretends to claim, all of said lands before described or referred to, by virtue of the said several laws of Congress and of the said State of Illinois, and that the said County has had the said lands appraised, and is offering, through her said agents and servants, to sell the same, and threatening, through her said agents and servants, to sell off said lands, and to defraud your orator out of the same; and that the said County does not intend nor has not ordered that any part of the purchase money, they may receive for said lands, shall be used for the purpose of draining the same. And your orator further charges, that no ditching and draining is necessary to render the said lands fit for cultivation, but that the said lands are more than twenty acres in each forty acre tract dry, and was dry on the 28th day of September, A. D. 1850, and are now fitted for cultivation, and are susceptible of tillage and raising any of the crops that can be raised in said Livingston county. And the said complainant would further aver and charge, that in the survey and having the quality of said lands ascertained, that he expended the sum of three thousand dollars, and that he applied to the Register and Receiver of the Land Office of the United States to permit your orator to make proof of the character of said lands, and that he had the necessary and competent witnesses in attendance to prove the character of said lands, and that the same was not swamp or overflowed lands, but that the same was arable and susceptible of cultivation without any drainage whatever, and that the said officer of the government refused to receive the amount of \$1.25 per acre.

Your orator further charges, that in having the said lands surveyed and inspected, that he surveyed and inspected each and every forty acre

tract of land described and set out in the original bill in this cause, and had the same inspected, and has proof of the same, and frequently offered and still offers to prove, to the satisfaction of the officers of the government of the United States at the Land Office, that all said lands are dry and fit for cultivation without any drainage whatever, and that the government of the United States, by their officers, refuse to permit your orator to make said proof, or to purchase said lands from the government, or to receive the purchase money for the same at the rate of one dollar and twenty-five cents per each acre thereof in gold coin. Your orator further charges, that the said County of Livingston had notice of all the before named actions of your orator, and that the government of the United States, by her said officers, fraudulently intended to cheat, wrong and defraud your orator. Your orator therefore charges, that the said
42 County of Livingston, conniving and confederating with the government of the United States, intending to defraud your orator out of said lands and out of the said sum of three thousand dollars by him expended in causing said lands to be surveyed and inspected. Your orator further charges, that said lists of lands are worth the full and just sum of one hundred and fifty thousand dollars of current money of the United States of America. And your orator further prays your Honor, that the said County of Livingston, in the State of Illinois, may be made party defendants to this bill, and that the said County may be compelled to answer all and singular the allegations herein contained as fully as if they were specially interrogated thereto, and that the said County of Livingston may be enjoined and restrained from selling, disposing, or in any manner meddling with or obstructing your orator's title to the said lands, and that all the agents or servants of said County may be enjoined and restrained from selling, using, occupying, or in anywise molesting said lands or any part thereof, and the said County of Livingston only hold the said lands, each and every tract of them, in trust for your orator; and that a subpoena having issued out of and under the seal of said Court,
43 and was directed to the Sheriff of said county, commanding and compelling said County to answer all the allegations herein, as in the original bill was prayed for; and that the said County has been made party defendants herein; and that the said County may be compelled to convey said lands to your orator upon payment by your orator to the said County of one dollar and twenty-five cents per acre for each acre of said lands, which said money is ready to be produced in Court and paid to the County, under the order of the said Court; and that your orator shall have all the relief was prayed for in his original bill in this cause, and such and further relief as shall be equitable and just, as shall more fully appear on the final hearing of this cause, &c.

Demurrer to said bill—demurrer sustained, and bill dismissed, from
47 which judgment of the Circuit Court complainant appealed to the Supreme Court, and assigns the following errors:

1. The Court erred in its decree at the September Term, 1858, in sustaining the defendant's demurrer to the complainant's bill, and in dismissing said bill.

2. The Court erred in not sustaining the bill and granting the relief, together with the injunction prayed for.

3. The decree is erroneous in every respect, and should be reversed.

JOHN CLARK, *Complainant*,

45-58

Blank

vs.

Livingston County

Abstract.

Filed August 1, 1869.

L. Leland
Blank.

State of Illinois
Superior Court Third Division
John Clark

vs
Peruington County } ~~April~~
April Term AD 1860

The facts in this cause is that on the 14 day of the month of September AD 1850 that the complainant under a General Rule of the General Land Office applied by ~~Affidavit~~ Affidavit as required by said Rule for the right to contest the right of the State of Illinois and the right of the Defendant to the Lands in this Bill named as the grounds that that was not Swamp or overflowed Lands on the 28 day of September AD 1850 and that the Commissioner of the General Land Office in pursuance of the of said Rule ~~has~~ granted to the complainant the right of leases and that one of the conditions was that the complainant should shew on his part that the said Lands named in his Bill was not Swamp or overflowed Lands and a further condition was that complainant should pay the General Government the sum of one dollar and twenty five cents per Acre of said Land at such time as the Commissioner of the General Land Office should direct a further part that complainant in pursuance of the promises of the Commissioner

that complainant did cause the said Lands to be
inspected and surveyed and prepared all the proofs that
was necessary to establish the fact that the said Lands
was not swamp or overflowed Lands but that
on the contrary that the same was all dry and fit
for cultivation and that was the verdict of
the said trusts of Land on the 28 day of September
AD 1850 and that the said still remains such
the further fact that complainant tendered to the
Government the money for the Lands by tendering
the sum of one dollar and twenty five cents
per each acre of the Lands named in this Bill
to the Register and Receiver of the public moneys
of the Land office at Carville Illinois who
distributed the said Lands then say and the
further fact that the said Lands was at the
time the Land of the General Government and
subject to prior entry under the and by virtue
of the several Statutes of Congress and that the
rules of the General Land department and that
the Bill charges for and be true as the agent of
the Government and the Defendant and charges
the Defendant with full notice of complainant's
equity and that Defendant complainant offers
to bring the money in to court and pay the same
to Defendant the Bill prays for a decree to ~~compel~~
~~Defendant~~ cancel Defendant title to make
Defendant Trustee of complainant and to

compel Defendant to convey the Lands
to Complainant and for general Relief to which
Bills the Defendant filed a General Demurrer
and the Court on the hearing of the Demurrer
sustained the Demurrer and Dismissed.

Complainant's Bills and this Cause is Brought
here for the purpose of reversing that Decree
for the following reasons

First (1) The Court erred in its decree at the September Term
AD 1868 in sustaining the defendant's demurrer
to the complainant's Bills and in dismissing
said Bills

Second (2) The Court erred in not sustaining the bill
and granting the Relief to go together with
information prayed for

Third (3) The Decree is erroneous in every respect and
should be reversed

The Complainant shews that the Government having
agreed to convey to the complainant block the said
Lands as by their agreement there was in Equity and
good conscience bound to do and subsequently
conveying to the County, the Defendant and
disregarded their contract with Complainant and
this Bill is filed by Complainant to compel the
Defendant to convey the Land to the Complainant
treating the County as the Trustee of the Complainant
bills and relying on the following authority in
support of his view of the question

to wit Griffiths (15) Sellman Reports page 241 the
lease of Neese vs Waller on the Seaboard of Dunster and
Leeds vs Woodworth (13) Illinois Reports (64) page
on the subject of Chancery Jurisdiction Just is found
in the case of Davis vs Sophisms (15) Illinois Reports
page 20, this was a lease arising over Government
lands and Leases more improved government
lands procured one Davis to enter the same and in
the lease of Leeds vs Woodworth (13) Illinois
Report page (64), in that lease the least say
if one purchases Land with money of a mother and
take the deed in his own name a trust arises by
operation of Law in favor of the person who
was the owner of the money we say that the
same principle will apply where the consideration
is performed in any other thing that is equal in amount
in a commercial point of view with money we say
that the requirement on the part of the agent of the
Government cause the complainant in this cause to
bring the Lands in this Bill named in order to the
least was the same point of Equity as if the
complainant had actually paid a specified sum of
money for the Land to the said agent for him to have
paid for the said Land of bringing the same and
that was an additional consideration that the
Government required of the complainant over the
minimum price of the said Lands in the lease of
Teas vs Daley & Shannon pages 242 & 243 Teas executed a

...and to Daley for the conveyance of Lands after same
Said and conveyed the same Lands to one Munson
~~to~~ who had notice of Daley prior purchase by the
appearance of Record of Deeds Book for a Deed and
in this case we insist that the Record of the General
Land office was a copy of notice which the said
Defendant was bound to take notice ~~as~~ a matter of
public Record. The Court held that Munson was
a trustee for Deas and bound to convey to Daley
in pursuance of Deas agreement so we say that in
this case that the County stands in the same
position in this case that Munson did in that and
should be held to convey to the Complainant and
recover the money that the Government agreed to
take from this complainant and in the case of
Parrish vs Jeffries & Sraman Reports page 389 the
Court say in that case that where a person
obtains a legal title to a tract of Land in regard of
a prior Equitable title and holds the ~~the~~ Estate
in trust for the owner of the Equitable title and
it is ascertainable for the value of the Lands if it be
sold whether he receive the proceeds or not
as to the consideration for a trust ~~the~~ we cite
Smith vs Lisk (3) Williams page (635) The
Court say in that case that if a party agreed to
attend a public Sale of Lands and purchases a
certain tract for a matter ^{and} ~~he~~ did purchase the
tract and then insisted that he did not hold it

in trust for the reason that there was no
consideration for the agreement and the court
held that an agreement to execute a trust in
future and without consideration is not
obligatory but when the trust is actually
undertaken and commenced the trustee is bound
to proceed and execute it with the same
diligence and good faith as if he were to
receive a verbal command for his services
Citing (1) *See also Kent's Commentaries* page 466
and (2) *See also Johnson* case (92) page as
to the jurisdiction of the court in this case
we say that we think that court be a court
but as the counsel for the defendant is the
court be a same make a point that the court
has no jurisdiction in this class of cases and
therefore we will ~~offer~~ offer by way of authority
the case of *Barland vs Myer* 20 Trusts
Reverence Reports of the US Supreme Court
on the 6 page in this case the court say that
Barland by his amended answer in the nature of
a distinct plea that by the Law of the Land
the Circuit Court has no authority or
jurisdiction to set aside or reverse the decision
of the Register and Receiver and that their
adjudication and judgment is granting and
allowing the presumption to and in the name
of Samuel Humphill was ~~the~~ final and

conclusive and cannot be ignored as in
any manner questioned modified or set a
side. This matter was put in issue and the Court
before which it came for the complainant
unrepealed decided against the bar to relief set
up and claimed under an authority of the
United States in this case the Court say that
the Courts of Justice have the power to grant the
relief that Weyman was entitled to the relief prayed
for and the Supreme Court of Arkansas holds
that Weyman should have the Land and that
the Supreme Court of Justice confirms the
Decree and sets in part of that opinion the
following authority. *Carnegie v. Reese* (1) *Waters*
vs. Court Reports page (212) also the case of
Sydney vs. State of Arkansas (9) *Howard vs. Reports*
page (328) also the case of *Lanningham vs. Ashby*
(14) *Howard vs. Reports* page (377) and also they
cite the case of *Bernard vs. Ashby* (18) *Howard*
vs. Reports page (44). The complainant says that
this claim arose out of the action of the Land
Commissioners at Washington City as to his
contribution of the price and terms of the
lot of ~~the~~ *Langrups* of September 1860 to
enable the State of Arkansas to reclaim the
Swamp and overflowed Lands. The petition
in the above case of the Lands on the part of
the Agents of the State was commenced in the

fall or winter of AD 1851 under a title of the
Commissaries of the General Land Office by which
the the Governor of this State was directed to
the Secretary of the said and we say with out the
warrant of Statute Law so to do as by the
provisions of the act of Congress of the 28 Septemb
AD 1850 to be found on the 1352 page of second
volume of purple Statute of the State of Illinois the
second section of the said act provides (that it
shall be the duty of the Secretary of the Interior as
soon as may be practicable after the passage
of this act to make out an accurate list and
plats of the Lands described as of the said and
transmit the same to the Governor of the State
of Arkansas and at the request of said Governor
cause a patent to be issued to the State thereof
and as that ~~patent~~ patent the fee simple to
said Lands shall rest in the said State of
Arkansas subject to disposal of the Legislature
thereof (provides however) that the proceeds of
said Lands in either from sale or by direct
appropriation in kind shall be applied ~~exclusively~~
Exclusively as far as necessary to the purpose
of reclaiming said Lands by means of the levees
and drains aforesaid) the 3rd section of the said
act provides) that in making out a list and
plats of the Lands of the said and legal
subdivisions the greater part of which is situated

unfit for cultivation shall be included
in said list and plat but when the greater part
of a subdivision is not of that character the
whole of it shall be excluded therefrom (the
4th Section provided) further that the provisions
of this act be extended to and their benefits be
conferred upon each of the other States of the
union in which such swamp and
overflowed lands known and designated as
said may be situated We think that if the
said Governor of Illinois had no right to
direct any person to select any land that
be ceded to the government in the State of
Illinois as swamp or overflowed lands that
was no warrant of law for the said course
of the said Governor of this State (perhaps it may
be replied that the Governor acted in the matter by
the direction of the Commissioner of the
General Land office but from and in pursuance
of the act of Congress of the 28th Septem^r 6th 1850
it will be seen that there is no ground for the
rule made by the Commissioner and then we
must look to some other source for the authority
for the said rule for that purpose we look
to the authority that rests in the Commissioner
of the General Land office by virtue of his office
we see by reference to the case of Hodgson vs
Gettys (12 Branch Reports of US Supreme Court

page (106) that is that lease the laint say
that Congress having passed an act to remove
the war office from Philadelphia by the direction
of the president of United States to the city
of Washington that the Secretary of War
had the right to bind the Government
in a written lease he being the Agent of the
Government and more is list that if the Secretary
of War had a right to bind by contract the
Government is that laps of lease that the
Commissioners of the General Land Office and
the Secretary of the Interior had the right to
adopt rules and regulations in the
regard to the discharge of their duties as far the
sale of the Government Lands and that practice has
been the practice of the Land department from
the commencement to the present and hence when
the act of Congress of the 28 September 1850 was
approved as a Law the Commissioners and
Secretary adopted a code of rules and form of
selection the Law from actual intention of the
Land is still of the making the same from the
plots and maps in the office of the Secretary of the
Interior and Congress approved of the said course
of the said Agents and the said Commissioners
of the Land Office and Secretary refused to patent
the Land selected by the agent of the State of Illinois
when requested by the Governor of this State

He made the demand for the said pattern
on the ground that the selection was made an
and of lands that was not swamp or ~~any~~
overflowed lands as contemplated by the
said act of September 28th 1850 hence it was that
during the years eighteen hundred and fifty one
two three four sold about a half ~~not~~
million of those lands that had been selected
and in order to protect the rights of purchasers
and owners of those lands Congress on the 2 day
of the month of March A.D. 1855 see tenth (10)
United States at Large page (634.) With a
proviso that in all cases when any State through
its constituted authorities may have sold or
disposed of any tract or tracts of said land
to any individual prior to the Entry Sale or
Location of the same under the preemption or
other laws of the United States no ~~prop~~ patent
shall be issued by the president for such tract
or tracts of land until such State through its
constituted authorities shall release its claims
thereto in such form as shall be ~~prescribed~~
prescribed by the Secretary of the Interior, and
(provided further) that if the said State shall
not within ninety days from the passage of this
act through its constituted authorities return
to the General Land Office of the United States
a list of all the lands sold as above said

together with the dates of such sale and
the names of the purchasers the ~~patent~~ patent
shall be issued immediately thereafter as
directed in the foregoing section and in the
(3 section) provides that if the State Com have
affirmative that the Lands so sold was Swamp
Lands within the true ~~meaning~~ intent and
meaning of the act of 1850 said the said State shall
have the money Warrant or script that the
Government sold the Lands we say that by the
terms of that act that Congress understood that
this was done by the Commission that Congress
had put on the action of the Commission and
said that when the Agent of the State had selected
Lands that the Government had no record because
of it being ~~was~~ Swamp or unswamp Lands that the burden
of proof was on the State to show that the land
acted in good faith in making the selection and
that the Lands was Swamp within the meaning
of the said act of September 1850 and hence the
we say the reason of the rule of the Land
Department in allowing party to apply for
those Lands and to enter them by producing
sufficient proof be from the Register Returns of
of the Local Land officers in which the Lands
applied for might be and that Commission
of the Land the Commission allowed party
to apply for those Lands and to prove that the

was not Swamp or overflowed and to enter
them by which made that was entered in the
State of Illinois from March the 1st (2), 1866 to
March the 3rd, 1867 about a hundred thousand
Acres of that same land and during the same
period of time that was received application
made for ~~say~~ and approved by the ~~commissioners~~
Commissioners of the General Land Office for
about a half million of Acres of Land in the
State of Illinois and we say that while the
order of the Commissioners of the General Land
Office was in the hands of the Local Land
Office and ~~and~~ especially while the order is forwar.
of the Commissioner in this case was lying in the
hands of the Register of the Land Office at ~~Spring~~
Springfield Illinois and while we was
urging the Register to render
that order that from the Commissioners of
the General Land Office and that was refusing
to do as the excuse that the Register the
time to attend to the same Congress
on the 3rd day of March 1867 past a motion
act confirming all of the Sales of that Land
by the Commissioners and the granting ~~presump~~
presumption claim of all that had settled
and improved any of that Land before the
passage of the last named act and also
confirming all the original selection of the

Said Lands by the State in the State in which
the Said Land Lays and that by the
Commissioners of the General Land office
Decided that they have no further power to sell
Land Contingent to provide we say that as
the Government had permitted the said Commission
the action of the General Land office in the
manner of selection the manner of selling them
as Government Land after they was selected
in the manner of granting leases and selling
them to the Leases that the Commission
had acquired as much of a right to the
Lands as they had in the matter of the
for mark you if the Land had passed
from the Government by the act of the 28 September
AD 1860 the Government had no further control
of the Land and it could not confirm or
~~reject the sale of the Government lands of them~~
~~and if on the other hand the did not pass~~
~~by the first act of Congress they then the~~
~~act of March 3 1867 a sale made by the Government~~
but on the other hand the did not pass by the
act of 28 September 1860 then of course they belong
to the Government and was subject to sale by
any order or made that the Government should
direct that they should be sold upon and the
Government adopted the mode of application
based on the Affidavit of application of applicant

It follows by a this proof at least time
as the applicant should be allowed to
introduce the same We say that is a matter
point that we think is entitled to great weight
in this case and that is this that the
Government has placed these Lands in market
under a Special Statute at a Special
price and sold to all persons that want
to by that you can have the Land by
offering for and pay one Dollar and
twenty five cents per each acre of
these Lands We say that the Land
must be withdrawn from market
by any Law of Congress and therefore
being in market are subject to prior
claim when the claimant offers for
and tenders the money for the same
that claimant was entitled to the
and in view of this point we will now
rely on the latter part of the 4th section
and the 5th section of an act of Congress
Approved April the 24 1820 (3) under
States Statute at Large page 567 and as
for the purposes of the argument of this
case are the present State of the Record
we say that the Defendant by his
General Demurrer admits all the
charges to be in claimant's Bill to

time as charged and that from the
admit that complainant got the grant
to locate that the land is good dry land
that complainant could prove that
the was dry and that complainant did
tender the money that is but one
point more that we desire to urge
on the court and that is this that the
question is to turn on the question whether
the complainant has made such
state of facts in the Bill in this case as
will entitle him to receive relief as
as far as the Bill we say that
think that can't be any doubt as
that subject from the fact that we
say first that the ~~complainant~~ complainant of
the General Land office was the Agent of
Government and made the contract with
complainant and that is compliance
with that contract on the part the
complainant expended a large amount
of labor and money and that was an all
very hard work and ~~the~~ anxious to
say the agree purchase price for the
same and that the Defendant took the
title from the Government with full
knowledge of the contract with
complainant and that he became the

Trustee of the Comptant and should
be held to carry the Loans to the
Comptant We now submit
the matter to your Honors with full
confidence that we shall receive
from your Honor a full hearing and
a careful hearing

John Clark
Comptant

John Clark
vs

Kingston County

Argument of
Complaint

(M. L. H.)

Filed Apr 24, 1866
Edmund
Clark

In the Supreme Court of the State of Illinois,
in the Third Division to ~~Attorney~~ April
Term AD 1859.

Appeal from the Circuit Court of
Livingston County, Illinois.

On the 24th day of August 1857
the Complainant filed the following
bill; to wit:

State of Illinois
Livingston County
John Clark

vs

Livingston County

In the Livingston County Circuit
Court to the September Term
AD. 1857.

In Chancery
Bill for conveyance and relief.

To the Honorable judge of the Circuit Court
in and for the County of Livingston and
State of Illinois; in Chancery sitting;
respectfully represent, on to your Honor for your
Orator John Clark, of the County of Woodford and
State of Illinois, that on or about the 14th day of
September in the year of our Lord one thousand
eight hundred and fifty five AD 1855. that your Orator
did in accordance to the rule of the General Land
Commissioner of the General Land Office and (conceding
by the Secretary of the Interior at Washington City,
District of Columbia made and entered on the
Records of said Office as the said Commissioner
had a legal right to do, that your Orator selected

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a list of Lands by forty acre tracts, amounting to the amount of fifteen thousand eight hundred and ~~forty~~ thirty five acres and eighty six one hundreds of an acre according to the Government surveys as made and filed in the said General Land Office by the Order of the Government of the United States of America and approved by the said Government of the United States and your Order for the States, that on the said fourteenth day of September that he made application in accordance with the rules of the said General Land Office for the privilege of contesting the right of the State of Illinois to the list herein marked A. and attached to this bill and asked to be made part of this bill by numbers, sections, townships and ranges in this bill, and that the said Department did regard the said Application as being properly made by your Orator and binding on the said Government and in due form and in due time, to wit: in the Month of May AD 1856. The said Department issued an Order in accordance to the form in such case made and provided, accompanied with a list, that your Orator had a right to contest, attached to the said Order. Copy of which will be exhibited on the final hearing of this cause and the grounds, on which I, your Orator, should be allowed to enter the said Lands, made in said application exclusively as against all the world

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was, that your said Orator should cause the lands to be surveyed and properly marked and properly marked and show a time to be named, that such time as he should be called upon to do so, to prove that more than twenty acres out of each forty acres tract (or over one half of each quarter ^{quantity} section) was dry and fit for cultivation of all ordinary seasons without artificial drainage or embankment and that there was the character of the Lands on the twenty eighth day of September 1850, being the day on which the Swamp Land Act was passed. Your Orator further charges, that he has complied on his part with all the Requirements of the Department, required of him, and the conditions, has been ^{on his part} fully complied with, and he is and was prepared to prove from the Date of his said application and further your Orator charges, that on or about the first Day of the Month of January AD 1857, that the Commissioner of the General Land Office issued his Directory notice to the Register and Receiver of the Land Office of the United States at Springfield, Illinois, the said Commissioner commanded the said Register and Receiver to give your Orator notice to produce his proof in the case, and report the same to the said Commissioner for his approval or disapproval, first having submitted the same, to the Surveyor General at his Office in the City of St. Louis and State of Missouri. The Register and

Receiver received the said notice on or about
 the 10th day of January AD 1857, and your
 Orator charges, that he went in person to the
 said Register and receiver of the said Land Office
 at the said City of Springfield, Illinois on or
 about the 12th day of January AD 1857 and demanded
 of the said Register and Receiver of the said Office,
 to set a day for the hearing of the Evidence
ⁱⁿ of the said contested case of this your Orator
 and the said State of Illinois. And thereupon
 your orator charges, that by the wrong Acts of
 the said Register and Receiver, that he, your
 said Orator was prevented from completing his
 contest, and from getting the said lands, described
 in said list of lands and your Orator avers, that
 the Register and Receiver was the Agents of the Go-
 vernment of the United States of America, and that
 the Government of the United States is bound to
 make good all wrongs, done by them as such
 Agents to your Orator and your Orator avers,
 that by the Act of Congress, passed on the twenty
 eighth day of September AD. 1850, that the State
 of Illinois had no legal or equitable right
 to select any tract of land as Swamp or over-
 flowed lands, except such tracts of land, as
 was more than one half of each forty acre tract
 or other legal subdivision was covered in water
 or so spongy or wet, and swampy, that it could

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not have been plowed on the twenty eight day of
 September 1850 (and those Lands was to be selected
 by the Secretary of the Interior from the Original
 maps and plates as returned by the Government
 Surveyors and in no other way) and on no
 other day for the Lands, that was more than one
 half not wet and swampy or overflowed on the
 date of the grant did not pass, by virtue of the
 grant and that all selections that was made by
 the Agents of the said State of Illinois, that was
 not covered more than one half of each legal
 subdivision in water or was a swamp or wet
 that it could not have been cultivated in some
 way or ^{other} order without artificial drainage or
 embankment was a fraud on the Government
 and could not pass by or under the grant and
 therefore is not within the meaning of the Act of
 Congress of the third of March 1857, confirming
 all the original selections (^{except them} ~~excepted~~ in said Act)
 Your Orator avers, that the intention of the
 last mentioned Act proceeds on the ground
 that the original selections was in accordance
 with the letter and spirit of the original grant,
 your Orator further avers, ~~that~~ not a tract
 of Land, named or described or ment in the list
 of Lands made part of this bill, that was of that
 class, but on the contrary, there was no one tract
 in said list, but was more than one half of each

legal subdivision of: Quarter quarter Section
 or each forty acre lot or tract either fractional
 or whole but what was dry land and fit for
 cultivation on the 28th day of September AD 1850
 and further your Orator avers, that the list of
 lands selected and claimed by the said State
 of Illinois by said State transferred to the said
 County of Livingston, meaning the list here claimed
 and set out by your Orator in this bill did not
 need the construction of any leveys or other
 artificial drain to reclaim the said list
 of land nor any tract of said land on the said
 twenty eighth day of September AD 1850, that being
 the day, on which said grant was made by the
 general Government to the said State of Illinois
 and if not covered in water by being overflowed
 or so swampy, that it could not be cultivated
 say more than one half of each tract could
 not legally and therefore did not pass to the
 said State of Illinois and if did not pass to
 the said State, the State could not pass any
 title to the said county as claimed by said
 county and further your Orator avers, that the
 said state of Illinois did on the 22^d of June
 1852 by virtue of an Act of the Legislature in
 General Assembly assembled did enact, to
 convey by their Acts all the right and title,

7 that they had to all the lands named in this bill, but the express conditions on which the said County was to have the lands, one was that the said county should fully and legally do to said lands, in Order to reclaim them the same, as the said State of Illinois was bound to do and your Orator avers, that the said County of Livingston did not comply with the condition precedent, which was the very essence of the said grant from the said State to the said County, meaning fully to enjoin on the said county everything enjoined by said Act of June ²² 1852 and the condition was to be mutual on the part of both, and your Orator avers, that there was no consideration passing from the county to the State, unless the said county complied fully with all the conditions named in said Act and your Orator avers, that said County did not comply and has not in any sense of the term complied with the requirements of the said Act of the Legislature, and that thereby the original grant to the said State became forfeited and that further, that the said State by subsequent Acts of the Legislature the said State has forfeited her right to the lands by granting the said land to the Counties, in which they, the lands, lie, in not requiring the said ~~Counties~~ to expend the proceeds of the said sales to levee

8
and drains ~~the~~ to render the said land suscep-
table of cultivation the said State of Illinois
forfeited all right under the Original grant
from the said Government of the said United
States of America, The said lands described in this
bill and further your Orator avers, that by
the grant of the Commissioner of the General
Land Office made to your Orator on Condition
that he would prove, that more than one half
of each tract or parcel, meaning a Quarter quarter
of Section or tract named in this bill to be dry
and fit for cultivation without artificial drain-
age or embankments, because ~~the~~ a binding
contract, by which the Government by her
proper Agents is bound to convey to your
Orator the said Lands herein described and
the express condition on the part of the Government
was to receive one dollar and twenty five
cents in money or its equivalent in Go-
vernment scrip or Landwarrants, and
that the said Government would sell the
land to no other person, except your Orator
on the Condition, that your Orator would
prove, that more than one half of each
Quarter Quarter Section or other legal sub-
division of said tracts by forty acre tracts
or other legal subdivision was dry and fit
for cultivation without artificial drainage

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or embankment and that was the character of the said lands on the said 28th day of September AD 1850 and your orator avers, that he was prepared on the 14th day of September AD. 1855 to prove at any time that the Government might have called for the same, that more than one half of each legal subdivision of each Quarter quarter section or other legal subdivision of the said described lands was dry and fit for cultivation without artificial drainage or embankment and that was the character of the said land on the 28 day of September 1850 and your Orator avers, that he has always has been and still is ready and able and desirous and demands the privilege of proving, that the said lands is not the character named in the Act of September 28th 1850, to comply with each and every request, that the said government of the United States of America enjoins by her Agents, to wit: The General Commissioner of the General Land Office, located at the City of Washington, District of Columbia, and your Orator avers, that more than one half of each tract of land, was dry and fit for cultivation the 28th day of September AD 1850, and still is the character of the same, and was fit for cultivation without artificial drainage or embankment.

and your Orator avers, that he has always been ready and able and desirous to have paid the Government for all the lands in this bill described according to the Contract with the said Government at any day, that the said Government should have called on him to do by virtue of the said Contract and that your Orator has frequently and in a friendly manner called on the Government by calling on the Commissioner of the General Land Office and desiring him to set a day for the determination and the closing up of the said Contract, but he neglected to do, promising that he would, your Orator charges, that he has delayed the same to a time far beyond, what was necessary, and that he now refuses, to comply with and carry out his Contract on the part of the General Government with your Orator and that your Orator ^{is} still is willing and ready to pay and hereby tenders the proofs required of him, to carry out his contract successfully with the Government hereby asking and desiring, that your Orator may be permitted to bring the money into Court and pay the same over to a Commissioner to be appointed to receive the said money from your Orator, and convey each and

contest

11 every tract of the said lands, named in this bill
or the schedule attached to your said Orator.
Your Orator further avers, that he has expended
the sum of three thousand dollars in carrying
out the Direction of the Government, which
is part of the consideration money between
your Orator and the government for the said
lands, and that he has only been prevented from
completing his ^{contract} by the bad faith of the
Government in conveying the said lands to the
said County of Livingston, and State of Illinois,
through the said State of Illinois and not by
any latches ^{on the part} of your Orator; he further
avers, that he has done each and every
thing, that the said Government required
of him, untill they, the said Government
fraudulently, wrongfully and wilfully refused
to complete their contract by passing a
retrospective law, which they, the said General
Government, by their Representatives in
Congress assembled, had no legal Right, so to
do, and therefore the Government had no legal
Right to refuse to carry out their contract
with your Orator in the contest about the said
tracts of land with the said State of Illinois;
and further your Orator avers, that the Government
has no legal right, to cause a citizen or subject
to expend money to detect frauds, committed
by the Government.

12 against the Government, committed by other Citizens or subjects, and when it became apparent, that he would show, that he was successful in the matter, to then turn around and defraud the said subject out of the reward, by contract he was promising, or agreed to be paid for performing the services nor to permit him to do part of the contract on his part and then prevent him from completing the whole, and then make that their wrong acts and excuse to not perform their part of the contract in any manner nor under any pretext, for if the Lands is not of the character specified and named in the original grant, then the orator avers, that he is entitled to ^{the} said lands by virtue of his right of application and that a prior right for having been at an expense of detecting the frauds of the original selector of the said, and further your orator represents, that on or about the twenty second day of June AD 1852 and on divers other days the said Legislature of the State of Illinois has passed laws, granting the said lands, to the several counties in the state of Illinois and amongst others to the county of Livingston in said state of Illinois and that by said Acts the said State of Illinois conveyed to the said County the said Lands named and made part of this bill, your orator

13 avers, that the said State of Illinois had no legal right to grant the said lands, what the said state of Illinois could rightfully or have taken except the right had been conferred upon the said state, by the act of Congress, granting much less to have granted the said lands without enjoining on the County receiving the same to have performed the whole contract with Government, that the said state was bound to do in order to hold the said lands, and your orator avers, that the said state did not bind the said County in the same manner, ~~as~~ the said State was bound to the General Government, your orator avers, that the said state of Illinois had no legal right to grant the said lands, that would pass to the said State by virtue of Act of 28th September 1850 rightfully sold to the County, in which the said lands lies from the fact, that the grant was not equal amongst the whole people of the State of Illinois, all had an equal right in and to the fee of the said lands, that rightfully passed under the grant, and your orator avers, that those lands did not pass, for they was not the class of lands, that did pass by the grant, and your Orator prays, that the county of Livingston and the State of Illinois ~~may~~ be made parties, defendants to this your orators bill, as by statute in such case made and provided and that your orator charges, that the selecting of each and every tract of

14 land, named in this bill of complaint, was a ~~granted~~
on the Government of the United States of America,
and that not a tract of them could possibly under
any circumstance called Swamp or Overflowed
lands, your orator prays your Honor to grant
to your orator the following reliefs: that you
will decree, that a commissioner be appointed
to receive the sum of one dollar and twenty five cents
in lawful funds for each and every acre of the
said lands named and described in the schedule
of lands, to this bill annexed, and on the pay-
ment aforesaid, to make and execute to your
Orator a good, clear and perfect title to the said
lands as against the county of Livingston and
the said State of Illinois in the said state of
Illinois could or may have ^{by} the said grant from
the said State of Illinois, second, that your Honor
will name the Time, the place, where and the
kind of funds or money, that your Orator shall
pay to the said County of Livingston and State
of Illinois for the said lands, provided that
your Honor shall find, that said county had
any legal or equitable right to said lands, named
in said bill, third, that your Honor will decree,
that your orator is entitled to the said lands,
named in the said bill by Virtue of his contracts
with the said Government, that the said lands

15 do not pass by virtue of the said grant because they are not among the class of lands named in said ^{grant} land, your orator prays, that the said Defendants be compelled to on their corporial oaths to the best and utmost of their knowledge, remembrance, information and belief full, true, direct and perfect answers make to all and singular matters aforesaid, and that as fully and particularly as if the same were here repeated, and the said County by her authorities distinctly interrogated thereto and especially that said County by her authority may in manner aforesaid answer and set forth in their answer, whether the selector went on to each and every tract of land, claimed by said county, that is named in this your orator's bill of complaint and found by proper measurements that more than ~~one~~ half of each Quarter quarter section or other legal subdivision was overflowed or swampy on the said 28th day of September AD 1850 and further, whether each and every tract of land named in said bill of complaint was on the twenty eighth day of September in the year of our Lord one thousand eight hundred and fifty meaning to say, that to have them say, whether more than one half of each Quarter quarter section or other legal subdivision of said lands was on the ^{said} 28th day of September AD. 1850 was covered by overflow or actual swamp, so that it could not be cultivated without artificial drainage

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or embankments, and to have them point out in their answer, what ^{if each} part of said lands was so overflowed or swampy on the said 28th day of September 1850 aforesaid; your orator prays, that the grant by the said State to the said County may be set aside, and that whatever patents, that said County, or whatever title the said county may have shall be surrendered to your Honor and cancelled, and that your Orator have by the decree of your Honorable Court have the full, free and perfect title to said lands, all which for your orator charges, that he has frequently called on the said Defendants and requested them, to surrender their pretended title to the said tracts of Land, and they still persist, saying, that they have a title to said lands, all of which actings and doings and refusal of said County or said Defendants, meaning the said County of Livingston in the State of Illinois by the said authorities are against equity and good conscience, and tend to the manifest wrongs and greatly to the injury of your said orator in the premises and consideration, whereof and for as much as your orator cannot have adequate relief in the premises in a court of equity only, where matter of this nature are only cognisable and remediable and further your orator prays, your Honor, to grant to your Orator all the several reliefs, that your Orator

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5
has asked for and all the general reliefs, that your honor may see from the nature ^{of the cause} in case and facts exhibited on the final hearing of this cause, that he is entitled to in addition to those named and provided for, and on the equity arising between your Orator and the General Government of the United State of America, as may be in force in favor of your Orator against the Government and the said Defendants by the decree of this Honorable court and if this Honorable court can not decree title to your Orator, that then your orator prays your Honor to decree, that the said Defendants pay to your Orator, what your Orator can show, that all of the said Lands in said bill, that he can show, does not come under the meaning of the Act of the 28th September 1850 is worth per acre in lieu of the said lands, if the said Defendants should sell any or all of the said Lands, named in this bill the said money to be paid under the Order or decree of this Honorable Court; your orator charges, that said lands is worth now the sum of one hundred and fifty thousand Dollars in lawful money and further is provided by your Orator, that no sale, that has been made or has might be made of said Lands by the said Defendants shall have no ^{prejudice} ~~precedence~~ against the title of your Orator in any manner and shall grant such other and further relief in the premises, as to your Honor shall see

8 meet, may it please your Honor to grant unto
your Orator a writ of subpoena to be directed
to the said county of Livingston in the State
of Illinois as by Statute is provided, thereby,
commanding them personally at a certain day
and time to be and appear before your Honor
in this Honorable Court and then and there to
stand to perform and abide such orders, directions
and decrees therein, as to your Honor shall see
meet and your Orator shall ever pray.

(sign) John Clark for self
State of Illinois } Circuit Court of said
Livingston County } County, Sept. Term 1857

The Clerk will please to issue subpoena
in chancery in said cause as above directed
by statute. Pontiac the day of August 1857

(sign) John Clark for self

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The following schedule of Lands as follows

		Section		Town		Range				Section		Town		Range	
NE 1/4 of NW 1/4		13	28	3E	NE 1/4	SW 1/4		3	27	7E					
NE 1/4 of NW 1/4		13	28	3E	NW 1/4	SW 1/4		3	27	7E					
NE 1/4	NE 1/4	24	28	4E	SW 1/4	SW 1/4		3	27	7E					
NW 1/4	NE 1/4	24	28	4E	SE 1/4	SW 1/4		3	27	7E					
SW 1/4	NE 1/4	24	28	4E	NE 1/4	SE 1/4		3	27	7E					
SE 1/4	NE 1/4	24	28	4E	NW 1/4	SE 1/4		3	27	7E					
SE 1/4	NW 1/4	26	28	4E	SW 1/4	SE 1/4		3	27	7E					
SW 1/4	SW 1/4	21	29	4E	SE 1/4	SE 1/4		3	27	7E					
NE 1/4	SE 1/4	31	29	4E	NE 1/4	SE 1/4		4	27	7E					
SE 1/4	SE 1/4	21	27	5E	SW 1/4	SE 1/4		4	27	7E					
NE 1/4	NE 1/4	31	29	5E	SE 1/4	SE 1/4		4	27	7E					
NW 1/4	NE 1/4	31	29	5E	NE 1/4	NE 1/4		6	27	7E					
SW 1/4	NE 1/4	31	29	5E	NW 1/4	NE 1/4		6	27	7E					
SE 1/4	NE 1/4	31	29	5E	SW 1/4	NE 1/4		6	27	7E					
NE 1/4	SE 1/4	31	29	5E	SE 1/4	NE 1/4		6	27	7E					
NE 1/4	NE 1/4	12	27	6E	NE 1/4	NW 1/4		6	27	7E					
NW 1/4	NE 1/4	12	27	6E	NW 1/4	NW 1/4		6	27	7E					
SW 1/4	NE 1/4	12	27	6E	SW 1/4	NW 1/4		6	27	7E					
SE 1/4	NE 1/4	12	27	6E	SE 1/4	NW 1/4		6	27	7E					
NE 1/4	NW 1/4	12	27	6E	NE 1/4	SW 1/4		6	27	7E					
NE 1/4	SE 1/4	12	27	6E	NW 1/4	SW 1/4		6	27	7E					
NW 1/4	SE 1/4	12	27	6E	SW 1/4	SW 1/4		6	27	7E					
SE 1/4	NW 1/4	32	28	6E	SE 1/4	SW 1/4		6	27	7E					
SE 1/4	NE 1/4	1	27	7E	NE 1/4	SE 1/4		6	27	7E					
NE 1/4	SE 1/4	1	27	7E	NW 1/4	SE 1/4		6	27	7E					
SW 1/4	SE 1/4	1	27	7E	SW 1/4	SE 1/4		6	27	7E					
SW 1/4	SE 1/4	1	27	7E	SE 1/4	SE 1/4		6	27	7E					
SE 1/4	SE 1/4	1	27	7E	NE 1/4	NE 1/4		9	27	7E					

Section Town Range				Section Town Range			
NW ¹ / ₄	NE ¹ / ₄	9	27 7 E	SE ¹ / ₄	SE ¹ / ₄	11	27 7 E
SW ¹ / ₄	NE ¹ / ₄	9	27 7 E	NE ¹ / ₄	NE ¹ / ₄	12	27 7 E
SE ¹ / ₄	NE ¹ / ₄	9	27 7 E	NE ¹ / ₄	SE ¹ / ₄	12	27 7 E
SE ¹ / ₄	NW ¹ / ₄	9	27 7 E	NW ¹ / ₄	SE ¹ / ₄	12	27 7 E
NE ¹ / ₄	NW ¹ / ₄	9	27 7 E	NE ¹ / ₄	SW ¹ / ₄	13	27 7 E
NW ¹ / ₄	SE ¹ / ₄	9	27 7 E	NE ¹ / ₄	NE ¹ / ₄	15	27 7 E
NE ¹ / ₄	NE ¹ / ₄	10	27 7 E	NW ¹ / ₄	NE ¹ / ₄	15	27 7 E
NW ¹ / ₄	NE ¹ / ₄	10	27 7 E	SW ¹ / ₄	NE ¹ / ₄	15	27 7 E
SW ¹ / ₄	NE ¹ / ₄	10	27 7 E	SE ¹ / ₄	NE ¹ / ₄	15	27 7 E
SE ¹ / ₄	NE ¹ / ₄	10	27 7 E	NE ¹ / ₄	NW ¹ / ₄	15	27 7 E
NE ¹ / ₄	NW ¹ / ₄	10	27 7 E	NW ¹ / ₄	NW ¹ / ₄	15	27 7 E
NW ¹ / ₄	NW ¹ / ₄	10	27 7 E	NE ¹ / ₄	NW ¹ / ₄	24	29 7 E
SW ¹ / ₄	NW ¹ / ₄	10	27 7 E	NW ¹ / ₄	NW ¹ / ₄	24	29 7 E
SE ¹ / ₄	NW ¹ / ₄	10	27 7 E	SW ¹ / ₄	NW ¹ / ₄	24	29 7 E
NE ¹ / ₄	SW ¹ / ₄	10	27 7 E	SE ¹ / ₄	NW ¹ / ₄	24	29 7 E
NW ¹ / ₄	SW ¹ / ₄	10	27 7 E	NE ¹ / ₄	NE ¹ / ₄	1	27 8 E
SW ¹ / ₄	SW ¹ / ₄	10	27 7 E	NW ¹ / ₄	NE ¹ / ₄	1	27 8 E
SE ¹ / ₄	SW ¹ / ₄	10	27 7 E	SW ¹ / ₄	NE ¹ / ₄	1	27 8 E
NE ¹ / ₄	SE ¹ / ₄	10	27 7 E	SE ¹ / ₄	NE ¹ / ₄	1	27 8 E
NW ¹ / ₄	SE ¹ / ₄	10	27 7 E	NE ¹ / ₄	NW ¹ / ₄	1	27 8 E
SW ¹ / ₄	SE ¹ / ₄	10	27 7 E	NW ¹ / ₄	NW ¹ / ₄	1	27 8 E
SE ¹ / ₄	SE ¹ / ₄	10	27 7 E	SW ¹ / ₄	NW ¹ / ₄	1	27 8 E
NW ¹ / ₄	SW ¹ / ₄	11	27 7 E	SE ¹ / ₄	NW ¹ / ₄	1	27 8 E
SW ¹ / ₄	SW ¹ / ₄	11	27 7 E	NW ¹ / ₄	NE ¹ / ₄	2	27 8 E
NE ¹ / ₄	SE ¹ / ₄	11	27 7 E	SW ¹ / ₄	NE ¹ / ₄	2	27 8 E
NW ¹ / ₄	SE ¹ / ₄	11	27 7 E	NE ¹ / ₄	NW ¹ / ₄	2	27 8 E
SW ¹ / ₄	SE ¹ / ₄	11	27 7 E	NW ¹ / ₄	NW ¹ / ₄	2	27 8 E
				SW ¹ / ₄	NW ¹ / ₄	2	27 8 E

Section Town Range

Section Town Range

SE $\frac{1}{4}$	NW $\frac{1}{4}$	2	27	8	E	SW $\frac{1}{4}$	NE $\frac{1}{4}$	5	27	8	E
NE $\frac{1}{4}$	NE $\frac{1}{4}$	3	27	8	E	SE $\frac{1}{4}$	NE $\frac{1}{4}$	5	27	8	E
NW $\frac{1}{4}$	NE $\frac{1}{4}$	3	27	8	E	NE $\frac{1}{4}$	NW $\frac{1}{4}$	5	27	8	E
SW $\frac{1}{4}$	NE $\frac{1}{4}$	3	27	8	E	NW $\frac{1}{4}$	NW $\frac{1}{4}$	5	27	8	E
NE $\frac{1}{4}$	NE $\frac{1}{4}$	3	27	8	E	SW $\frac{1}{4}$	NW $\frac{1}{4}$	5	27	8	E
NE $\frac{1}{4}$	NW $\frac{1}{4}$	3	27	8	E	SE $\frac{1}{4}$	NW $\frac{1}{4}$	5	27	8	E
NW $\frac{1}{4}$	NW $\frac{1}{4}$	3	27	8	E	NE $\frac{1}{4}$	SW $\frac{1}{4}$	5	27	8	E
SE $\frac{1}{4}$	NW $\frac{1}{4}$	3	27	8	E	NW $\frac{1}{4}$	SW $\frac{1}{4}$	5	27	8	E
SE $\frac{1}{4}$	NW $\frac{1}{4}$	3	27	8	E	NE $\frac{1}{4}$	SE $\frac{1}{4}$	5	27	8	E
NE $\frac{1}{4}$	NE $\frac{1}{4}$	4	27	8	E	NW $\frac{1}{4}$	SE $\frac{1}{4}$	5	27	8	E
NW $\frac{1}{4}$	NE $\frac{1}{4}$	4	27	8	E	NE $\frac{1}{4}$	NE $\frac{1}{4}$	6	27	8	E
SW $\frac{1}{4}$	NE $\frac{1}{4}$	4	27	8	E	NW $\frac{1}{4}$	NE $\frac{1}{4}$	6	27	8	E
SE $\frac{1}{4}$	NE $\frac{1}{4}$	4	27	8	E	SW $\frac{1}{4}$	NE $\frac{1}{4}$	6	27	8	E
NE $\frac{1}{4}$	NW $\frac{1}{4}$	4	27	8	E	SE $\frac{1}{4}$	NE $\frac{1}{4}$	6	27	8	E
NW $\frac{1}{4}$	NW $\frac{1}{4}$	4	27	8	E	NE $\frac{1}{4}$	NW $\frac{1}{4}$	6	27	8	E
SW $\frac{1}{4}$	NW $\frac{1}{4}$	4	27	8	E	NW $\frac{1}{4}$	NW $\frac{1}{4}$	6	27	8	E
SE $\frac{1}{4}$	NW $\frac{1}{4}$	4	27	8	E	SW $\frac{1}{4}$	NW $\frac{1}{4}$	6	27	8	E
NE $\frac{1}{4}$	NW $\frac{1}{4}$	4	27	8	E	SE $\frac{1}{4}$	NW $\frac{1}{4}$	6	27	8	E
NW $\frac{1}{4}$	NW $\frac{1}{4}$	4	27	8	E	NE $\frac{1}{4}$	SW $\frac{1}{4}$	6	27	8	E
SW $\frac{1}{4}$	NW $\frac{1}{4}$	4	27	8	E	NW $\frac{1}{4}$	SW $\frac{1}{4}$	6	27	8	E
SE $\frac{1}{4}$	NW $\frac{1}{4}$	4	27	8	E	SW $\frac{1}{4}$	SW $\frac{1}{4}$	6	27	8	E
NE $\frac{1}{4}$	SE $\frac{1}{4}$	4	27	8	E	SE $\frac{1}{4}$	SW $\frac{1}{4}$	6	27	8	E
NW $\frac{1}{4}$	SE $\frac{1}{4}$	4	27	8	E	NE $\frac{1}{4}$	SE $\frac{1}{4}$	6	27	8	E
SW $\frac{1}{4}$	SE $\frac{1}{4}$	4	27	8	E	NW $\frac{1}{4}$	SE $\frac{1}{4}$	6	27	8	E
SE $\frac{1}{4}$	SE $\frac{1}{4}$	4	27	8	E	SW $\frac{1}{4}$	SE $\frac{1}{4}$	6	27	8	E
NE $\frac{1}{4}$	NE $\frac{1}{4}$	5	27	8	E	SE $\frac{1}{4}$	SE $\frac{1}{4}$	6	27	8	E
NW $\frac{1}{4}$	NE $\frac{1}{4}$	5	27	8	E	NE $\frac{1}{4}$	NE $\frac{1}{4}$	7	27	8	E
						NW $\frac{1}{4}$	NE $\frac{1}{4}$	7	27	8	E

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		Section		Town Range				Section		Town Range	
SW 1/4	NE 1/4	7	27	8 E	SW 1/4	SE 1/4		9	27	8 E	
SE 1/4	NE 1/4	7	27	8 E	SE 1/4	SE 1/4		9	27	8 E	
NE 1/4	NW 1/4	7	27	8 E	NE 1/4	NE 1/4		10	27	8 E	
NW 1/4	NW 1/4	7	27	8 E	NW 1/4	NE 1/4		10	27	8 E	
SW 1/4	NW 1/4	7	27	8 E	SW 1/4	NE 1/4		10	27	8 E	
SE 1/4	NW 1/4	7	27	8 E	SE 1/4	NE 1/4		10	27	8 E	
NE 1/4	SW 1/4	7	27	8 E	NE 1/4	NW 1/4		10	27	8 E	
NW 1/4	SW 1/4	7	27	8 E	NW 1/4	NW 1/4		10	27	8 E	
SW 1/4	SW 1/4	7	27	8 E	SW 1/4	NW 1/4		10	27	8 E	
SE 1/4	SW 1/4	7	27	8 E	SE 1/4	NW 1/4		10	27	8 E	
NE 1/4	SE 1/4	7	27	8 E	NE 1/4	SW 1/4		10	27	8 E	
NW 1/4	SE 1/4	7	27	8 E	NW 1/4	SW 1/4		10	27	8 E	
SW 1/4	SE 1/4	7	27	8 E	SW 1/4	SW 1/4		10	27	8 E	
SE 1/4	SE 1/4	7	27	8 E	SE 1/4	SW 1/4		10	27	8 E	
NE 1/4	NE 1/4	9	27	8 E	NE 1/4	SE 1/4		10	27	8 E	
NW 1/4	NE 1/4	9	27	8 E	NW 1/4	SE 1/4		10	27	8 E	
SW 1/4	NE 1/4	9	27	8 E	SW 1/4	SE 1/4		10	27	8 E	
SE 1/4	NE 1/4	9	27	8 E	SE 1/4	SE 1/4		10	27	8 E	
NE 1/4	NW 1/4	9	27	8 E	NE 1/4	NE 1/4		11	27	8 E	
NW 1/4	NW 1/4	9	27	8 E	NW 1/4	NE 1/4		11	27	8 E	
SW 1/4	NW 1/4	9	27	8 E	SW 1/4	NE 1/4		11	27	8 E	
SE 1/4	NW 1/4	9	27	8 E	SE 1/4	NE 1/4		11	27	8 E	
NE 1/4	SW 1/4	9	27	8 E	NE 1/4	NW 1/4		11	27	8 E	
NW 1/4	SW 1/4	9	27	8 E	NW 1/4	NW 1/4		11	27	8 E	
SW 1/4	SW 1/4	9	27	8 E	SW 1/4	NW 1/4		11	27	8 E	
SE 1/4	SW 1/4	9	27	8 E	SE 1/4	NW 1/4		11	27	8 E	
NE 1/4	SE 1/4	9	27	8 E	NE 1/4	SW 1/4		11	27	8 E	
NW 1/4	SE 1/4	9	27	8 E	NW 1/4	SW 1/4		11	27	8 E	

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Section, Town, Range				Section, Town, Range					
SW $\frac{1}{4}$	SW $\frac{1}{4}$	11	27	8 E	SW $\frac{1}{4}$	NW $\frac{1}{4}$	15	27	8 E
SE $\frac{1}{4}$	SW $\frac{1}{4}$	11	27	8 E	SE $\frac{1}{4}$	NW $\frac{1}{4}$	15	27	8 E
NE $\frac{1}{4}$	SE $\frac{1}{4}$	11	27	8 E	NE $\frac{1}{4}$	SW $\frac{1}{4}$	15	27	8 E
NW $\frac{1}{4}$	SE $\frac{1}{4}$	11	27	8 E	NW $\frac{1}{4}$	SW $\frac{1}{4}$	15	27	8 E
SW $\frac{1}{4}$	SE $\frac{1}{4}$	11	27	8 E	SW $\frac{1}{4}$	SW $\frac{1}{4}$	15	27	8 E
SE $\frac{1}{4}$	SE $\frac{1}{4}$	11	27	8 E	SE $\frac{1}{4}$	SW $\frac{1}{4}$	15	27	8 E
NE $\frac{1}{4}$	NE $\frac{1}{4}$	13	27	8 E	NE $\frac{1}{4}$	SE $\frac{1}{4}$	15	27	8 E
NW $\frac{1}{4}$	NE $\frac{1}{4}$	13	27	8 E	NW $\frac{1}{4}$	SE $\frac{1}{4}$	15	27	8 E
SW $\frac{1}{4}$	NE $\frac{1}{4}$	13	27	8 E	SW $\frac{1}{4}$	SE $\frac{1}{4}$	15	27	8 E
SE $\frac{1}{4}$	NE $\frac{1}{4}$	13	27	8 E	SE $\frac{1}{4}$	SE $\frac{1}{4}$	15	27	8 E
NE $\frac{1}{4}$	NW $\frac{1}{4}$	13	27	8 E	NE $\frac{1}{4}$	NE $\frac{1}{4}$	17	27	8 E
NW $\frac{1}{4}$	NW $\frac{1}{4}$	13	27	8 E	NW $\frac{1}{4}$	NE $\frac{1}{4}$	17	27	8 E
SW $\frac{1}{4}$	NW $\frac{1}{4}$	13	27	8 E	SW $\frac{1}{4}$	NE $\frac{1}{4}$	17	27	8 E
SE $\frac{1}{4}$	NW $\frac{1}{4}$	13	27	8 E	SE $\frac{1}{4}$	NE $\frac{1}{4}$	17	27	8 E
NE $\frac{1}{4}$	SW $\frac{1}{4}$	13	27	8 E	NE $\frac{1}{4}$	NW $\frac{1}{4}$	17	27	8 E
NW $\frac{1}{4}$	SW $\frac{1}{4}$	13	27	8 E	NW $\frac{1}{4}$	NW $\frac{1}{4}$	17	27	8 E
SW $\frac{1}{4}$	SW $\frac{1}{4}$	13	27	8 E	SW $\frac{1}{4}$	NW $\frac{1}{4}$	17	27	8 E
SE $\frac{1}{4}$	SW $\frac{1}{4}$	13	27	8 E	SE $\frac{1}{4}$	NW $\frac{1}{4}$	17	27	8 E
NE $\frac{1}{4}$	SE $\frac{1}{4}$	13	27	8 E	NE $\frac{1}{4}$	SW $\frac{1}{4}$	17	27	8 E
NW $\frac{1}{4}$	SE $\frac{1}{4}$	13	27	8 E	NW $\frac{1}{4}$	SW $\frac{1}{4}$	17	27	8 E
SW $\frac{1}{4}$	SE $\frac{1}{4}$	13	27	8 E	SW $\frac{1}{4}$	SW $\frac{1}{4}$	17	27	8 E
SE $\frac{1}{4}$	SE $\frac{1}{4}$	13	27	8 E	SE $\frac{1}{4}$	SW $\frac{1}{4}$	17	27	8 E
NE $\frac{1}{4}$	NE $\frac{1}{4}$	15	27	8 E	NE $\frac{1}{4}$	SE $\frac{1}{4}$	17	27	8 E
NW $\frac{1}{4}$	NE $\frac{1}{4}$	15	27	8 E	NW $\frac{1}{4}$	SE $\frac{1}{4}$	17	27	8 E
SW $\frac{1}{4}$	NE $\frac{1}{4}$	15	27	8 E	SW $\frac{1}{4}$	SE $\frac{1}{4}$	17	27	8 E
SE $\frac{1}{4}$	NE $\frac{1}{4}$	15	27	8 E	SE $\frac{1}{4}$	SE $\frac{1}{4}$	17	27	8 E
NE $\frac{1}{4}$	NW $\frac{1}{4}$	15	27	8 E	NE $\frac{1}{4}$	NE $\frac{1}{4}$	18	27	8 E
NW $\frac{1}{4}$	NW $\frac{1}{4}$	15	27	8 E	NW $\frac{1}{4}$	NE $\frac{1}{4}$	18	27	8 E

Section Town Range

Section Town Range

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SW 1/4 NE 1/4	18	27	8 E	SW 1/4 NE 1/4	21	27	8 E
SE 1/4 NE 1/4	18	27	8 E	SE 1/4 NE 1/4	21	27	8 E
NE 1/4 NW 1/4	18	27	8 E	NE 1/4 NW 1/4	21	27	8 E
NW 1/4 NW 1/4	18	27	8 E	NW 1/4 NW 1/4	21	27	8 E
SW 1/4 NW 1/4	18	27	8 E	SW 1/4 NW 1/4	21	27	8 E
SE 1/4 NW 1/4	18	27	8 E	SE 1/4 NW 1/4	21	27	8 E
NE 1/4 SW 1/4	18	27	8 E	NE 1/4 SW 1/4	21	27	8 E
NW 1/4 SW 1/4	18	27	8 E	NW 1/4 SW 1/4	21	27	8 E
SW 1/4 SW 1/4	18	27	8 E	SW 1/4 SW 1/4	21	27	8 E
SE 1/4 SW 1/4	18	27	8 E	SE 1/4 SW 1/4	21	27	8 E
NE 1/4 SE 1/4	18	27	8 E	NE 1/4 SE 1/4	22	27	8 E
NW 1/4 SE 1/4	18	27	8 E	NW 1/4 SE 1/4	22	27	8 E
SW 1/4 SE 1/4	18	27	8 E	SW 1/4 SE 1/4	22	27	8 E
SE 1/4 SE 1/4	18	27	8 E	SE 1/4 SE 1/4	22	27	8 E
NE 1/4 NE 1/4	20	27	8 E	NE 1/4 NE 1/4	22	27	8 E
NW 1/4 NE 1/4	20	27	8 E	NW 1/4 NE 1/4	22	27	8 E
SW 1/4 NE 1/4	20	27	8 E	SW 1/4 NE 1/4	22	27	8 E
SE 1/4 NE 1/4	20	27	8 E	SE 1/4 NE 1/4	22	27	8 E
NE 1/4 NW 1/4	20	27	8 E	NE 1/4 NW 1/4	22	27	8 E
NW 1/4 NW 1/4	20	27	8 E	NW 1/4 NW 1/4	22	27	8 E
SW 1/4 NW 1/4	20	27	8 E	SW 1/4 NW 1/4	22	27	8 E
SE 1/4 NW 1/4	20	27	8 E	SE 1/4 NW 1/4	22	27	8 E
NE 1/4 SE 1/4	20	27	8 E	NE 1/4 SE 1/4	23	27	8 E
NW 1/4 SE 1/4	20	27	8 E	NW 1/4 SE 1/4	23	27	8 E
SW 1/4 SE 1/4	20	27	8 E	SW 1/4 SE 1/4	23	27	8 E
SE 1/4 SE 1/4	20	27	8 E	SE 1/4 SE 1/4	23	27	8 E
NE 1/4 NE 1/4	20	27	8 E	NE 1/4 NE 1/4	23	27	8 E
NW 1/4 NE 1/4	20	27	8 E	NW 1/4 NE 1/4	23	27	8 E

Section Town Range

Section Town Range

SE 1/4	NW 1/4	23	27	8 E	NE 1/4	SE 1/4	33	28	8 E
NE 1/4	SW 1/4	23	27	8 E	NW 1/4	SE 1/4	33	28	8 E
NW 1/4	SW 1/4	23	27	8 E	SW 1/4	SE 1/4	33	28	8 E
SW 1/4	SW 1/4	23	27	8 E	SE 1/4	SE 1/4	33	28	8 E
SE 1/4	SW 1/4	23	27	8 E	NE 1/4	NE 1/4	35	28	8 E
NE 1/4	SE 1/4	23	27	8 E	NW 1/4	NE 1/4	35	28	8 E
NW 1/4	SE 1/4	23	27	8 E	SW 1/4	NE 1/4	35	28	8 E
SW 1/4	SE 1/4	23	27	8 E	SE 1/4	NE 1/4	35	28	8 E
SE 1/4	SE 1/4	23	27	8 E	NE 1/4	NW 1/4	35	28	8 E
SW 1/4	NW 1/4	25	28	8 E	NW 1/4	NW 1/4	35	28	8 E
SE 1/4	NW 1/4	25	28	8 E	SW 1/4	NW 1/4	35	28	8 E
SW 1/4	NE 1/4	26	28	8 E	SE 1/4	NW 1/4	35	28	8 E
SE 1/4	NE 1/4	26	28	8 E	NE 1/4	SW 1/4	35	28	8 E
SW 1/4	NW 1/4	26	28	8 E	NW 1/4	SW 1/4	35	28	8 E
SE 1/4	NW 1/4	26	28	8 E	SW 1/4	SW 1/4	35	28	8 E
SW 1/4	SW 1/4	26	28	8 E	SE 1/4	SW 1/4	35	28	8 E
SE 1/4	SW 1/4	26	28	8 E	NE 1/4	SE 1/4	35	28	8 E
SE 1/4	NW 1/4	27	28	8 E	NW 1/4	SE 1/4	35	28	8 E
SE 1/4	NW 1/4	27	28	8 E	SW 1/4	SE 1/4	35	28	8 E
NE 1/4	SE 1/4	27	28	8 E	SE 1/4	SE 1/4	35	28	8 E
SE 1/4	SE 1/4	27	28	8 E					
SE 1/4	SE 1/4	28	28	8 E					
SW 1/4	NE 1/4	33	28	8 E					
SE 1/4	NW 1/4	33	28	8 E					
NE 1/4	SW 1/4	33	28	8 E					
NW 1/4	SW 1/4	33	28	8 E					
SW 1/4	SW 1/4	33	28	8 E					
SE 1/4	SW 1/4	33	28	8 E					

(A)

Bill in Chancery { No 5.
John Clark
vs
Livingston County
in the State of Illinois.

— " —
Bill for conveyance and
Relief.

Filed August 24th. (A.D. 1857)
J. M. Gray Circuit
Clerk of Livingston Co.
Ills.

Summons

State of Illinois } ss. The people of the state of Illinois
 Livingston County } to the Sheriff of Livingston
 County, Greeting.

We command you, that you summon
 The County of Livingston to be and to appear before
 the Circuit Court of Livingston County, on the first
 day of the next term thereof, to be holden at the
 Courthouse in Pontiac in said County on the twenty
 first day in the Month of September AD 1857 to
 answer the matter and things in a certain Bill for
 conveyance and Relief preferred against the
 said County by John Clark in our said Court
 on the Chancery side thereof and further to do and
 receive, whatsoever our said Court shall then
 and there consider and order in this behalf and
 thereof make due return to our said court as
 the law directs.

(JF) Witness B. W. Gray Clerk of
 said Court and the judicial
 Seal thereof at Pontiac this
 Fifth day of September. AD 1857

No. 5. Summons
 John Clark

vs
 Livingston Co.

Filed Sep 20. 1857 B. W. Gray Clerk.

Service 50 paces
 miles — 15
 return 10

Served the within by reading the same to Charles
 M. Lee, John Darnell and Eli Myer County Judges in open
 Court and leaving a true copy of this writ with S. B. Saul, County
 Clerk this 7th day of September AD 1857
 James W. Peasick
 Sheriff.

State of Illinois }
Livingston County } + circuit Court thereof
September term 1857.

John Clark
vs
Livingston County } Bill in Chancery

And now comes the said
defendant by W H Wallace, his solicitor
and demurs to the said Bill of complaint,
and avers that the said Bill of complaint and
the matter and things therein contained as the same
are therein stated and set forth are insufficient
to warrant the relief prayed for in said Bill,
or to warrant any decree whatever against
said defendant, wherefore for want of equity
on the face of said Bill of complaint, defendant
prays, that the same may be dismissed and
for her reasonable costs &c
(W H Wallace)

The complainant in this cause
comes and joins in Demurs
sol for def.

In Chancery
John Clark
Complainant

vs
Livingston Co. Demurs. Filed Sept. 22nd. 57. B H Gray
Att
W H Wallace
for def.

State of Illinois }
Livingston County } + circuit Court thereof
September term 1857.

John Clark
vs
Livingston County } Bill in Chancery

And now comes the said
defendant by W^H Wallace, his solicitor
and demurs to the said Bill of complaint,
and avers that the said Bill of complaint and
the matter and things therein contained as the same
are therein stated and set forth are insufficient
to warrant the relief prayed for in said Bill,
or to warrant any decree whatever against
said defendant, wherefore for want of equity
on the face of said Bill of complaint, defendant
prays, that the same may be dismissed and
for her reasonable costs &c
(W^H Wallace)

The complainant in this cause
comes and joins in Demurs
sol for def.

In Chancery
John Clark
Complainant

vs
Livingston Co. Demurs. Filed Sept. 22nd. 57. B^H Gray
Att
W^H Wallace
for def.

Livingston County, Circuit Court. September
Term AD 1857.

At a regular Term of the Circuit Court
begun and held at the courthouse in the Town
of Pontiac within and for the County of Li-
vingston and State of Illinois on the 21st day
of September anni domini Eighteen hundred
and fifty seven, Present the Hon. Charles R.
Harr, Judge of the seventeenth Judicial
Circuit composed of the Counties of Livingston
&c and Lincoln DeWitt State Attorney,
also Benjamin W. Gray Circuit Clerk and
James W. Remick Sheriff

John Clark }
vs } Bill for Conveyance
Livingston County } and Relief

Now on this day comes plaintiff
in person and defendants by Wallace as
Counselor and filed Demurs to Complainants
Bill and the Court being sufficiently advised
as to the matters of Law, arising upon the
defendants demurs to plaintiff Bill, it is there-
fore considered by the Court, that the De-
fendants' demurs be sustained, it is ordered
by the court that leave be given to plaintiff
to amend his Bill.

State of Illinois
Livingston County

in the Circuit Court of said
Livingston County, in the state
of Illinois to the March
Term A.D. 1858

In Chancery

To the Honorable Charles R. Starr, the Judge of
the Circuit Court of said Livingston County
Illinois, humbly complain,

Your Orator John Clark represents unto
your Honor, that the Government of the United
States of America was the Owner of the following
described Real Estate, situated in said Livingston
County, State of Illinois, to wit:

Reference being had to the list of lands, filed with
and made part of the original bill filed in this
cause on the 24th day of August 1857 and the
said Government of the United States of America
being so possessed the said Government of the
United States of America by virtue of the
several Acts of the ^{congress of the} said United States had
said lands with others surveyed and platted,
in accordance with the aforementioned description
offered the same for sale at their Land Office
at Danville at the said State of Illinois
at public vendue and the said lands, not
being sold at said public sale, they became
subject to private sale at said Land Office.

at Danville at the price of one Dollar and twenty five cents per acre and whereas said Government of the United States in Congress assembled passed an Act, entitled an act, to enable the State of Arkansas and other states to reclaim the Swamplands within their Limits, which said Act was approved by the President of the United States on the 28th Day of September 1850 and on said day became a law by which law all swamp and overflowed lands within the State of Illinois was donated to said state and by which act the proceeds the proceeds and overflowed lands were to be used for the purposes of draining the same Reference being had to said Act of Congress, and afterwards the Legislature of the State of Illinois passed an act, entitled an act, to dispose of the swamp and overflowed lands to pay the expense of selecting and surveying the same, which said Act was approved by the Governor of the State of Illinois on the twenty second of June 1852 and which said Act became a law and with full force in said State of Illinois; and by the terms and conditions of said law and the acts of the State of Illinois and directory thereto all the swamp and overflowed lands, which had been donated to the State of Illinois by the said Act of Congress, approved Sep^r 28. 1850 were donated

to the several counties, in which they ^{same} were situated, and the County surveyors of the said several Counties in the State ~~to survey~~ were authorized to survey said swamp and overflowed lands reference being had to said last named law.

Your Orator would further represent unto your Honor, that by Virtue of said law of Congress and said law of the Legislature of Illinois the county surveyor of Livingston County selected and reported all of the before referred to tracts of Land to the Auditor of the State of Illinois as Swamp and overflowed lands, and the same were reported by the Auditor of the United States. Your Orator would further represent, ~~that~~ unto your Honor, that all of said before described Land are good, arable Land, ~~are~~ susceptible of cultivation and that the same are not Swamp and Overflowed Lands, and that they need no draining, whatever, to render them susceptible of cultivation and that all of the said Lands are dry and as good as the average of the lands in the state of Illinois and that the same do not come within the meaning of said law before referred to; Your Orator would further represent unto your Honor that after the passage of said law before referred and before the

commencement of this suit to wit on the
 fourteenth day of September in the Year Eighteen
 hundred fifty five your Orator applied in
 writing to the Commissioner of the General Land Office
 of the United States of America, for leave to
 contest the right of the County of Livingston
 & State of Illinois in and to said Land through
 the proper Officers of the Government of the
 United States, that said Land did not come within
 the purview and meaning of said law of Congress
 donating the said lands to the State of Illinois
 and for leave to purchase the said lands from the
 Government of the United States at their Land Office
 at Danville in the State of Illinois and the
 said Commissioner acting under the direction
 and by the authority of the Government of
 the United States authorized your Auditor in
 writing in his Official Character to prepare his proofs
 and to contest the right of the state in the County
 of Livingston in and to said Lands and in
 consequence of said Promises of said Government
 of the United States by their Officers to your Orator
 he caused said lands to be surveyed and examined
 by a competent surveyor and Chairman and
 that ^{he} was to great expense in employing the
 surveyor, Chairman, axman and the necessary
 hands and teams to mark and examine the said
 lands and ascertain the quality of the same, and

in paying such surveyor, chairman, assessor
 and trustees and your orator further charges
 that the said lands being owned by the United
 States of America and not being swamp and
 overflowed lands within the meaning of the said
 law, that he ~~applied~~^{applied} to the Register at the Land Office
 at Danville, Illinois, in the Month of
 December in the year of 1855 for leave
 to purchase from said government of the United
 States all of said lands and he tendered to the
 Receiver of the Land Office at Danville, Illinois,
 the purchase money for said lands at the
 Rate of one Dollar twenty five cents (\$1.25)
 per acre in Gold, American Gold coins,
 under the authority of the said Government
 and that said Register refused to let your orator
 enter the same or to acknowledge the application
 in writing and the ~~Receiver~~^{said} Receiver refused to receive
 said purchase money in Gold coins for
 said lands or to acknowledge the tender of
 the same in writing, and that after making the
 survey of said lands and obtaining the proof
 as to the Character and quality of said lands
 and including the expense in regard to the character
 and quality of the same your orator is still
 anxious and willing to purchase said lands
 from the Government of the United States and
 hereby offers, and still ready and willing and

claims the equitable right to purchase the same from the Government at the price of \$1.25 per acre, but that the said Officers and servants of the Government refused to permit your orator to purchase the said Land from the Government or any part thereof; your Orator would further represent unto your Honor, that the Congress of the United States of America on the third day of the Month of March A.D. 1857 passed an Act, entitled an Act to confirm to the several States the swamp and overflowed lands selected under the Act of September 28. 1850 and Act of 2nd March 1849 by the terms and Conditions of which Act all the Swamp and Overflowed Lands lying within the State of Illinois, which had been selected by the Agents of the State of Illinois which were at the time owned by the Government were confirmed to the State of Illinois. Your Orator would further represent unto your Honor, that none of the said before described Lands are swamp and overflowed lands and do not come within the purview and meaning of said Act or law of the Congress of the United States. Your Orator would further represent, unto your Honor, that in all the Actings and doings of your Orator, that he has acted in good faith with the Government of the United States and by the direction

and instruction of the said Government, by the Officers thereof, who had the charge of the public Land thereof, your orator further charges, that the said Government put your orator into peaceable possession of the said Land, when they, the said Government by the written Direction of the said Commissioner of the said Land Office directed him to have the said tracts of Land surveyed and marked and to prepare his prove, to prove that they were not swamp and overflowed lands, and that said Government agreed if he could prove the said tracts of Land to not be swamp or overflowed land, that he your orator should have the said for the sum of one Dollar twenty five cents per acre, and your Orator avers and charges that he did do in a reasonable time all that he was directed or told by the Government, that he should do, to complete the contract on his part, and further your orator charges, that the county of Livingston claims or pretends to claim all of said Land before described or referred to by virtue of the said several laws of Congress and of the State of Illinois and that the said County has had the said Land appraised

and is offering through her said Agents and servants, to sell the same and threatening through her said agents and servants to sell off said Land and to defraud your Orator out of the same and that the said County does not intend nor has not ordered, that any part of the purchase money, they may receive for the said Land shall be used for the purpose of draining the same and your orator further charges, that no ditching and draining is necessary to render the said Land fit for cultivation, but that said Land are more than twenty acres in each forty acre tract of said Land is dry and was dry on the 28th day of September A.D. 1850 and are now fitted for cultivation and are susceptible of tillage and raising any of the crops, that can be raised in said Livingston County and the said complainant would further aver, and charge that in the survey and having the quality of said Land ascertained, that he expended the sum of three thousand dollars, and that he applied to the Register and Receiver of the Land Office of the United States to permit your Orator to make proof of the character of said Land and that he had the necessary and competent witnesses in attendance to prove the character of said Land,

and that the same was not swamp or over-
 flowed lands; but that the same was
 aeriable and susceptible of cultivation
 without any drainage whatever, and that
 the said Officer of the Government refused to re-
 ceive the amount of \$1.25 per acre; Your
 Orator further charges, that in having the
 said land surveyed and inspected, he he
 surveyed and inspected each and every 40
 acre tract of land described and set out
 in the original bill in this cause and
 had the same inspected and has the proof
 of the same and frequently offered and still
 offers to prove to the satisfaction of the Officers
 of the Government of the United States at the
 Land Office that all said land are dry
 and fit for cultivation without any drain-
 age whatever and that the Government of
 the United States by their Officers refuse to per-
 mit your orator to make said prove or to
 purchase the said lands from the Government
 or to receive the purchase money for the same
 at the rate of \$1.25 per ^{each} acre thereof in
 gold coin, your orator further charges
 that the said county of Livingston had
 notice of all the before named actions of
 your orator and that the Government of
 the United States by her said Officer

fraudulently intending to cheat wrong and defraud
 your orator, your orator therefor charges, that the
 said county of Livingston, Ruining and confederating
 with the Government of the United States, intending
 to defraud your Orator out of said lands and
 out of the said sum of three thousand Dollars
 by him expended in ~~consequence~~ ^{causing} said lands
 to be surveyed and inspected, your Orator
 further charges, that said lists of lands is
 worth the full and just sum of one hundred
 and fifty thousand dollars of current money
 of the United States of America and your
 Orator further prays your Honor, that the
 said County of Livingston in the state of
 Illinois may be made party Defendants to
 this bill and that the said county may be com-
 pelled to answer all ~~and~~ singular the
 allegations herein contained as fully as if
 they were special interrogated thereto, and
 that the said County of Livingston may be
 enjoined and restrained from selling,
 disposing or in any manner meddling
 with obstructing your Orator's title to the said
 Lands and that all the Agents or servants of
 said county may be enjoined and restricted
 from selling, using, ~~keeping~~ or in any
 wise or molesting said lands or any part
 thereof and the said County of Livingston

herein

only hold the said land each and every
 tract of them in trust for your orator,
 and that a subpoena having issued
 out of and under the seal of said court
 and was directed to the Sheriff of said county,
 commanding and compelling said county, to
 answer all the allegations herein as in the
 original bill, was prayed for, and that the
 said County has been made party Defendants
 and that the said county may be compelled
 to convey said Land to your orator upon the pay-
 ment by your orator to the said County of
 one dollar twenty five cents per acre for each acre
 of said Land, which said money is ready to be
 produced in court and paid to the county under
 the Order of the said Court, and that your Orator
 shall have all the Relief, was prayed for in his original
 bill in this cause and such and further Relief, as
 shall be equitable and just, as shall more fully
 appear on the final hearing of this cause,
 as in duty bound, as your orator has ^{here} before
 prayed in original bill and still will ever pray,

John Clark, Complainant
 for self

John Clark
 vs
 Livingston County
 in Chancery
 Amended Bill.

Filed Feb 25th 1880
 B. M. Gray, Clerk

44 Livingston county circuit court. March term
1858.

John Clark

for Chancery

vs
Livingston County

and now comes the said Defendant
by W^m Wallace, Cuff & Hardie, her solicitors
and demorsors to the said amended bill herein
and say that the said amended bill and the
matters therein stated, as the same are
therein alleged are not sufficient in law
to entitle said complainant to the relief
prayed for or to any relief whatever.

W^m Wallace

Cuff & Hardie

Sols for D^f.

The complainant leaves and
joins in Demors. John Clark
Complainant.

5
John Clark
Livingston County
D^m to amended
Bill.

Filed Mar. 16th
Apr. 1858

Wm Gray
Clerk.

45- Livingston County Circuit Court March
Term AD 1858

At a regular Term of the Circuit Court
began and held at the courthouse in the
Town of Pontiac within and for the County
of Livingston on the fifteenth day of March AD
Eighteen hundred and fifty eight, Present the
Honorable Charles H. Starr, Judge of the Seven-
teenth Judicial Circuit Court of the Counties of
Livingston & and Simon de Witt, State's At-
torney, Benjamin W. Gray Clerk and James
W. Remick Sheriff

John Clark }
vs } Bill for conveyance and
Livingston County } relief

Now on this day comes the parties
by their counsellors and the counsel for the
respondant filed his demurrer to said
complainants bill herein and is argued and
taken under advisement by the court, untill
next term in course and the cause is
ordered to be continued.

Livingston County Circuit Court September
Term AD 1858.

at a regular term of the circuit
court began and held at the Courthouse
in Pontiac within and for the County of

Livingston in the state of Illinois on the third
Monday of September AD 1858 the Hon. Charles
R Star Judge of the twentieth Judicial
Circuit Court composed of the Counties
of Livingston Hancock, Ingham and
Livingston also B W Gray Circuit Clerk,
James W. Penick Sheriff & Simeon de
Witt State's Attorney

John Clark
vs
Livingston County } Bill for Conveyance & Relief

This day came the parties by their
counsels and the matters of the law arising
upon the said Defendants to Demure to the
Complainants Bill filed at last term of this
court is ordered by the Court, that said
Demurre be sustained and said Bill be
dismissed and thereupon the Complainants
excepts.

John Clark
vs
Livingston County

This day again came the said
complainant in person and by Ramsey &
Frost his solicitors and the Defendants by
Wallace her solicitor and the demure heretofore
interposed by the Defendants to said Complainants

47 Bill having been considered by the Court
and the Court being ~~now~~ fully advised
concerning the same doth now order, adjudge
and deem, that the said Demurr be sustained
to said Bill and now comes the said
complainant and saith, he will abide by the
Decision of the court and said Demurr and
therefore the Court doeth adjudge and Decree,
that the said complainant Bill herein be
dismissed and the said complainant be for
ever barred from having the relief prayed for
in said Bill and now again comes the com-
plainant and prays an appeal herein
to the Supreme Court, which is allowed
and conditioned, that the complainant
enter into an appeal Bond in the penal
sum of One Thousand Dollars with Silas
Ramsay as security within thirty days and
thereupon ~~filed~~ Complainant filed said bond
as ordered by Court.

Know all Men by these presents that we John
Clark and Silas Ramsey are held and firmly bound
unto the county of Livingston in the penal sum
one thousand Dollars lawful money of the
United States for the payment of which well
and truly to be made we bind ourselves and
heirs and administrators jointly, severally

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and firmly by these presents Witness our hands
and seals This 24th day of September AD
1858. the condition of the above obligation
is such that whereas the said County did
on the 22 day of September AD 1858 in the
Circuit Court of Livingston in the State of
Illinois recover a judgment against the
above bounden John Clark for the sum of Dollars
upon the dismissal of a certain bill filed
in said Court by said Clark against Livingston
County from which judgment the said John
Clark has taken an appeal to the supreme
Court of the State of Illinois for the Third
Division, Now if the said Clark shall
prosecute his appeal with effect and shall
pay whatever judgment may be rendered
by the Court upon dismissal or trial of
said appeal, then the above obligation
to be void otherwise to remain in full
force and effect

Signed John Clark (P.S.)
Silas Ramsey (S.)

John Clark Bond
as
Livingston County

Filed Sep 24, 1858
J. M. Gray
Clerk

State of Illinois }
Livingston County } ss.

J. B. W. Gray Clerk of the Circuit
Court in and for said County in the State afore-
said, do hereby certify that the foregoing is a true
and correct copy from the Records and papers filed
in the within entitled cause, in my office

In Testimony Whereof I have hereunto
set my hand and the Seal of our said
Court at Pontiac this Twenty first day
of January A.D. 1859

J. B. W. Gray
Clerk.

Appellant alleges the following Errors

- (1) The Court erred in its Decree at the September term
1858 in sustaining the defendants demurrer to
the complainant bill and in dismissing said
Bill
- (2) The Court erred in not sustaining the and
granting the Relief together with the injunction
prayed for

(3) The Verdict is erroneous in every
respect and should be reversed
John Clark
Counsel for appellant

And the said appellee by W. H. Wallace
comes & joins in error and says that
in the record of the proceedings aforesaid
there is no such error as said
appellant has above assigned, wherefore
they pray judgment that said decree
may be in all things affirmed
W. H. Wallace
counsel for appellee

~~(3) The Verdict is erroneous in every
respect and should be reversed
John Clark
Counsel for appellant~~

~~(3) The~~

275-45-
John Clark
Wm. Wherry

Serington County

Record

Filed April 21. 1859
L. Leland
Clark

Clark, \$5-4 Ck.