

8580

No. _____

Supreme Court of Illinois

J. W. Primmer

vs.

J. B. Crawford

Record of Pleas and proceedings
had in a certain Cause pending
in the Circuit Court of Jefferson
County, State of Illinois, at the
October term of said Court, A.D.,
1858, wherein John B. Crawford
is complainant and James W.
Pritchard is defendant, in a cer-
-tain bill in Chancery for
specific performance of
Contract for the conveyance
of land, on Change of venue
from Marion County, State
of Illinois -

Record from
Marion County

State of Illinois
County of Marion S. S.

Pleas and proceedings
had in the Circuit Court in &
for the County of Marion, and State
of Illinois in a certain cause
heretofore pending in said Court
between John B. Crawford Complt.
and James W. Pinner deft, &c.

Be it remembered that the
said complainant, by his attorney,
on the 11th day of April 1856,
A.D. 1856, filed in the office of the
Clerk of the Marion Circuit Court
his praecipe against said deft.
herewith exhibited as part of this record,
marked "A." Upon the filing of
which a summons issued marked
"B," as part of this report, and
afterwards, to wit on the 24th day
of April, A.D. 1856, a second summons
issued herewith exhibited, marked "C,"
as part of this report, and after-
wards, to wit, on the 25th day of
June, A.D. 1856, said complainant
by his attorney, filed his bill for
specific performance &c, herewith
exhibited as part of this record
marked "D." Upon filing which
bill &c a third summons issued
which is herewith exhibited marked
marked "E." and afterwards at the
September term of the Marion Circuit

Court, to wit on the 15th day of September, A.D. 1856, the following order was made by the Court, to wit =

John B. Crawford vs James W. Primmer

Bill for specific performance & appointment of a Receiver.

And now at this day came the said Compt by Bryan his solicitor & on his motion it is ordered by the court that said defendant be ruled to answer Compt's bill by Thursday morning, & afterwards, to wit on the 18th day of September 1856, said defendant by his attorney filed his answer & answer to said bill Compt's bill, which is asked to be received as part of this ~~case~~ - ~~port~~ record, marked "H". And afterwards at the August term of said Court, to wit, on the 11th day of August, ¹⁸⁵⁷ 1857, the following order was made by the Court, to wit:

John B. Crawford vs James W. Primmer

Bill for specific performance

And now at this day came the said defendant by Houts & Hamilton his attorneys, & files his answer to said complainant's bill here

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which said demurrer is overruled by the court, and defendant required to answer said bill by 1st Friday of the present term of this court. And afterwards to wit on the 13th day of August A.D. 1857, the following order was made by the court to wit:

John B. Crawford }
vs }
James W. Primmer }
Bill for Specific performance.

And now at this day came the said parties, and the said deft by Houts + Keamilton his attorney, upon affidavit made the court that ~~the~~ said plaintiffs be required to show cause why security for costs should not be given, whereupon the court orders that ~~the~~ plaintiffs show cause by Saturday morning - & afterwards ~~the~~ on motion of said plaintiffs by his said solicitor the rule on plaintiffs to show cause is extended to the second Friday of this present term of the court.

And afterwards, to wit on the 20th day of August A.D. 1857 said complainant filed his bond for costs in this suit, herewith exhibited marked "I."

And afterwards to wit on the 20th day of November, A.D. 1857

in pursuance of notice the said
compt attended at the Clerk's
office of the Major Circuit
Court for the purpose of taking
the depositions of Isaac McClellan
and Blakely Pilkington, William
Aird, and Logan Shelton, which
depositions are herewith exhibited
and asked to be received as part
of this Record marked "D."

And afterwards at the
March Term of said Court,
to-wit the 16th day of March,
A.D. 1858, the following order was
made by the Court, to-wit:

J. B. Crawford

vs

J. W. Primmer

Tuesday March
16th A.D. 1858.

Bill for Specific performance
And now at this day came the
parties hereto by their solicitors and
the said parties hereto having con-
sented that this cause be removed
to the Circuit Court of Jefferson
County, State of Illinois, for hear-
ing, and that ~~the~~ same be heard
on the 2nd week of the May Term
A.D. 1858, of said Circuit Court
of Jefferson County, the Court doth
order that this cause be and the
same is hereby removed for hear-
ing to the Circuit Court of Jef-
-ferson County, State of Illinois,
and it is further ordered that this

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Cause be set down for hearing in the second week of the May Term, A.D. 85-8, of said Circuit Court of Jefferson County State of Illinois, to be holden at the Court house at Mt. Vernon, in said county of Jefferson, on the 1st day of May aforesaid.

And it is further ordered that the clerk of the circuit court of Maion county make out and transmit to the clerk of the circuit court of Jefferson county, Illinois a full, true and perfect record of the proceedings herein.

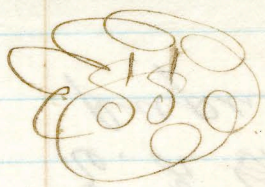
And the said debt by his solicitor asks leave to open the depositions herein, which leave is granted by the court, and said depositions were opened accordingly.

(De Rile omitted)

State of Illinois } S.S.
Maion County } 3

J. H. W. Sagan, Clerk
of the Circuit Court within and
for said county do hereby certify
the foregoing to be a true and
correct copy of the record in
the above entitled cause and
that the papers therein referred
to as exhibits marked A, B, C, D,
E, F, G, H, I, J, are the original
papers.

Given under my hand



and official seal at
Salem, this 15th day of
April A.D. 1858.

H. W. Bagan Clerk
By J. O. Chance, deputy.

Cost of Marion Circuit Court
as taxed \$10.95-

Which said Record & proceed-
ings are endorsed as follows
to wit. J. B. Crawford as James
N. Primmer, vs Record - Filed
April 15th 1858. J. S. Bagan Clerk.

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Of the May Term of the Session
Circuit Court for the Year 1856.

John B. Crawford

vs } Bill for Specific Performance
James W. Primmer } and the appointment of a
Receiver.

To the Hon. Edwin Beecher, Judge of
the Twelfth Judicial Circuit in the State of
Illinois in Chancery sitting - Humbly complain-
ing, sheweth unto your Honor - Your orator, John B.
Crawford, of the County of Alton and State of
Illinois, that on the Twelfth day of March eighteen
Hundred and fifty-Six, he made and entered into a
certain contract in writing with James W. Primmer,
of the County & State aforesaid, - That said contract
in writing related to and defined the terms of a
purchase made by your orator of said Primmer,
of certain Real Estate, with the appurtenances, sit-
uated in the Town of Sandoval, Alton County,
Illinois - That your orator attaches hereto a copy
of the said Contract in writing, the original not
being in his possession or control, but prays, when
produced by said Defendant, it may be treated as a
part of this, your orator's Bill of Complaint, and
to which leave is asked to refer herein. By the terms
of said Contract in writing, your orator was to
have paid said Primmer the sum of Twelve
Hundred dollars for the following described Real
Estate to wit - Ten feet off the West side of Lot
Number Eleven, and Thirty-two feet off the East
Side of Lot No. Ten, in Block Number fourteen
of Primmer's addition to the Town of Sandoval,
in Alton County, Illinois, and payment was
to have been made as follows, - Two pair of work

Bill

Oxen, at one Hundred and eighty Dollars, - Four hundred and Twenty dollars, to be paid on or before the twentieth day of March 1856, and Six hundred dollars to be paid to Isaac McClelland, provided that said McClelland would receive the said Six hundred dollars in Lien and in consideration of the New Money due him from said Trimmer and Thomas Wickoff, for six months, from March 20th, 1856, if not, then the aforesaid Complainant was to pay the said Six hundred dollars to the said Defendants on or before the first day of September eighteen hundred and fifty-Six.

And further, your Orator sheweth unto your Honor, that it was provided in said written contract, that a failure on the part of your Orator to make payment as specified, would occasion a forfeiture of what may have been paid, - That is to say, a failure to comply with the Terms of said written contract on the part of your Orator touching any one of the payments therein recited and herein substantially quoted, would produce a forfeiture, (as a penalty) of whatever amount or amounts that may have been paid on said property, together with improvements made thereon, in obedience to the requirements of said contract of purchase. - That it was further provided in said Contract of Purchase, that your Orator was to have possession of the property herein described, on and after the said Twentieth day of March 1856, subject to the Lease of one Lewis Hite on said property,

provided your orator complied with the Terms of said contract, and the said Hite was to pay the Rent reserved in said Lease to your orator, on and after the 20th March 1856, (also between 12th & 20th March 1856.)-

That upon a compliance on the part of your orator with the Terms of said contract it was provided therein, that the said Defendant, or his Heirs or Assigns, was to make and execute to your orator, his Heirs or Assigns, a good and sufficient Deed in fee Simple, of and to the said property. And further, your orator sheweth unto your Honor, that the payment of the work Cattle referred to in said Contract, were to be paid at the time of the execution thereof, and your orator charges that they were delivered as agreed upon, and at the price specified, and that said Defendant took them at the price of One Hundred and eighty dollars, as part payment for said property, and as the first instalment of the said Twelve hundred dollars - This was on the 12 day of March 1856. - That after this date and before the 20th day of March, 1856, your orator sheweth unto your Honor, that one Jabez Adams became interested in said contract with your orator, and aided in making preparation for the fulfilment of the Terms of said contract - That your orator and said Adams proceeded to make arrangements with said Isaac McCallane to pay for and in behalf of said Defendant, and said Nickoff, the said Six Hundred

Dollars referred to in said contract as part of the consideration of the said property, and as another instalment of the said Twelve Hundred dollars, and your orator charges that he and said Adams did settle with and make payment to the said McClelland - he accepting the same as contemplated in the said contract, - of the said Six hundred dollars for the benefit aforesaid, and as a payment in cash, and as another condition and instalment of the said Twelve hundred dollars, and took a Receipt of the said McClelland, as your orator believes and avers under the date of 20th March, 1856, or about that time, which receipt purports to be a full discharge of the said Defendants and said Wickoff from their liability to said McClelland, for Rent as set out in said contract, and your orator distinctly charges that said payment to said McClelland fully met and satisfied his undertaking in reference thereto, and is justly entitled to treat the same as a payment of that amount - That is to say, the amount of Six Hundred dollars as expressed in his said contract with the Defendants, and as expressed in said Receipt from McClelland. - Your orator further charges, that on the said twentieth day of March, 1856, he had the full amount of money in his possession - all in Gold, save one hundred and fifty Dollars - one Hundred dollar bill, and one Fifty Dollar bill, on the State Bank of Missouri - both

genuine & better than Gold) to make the payment of Four Hundred and Twenty dollars that was to be paid on the said 20th day of March, 1856. - That on said day your Orator notified said Defendants that he had the full amount of Four Hundred and Twenty Dollars to make the payment aforesaid. - That he had the money above described, and demanded of said Defendants a Deed for the said property, satisfying said Defendants that the arrangement & payment aforesaid had been (or would be) perfected with & to McClelland.

Your Orator charges that the said Defendants then and there received the payment on said day, & all his rights of forfeiture claimed under and by virtue of said written contract, by assuring your Orator by parol that it made no kind of difference about the payment on that day, and that he did not have the Deed to the property prepared, and that any time between the said 20th day of March and the last of the said month, or longer, if not convenient to your Orator to pay, would be sufficient and satisfactory to him. - That he did not wish to take the said paper money, as he was dealing in the Land Office & wanted Gold, and extended the time from the said twentieth to any time before the last of the said month & longer, if not convenient to your Orator, ^{to pay that sum,} for the purpose of preparing the Deed to said property, and giving your Orator an opportunity of changing said paper money into Gold, but afterwards on the same day said Defendants said he would accept said money & prepare

a deed to this ¹² property, which he failed to do.

Your orator charges that said defendant had notice before the said 20th March, 1856, that your orator had by the assistance of said Adams perfected the payment, (or would have the same perfected by 20th March, 1856) to said McClelland and that your orator had the \$420 in money to meet his undertakings in said contract executed, and that he might have been prepared on ~~that~~ said day with a deed for said property; but that the said defendant in full view of these facts, and with the settled purpose, as your orator ~~is~~ ~~has~~ ~~been~~ informed and believes, to defraud and impose upon him, made use of the pretext that he wanted the money in gold, and that it ~~was~~ made no kind of difference about closing the matter on the said day, and your orator shows unto your honor, that he is informed, and believes that the said defendant did on the 21st day of March, ¹⁸⁵⁶, or about that time, make a deed to said property to your orator and said Adams, or to your orator alone, that is to say, executed a deed but did not deliver the same, or give your orator or said

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Adams notice that he was ready to deliver the deed and take his money, and the receipt aforesaid executed by McClelland, but on the contrary thereof began to boast of his victory, to the citizens of said Sandvool over your orator, and claimed a forfeiture of the offer paid and delivered, and also the payment as aforesaid to said McClelland, and that, as he said, because your orator had not made a tender of the money in gold or silver, on the said 20th of March, 1856. But your orator sheweth unto your honor, that the said defendant, under the extension of time aforesaid gave instructions to said Heite to pay your orator, or your orator and said Adams the rent reserved on said property.

And your orator charges that after the said 20th March, 1856, and on or about the 29th of said month, and under the said contract as modified by said defendant in point of time, he actually took up and from the said McClelland, his notes or other evidence of indebtedness, or the said indebtedness to the said McClelland to the amount of the said six hundred dollars, or the same that was in contemplation of the parties at the time of writing said contract, and

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which had been paid off by your orator and Adams as aforesaid, and that the receiving of said evidence of indebtedness, and after the said 20th March, 1856, was virtually an abandonment of the said original contract.

And further your orator charges that after and before the said 20th March 1856; and before the last of said month, your orator by himself or said Adams, as being interested in said contract for himself and your orator, tendered to the said defendant the said sum of four hundred and twenty dollars, the money installment in gold, and demanded a deed of said defendant, and both before and after the said defendant had received the evidences of the payment aforesaid to the said McClelland, but the tenders aforesaid were all after, save those made ^{before} 20th March, of land office money, the said defendant had notice and was satisfied that your orator had complied with his undertaking in reference to the payment to McClelland, and further your orator charges that he made a tender of said money or \$420 installment, for the last time in the early part of April, 1856, by his agent said Adams, who was interested as aforesaid, that he tendered then every dollar in gold

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that was due said defendant and proposed to comply in full with his contract and demanded a deed of and to said property, to himself or to himself and said Adams at the option of said defendant, but that said defendant positively refused to comply with his contract and undertakings or to receive the money and deliver a deed.

Your orator charges that the uncertainty of the said installment and the manner of its performance and payment to the said McClelland, and the manner in which the same was connected with the said installment of \$420, entitles your orator, independent of the modification of said contract by defendant to relief from a strict forfeiture under that branch of said contract to a court of equity and that all the conduct and proceedings of the said defendant in the premises are contrary to equity and sound honesty, and that said defendant has conducted himself in every step of the transaction herein detailed as though he was seeking the advantage, and aiming to impose upon and defraud your orator.

And further your orator sheweth unto your honor that he brings here into court the said receipt from ~~the~~ said McClelland, and the said four hundred

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dred and twenty dollars in gold, together with all interest thereon - and further, that since the bad faith and refusals of ~~the~~ said defendant, touching the premises the said Adams has withdrawn from all connection with your orator in the said transaction, and your orator has fully paid and satisfied said Adams for his investment, and so forth, in the subject matter, and that your orator is entitled to the full benefit of ~~the~~ his said contract, alone, and further the said defendant has, since his order given to ~~the~~ said White to pay rent to your orator, countermanded the same, and now claims the rent of the said property to himself, and has also said said White for the rents that he ordered to be paid to your orator as your orator charges that he took possession of said property at the instance of said defendant on 20th March, 1856, by said White as tenant -

In consideration of the premises and ~~as~~ your orator is remedied by the rules of the common law, and relievable only, in a court of equity where matters of the kind are properly cognizable - to the end therefore that the said defendant may file true, direct and perfect answer

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make, (his oath thereto being duly
wained) according to the best of
his knowledge, information and be-
-lieif, to all and singular the
matters and charges aforesaid, as
fully in every respect as if the same
were here again repeated, and him
therunto particularly interrogated and
more especially that he may set forth
according to the best of his know-
-ledge, information and belieif, whether
the said copy of the said written
contract, executed as charged, is
a correct transcript of the same,
whether he did not receive the work
Cattle, as charged at the price stated,
and whether the said Adams did
not between the 12th and 20th March
1856, or at some time become in-
-terested in said contract of pur-
-chase as charged; whether the ar-
-rangement and payment of said
McClelland is correctly set forth,
Whether he did not receive from said
McClelland the evidence of indebted-
-ness as charged; Whether he was
not notified by your orator on
~~the~~ 20th March, 1856, that the money
was ready all in gold ~~at~~ ^{save} ~~at~~ \$150. as
charged, and a deed demanded,
and whether he did not waive the
payment on that day, and say that
it made no difference. Whether he did
not feel satisfied and know that

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your orator had paid McClelland
as charged, and whether he did not
see on said day or soon after, the
said receipt, or know or believe
it to be in existence at that time,
Whether he did not tell said Hite
to pay the rent on said property to
your orator, and whether he has not
since, and very shortly afterwards, con-
-temandered said order. Whether he
had a deed to said property prepared
on 20th March 1856, and whether he did
not afterwards prepare a deed as charg-
-ed; Whether the money constituting the
money installment, was not tendered
as charged in the month of March
1856, and whether the same was not
tendered as charged in the forepart
of April 1856, and whether he did not
refuse to take the same at the times
charged, and deliver a deed either
to your orator, or to your orator and
said Adams jointly. Whether he did
not extend the time of payment
as charged and for the reasons charged
or for what reason or reasons. Whether
he has not sued said Hite for the
rent of said property, and ~~he~~ he
required to make such other answer
as may be necessary to a full hearing
of the bill.

And that the said defendant
may be compelled by a decree of
this honorable court to make a good

and sufficient title in fee simple of
the premises to your orator, the balance
due thereon being here tendered, in court
and that a short day be given said
defendant in which to execute a
deed, and if said defendant
shall fail so to do, on or before
the day fixed, that a commissioner
to be appointed by this honorable
court, shall execute the same in pur-
-suance of the said contract in
writing, and that in the meantime you
honor ~~may~~^{will} appoint a receiver, to
receive the rents and profits of said
property to be retained by him till
the final disposition of this cause, and
then paid over according to the order
of the court. And that your orator
may have such other and further
relief in the premises, as the nature
of his case shall require and as to
your honor ~~may~~^{shall} seem meet.

And may it please your
honor to grant unto your orator
the proper writ of summons to be
directed to the said James W.
Pimmer, thereof commanding him at
a certain day and under a certain pen-
-alty therein to be specified, to be and
appear before your honor in this hon-
-orable court, and then and there
to answer the premises, aforesaid,
and to stand by and perform and
obide such order and decree there

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-in as to your Honor shall seem met,
and as in duty bound will ever pray.

John B. Crawford,
per Silas L. Bryan, Sec.

Upon which said bill were the following endorsements, to wit: "John B. Crawford vs James M. Primmer - Bill for specific performance and the appointment of a receiver - Filed, June 25th 1856, B. F. Marshal, Clerk, by G. H. Pace, Deputy -"
"Filed April 15th 1858, J. S. Bryan, Clerk".

Attached to said bill, & filed therewith was the following instrument of writing, to wit:

This indenture made entered into this the twelfth day of March, in the year of our, eighteen hundred and fifty-six between James M. Primmer of the first part and John B. Crawford of the second part, all of the County of Marion & State of Illinois, witness that the said party of the first part, for and in consideration of the sum of three hundred dollars to be paid to him by the party of the second part as follows, to wit, two pairs of working oxen at one hundred and eighty dollars, to be paid at even date herewith; four hundred and twenty dollars to be paid on or before the

Written contract.

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Twentieth day of March, 1856, and six hundred dollars to be paid to Isaac McClellan, provided, ^{that he} the said McClellan will receive the said six hundred dollars in lieu and in consideration of the rent money due him from James W. Primmer and Thomas Wickoff for six months from March 20th 1856, if not paid then the aforesaid Crawford is to pay the aforesaid six hundred dollars to the aforesaid James W. Primmer, on or before the first day of September, 1856, binds himself, and his heirs ~~and~~ assigns to convey, unto the party of the second part his heirs ^{and} assigns forever, by a good and sufficient warranty deed, all that tract or parcel of land with all the appurtenances thereto belonging, lying and being in the town of Landoval, and county of Marion, Ills. described as follows: ten feet off the west side of lot No. (11) eleven, and thirty-two feet of the east side of lot No. (10) ten, all in block No. 14, fourteen, of Primmer's addition to the town of Landoval, in the county of Marion, Ills.

Furthermore it is mutually agreed that if the said party of the second part shall fail to pay unto the party of the first part ~~all payments previously made~~ either of

the afore²²said installments at the time
it may fall due, the said party of
the second part shall forfeit unto the
party of the first part all payments
previously made, together with all
improvements on said premises, and
the party of the second part will not
set up any claim to said premises,
either at law or equity, and permit
the party of the first part to enter and
possess the same for his own use
and benefit -

Furthermore it is agreed that
the party of the second part is to have
full possession of said premises,
on or after the 20th day of March,
1856, subject to the lease of Lewis Hite,
who is to pay the rent to said Crawford,
provided always that the party of
the second shall have complied with
the foregoing requirements - Witness our
hands and seals the day and ~~year~~
date aforesaid -

James W. Primmer Seal

Geo. B. Crawford " "

In presence of -

Jabez Adams -

And afterwards, to wit on the 14th day
of August, 1857, the said James W.
Primmer filed his answer in said
Maine Circuit Court, in words and
figures following, to wit -

State of Illinois, 3
 Marion County. 3

In the Marion Circuit Court,
 September Term, 1856.

The answer of James W. Primmer
 defendant to the bill of complaint
 of John B. Crawford in said Circuit
 Court, for specific performance
 &c.

This defendant now, and
 at all times hereafter, viewing all
 manner of benefit and advantage
 to himself of exception to the many
 errors and insufficiencies in said
 bill contained, for answer thereto,
 or ^{unto} ~~to~~ so much or such parts thereof
 as this defendant is advised is
 material for to make answer unto,
 he answers and says -

He admits that he entered
 into a contract with the said com-
 -plainant for the sale of certain
 real estate, and he believes that the
 copy filed with said bill is a
 correct copy of said contract.
 He admits that he received the work
 cattle as set forth in said Bill.
 He admits that said Adams
 became interested in said con-
 -tract of purchase as set forth in said
 bill; he admits that an arrangement
 was made with said McClelland
 by said Adams, and it may have
 been made some time near the time

Answer of
 Defn.

set forth in said bill. He admits that he received from said McClelland the evidences of said indebtedness.

He denies that he was notified by said Compt. on the 20th of March 1856, that the money was ready, all in gold & ake \$150, or any part of it, as set forth in said bill, but he avows the truth to be that said Complainant did not have the said money ready to pay Respondent on said 20th March 1856, according to the conditions of said contract, neither did he tender the same ~~and~~^{or} demand a deed. On the contrary, this defendant called upon, and demanded said money from said complainant, and he failed to pay the same. He also denies that he waived the payment on said day, and say that it made no difference, but on the contrary, he needed the money, very badly, and so told ^{said} complainant, and insisted on closing up the ~~contract~~^{matter} according to the conditions of said contract. He denies that he felt satisfied, or that he had any evidence on said 20th March, that said Compt had paid McClelland.

He admits that he told said scribe to pay the rent on said property to said Compt, after said 20th March, provided always that said Compt paid this debt in

full according to the terms and condition of said contract. And he also admits that after the said 20th March, and after said contract had been forfeited by said complt, he countmanded said order and directed said Suite not to pay said rent to said complt, for the reason that said complt had forfeited said contract.

He says that he had a deed to said property prepared on said 20th March, and was very anxious and ready to have said matter closed on said day.

He denies that the money constituting the money installment was tendered on the said 20th March, or during the month of March or April, as charged in said bill. He denies most emphatically that he ever refused to take and receive said money on said 20th day of March on the day which said money was to be paid, according to the conditions and terms of said contract, or that he refused to deliver a deed to said complt. He denies that he extended the time of payment of said money installment as set forth in said bill, but on the contrary, as before averred, he was anxious and insisted that said money should be paid on said day,

and according to the terms of said contract.

He admits that he has sued said White for the rent accruing on said property, he having failed to pay the same as he was bound so to do.

Defendant further answering says that previous to the said 20th March, the day on which said money installment was to be paid, he sent word to, and told said Complt, that he would want said money on said day, and wanted him to be ready to pay the same, and that on said day he called upon him the said Complt, being prepared to deliver said deed to him if he had the money ready, and demanded the money according to said Contract. but said Complt failed and refused to pay him as he was bound to do, according to said Contract, giving as a reason that he had not the money, nor could he get it.

He further says that previous to said 20th March, ~~the~~ said Complt and said Adams tried to borrow said money, and offered a large per cent for the same, giving as a reason that if he or they failed to get the same by the said 20th March, ~~the~~ the Contract

would be forfeited, and he would lose all he had paid on same, and they having failed, as Complt averred on said day, to get said money, did not on said day, 20th March, pay or offer to pay the same nor was any other contract entered into by and between the said Complt and defendant, extending the time or in anywise affecting, altering or changing the conditions & terms of said original contract.

And this defendant denies all fraud, undue advantage, or imposition in said bill charged, without that any other matter or thing material for him to make answer to, and not herein sufficiently answered, ~~and~~ avoided or denied, is true to the knowledge ~~and~~ belief of this deft. All which matters and things this deft is ready to aver and prove as this court shall direct, and pray to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

J. W. Pinner,
By Houbt & Hamilton, Solrs for deft.

And afterwards the said Complt, in the said court filed his replication to said deft answer, as follows:

And said complainant still insists that he is entitled to

Replication

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the relief prayed in his said bill, the answer of said deft to the contrary notwithstanding, & said complainant still insists that his bill is true, and that the answer of the defendant is wholly false and untrue, &c.

S. S. Bogan Sol for Complt

On which said answer and replication, appear the following endorsements -

"H" "Answer - James W. Pimm vs. John B. Crawford, - Filed ~~17th~~ August 17th 1857; H. W. Leagu CLK, by B. J. Marshall depty."

"Filed April 15th 1858. - John S. Bogan, CLK - Keont, Hamilton & Hicks attys for ^{clerk} ~~complt~~

And afterwards, to-wit on the 15th day of May, A.D. 1858, at a circuit court within and for the county of Jefferson and state of Illinois at the May term thereof, the following order was made:

John B. Crawford }
vs } Bill in Chan
James W. Pimm } - cum - change
of venue from Madison County -
learned this day the complt by Haysie
O'Mulvey & Bryan, and the deft by
by Hicks & Hamilton his solicitors
and this cause being ripe for et

hearing, by agreement is submitted to the Court, upon bill, answer, depositions, exhibits and proofs, and the Court not being sufficiently advised in the premises, takes the same under advisement,

And afterwards, to-wit; at the October Term, A. D., 1858, of the said Jefferson Circuit Court, on the 25th day of the month of October aforesaid the Court having examined the matter proceeds to final decree, as follows:-

2nd Tuesday October 26th A. D. 1858,

John O Crawford

vs
James W. Primrose

Bill in Chancery -
Specific performance
Change of venue from
Marion Co. Ills,

This day comes the parties herein, the Complainant by One Evans his Solicitor and the Defendant by Hamilton his Solicitor, and the Court having fully considered and examined the proofs in this cause as well as the arguments of Counsel, submitted at the last term of this Court, It is ordered, adjudged, and decreed, that the said Defendant make execute and deliver to the said Complainant a deed of and to, the said premises described as

follows, to wit; ten feet off of the west side of Lot No Eleven, and thirty two feet off of the East side of Lot ten, in Block no. fourteen, of Trimmer's addition to the Town of Sandoval in Marion County Illinois, upon the payment to him by the said Complainant of the money tendered in said Bill, within twenty days from this date, and that in default thereof, that the master in Chancery of Marion County Illinois make execute and deliver to the said Complainant a deed of and to the said premises and that the Defendant pay the costs in this cause -

Whereupon the Defendant by his Counsel prays an appeal to the Supreme Court of the State of Illinois, which is granted on the defendant entering into bond, with William Aird Security in thirty days from this date -

John B Crawford

vs
James W Primmer

Bill for Special performance &c

Mr James W Primmer defendant in the above styled cause you will please take notice that I will appear before William W Bagan Clerk of the circuit court of Marion county Illinois at his office in Salem on Friday the 20th day of November 1857. at ten o'clock A. M. and continue from day to day till through for the purpose of taking the depositions of Logan Shelton, B Pilkington William Aird James Adams Isaac McClelland and Alexander McClelland which when taken I propose to read in evidence on the trial of said cause which is now pending and undetermined in the Marion Circuit court when and where you may attend and cross examine said witnesses if you choose

John B Crawford per
Silas L Bryan Solr

Marion county
State of Ills.

I John B Crawford do hereby certify that I have this day served the above notice on James W Primmer by delivering to him a correct copy in writing of the same
Witness this 7th day of November A D 1857.

J. B. Crawford

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State of Illinois
Marion County } The Depositions of Isaac Mclelland,
Blakely Pilkington, William Aird & Logan Shelton
of the County of Marion and State of Illinois.
Witnesses produced sworn and examined before H. W.
Cagan Clerk of the Circuit Court in and for said
County and State on the 20th day of November,
A D 1857, at the Court House in the town of
Salem in said County in pursuance of the
annexed Notice to be read as Evidence on the trial
of A certain Suit in Chancery now pending and
undetermined in the said Circuit Court wherein
John B Crawford is Complainant and James W
Primmer is Defendant on the part & behalf of
the said Complainant. The said Isaac Mclelland
being first duly sworn according to law deposeseth
and saith in answer to the several interrogatories
proposed to him testified as follows to wit:

Int 1st are you acquainted with the parties to this
Suit: and if so how long have you known
them.

Ans. I am, have known them about three years.

Int 2 State if you please, all you may know in
reference to the Sale of a house known as the
Sandoval House in the town of Sandoval by
Primmer to Crawford.

Ans Primmer told me he had sold the House to
Crawford and Crawford said he had bought it.

Int 3

D 34

State if you knew when the trade was made and how much Complainant was to give the Defendant for the House & Lot, and what you know of A payment made by Complainant through you and at what time the same was done:

Ans

If my memory serves me right it was in the month of March 1856 I do not recollect the precise amount, but was some where twelve or thirteen hundred Dollars, I held Primmer's note for six hundred Dollars, and Crawford paid me for the note to pay on the House & Lot, and to the best of my recollection I handed the note to Primmer for Crawford. I do not remember the precise time when I give the note to Primmer, but it was some little time after the trade.

I expected A receipt on the 21st of March 1856 and A few days afterwards I handed the Note to Primmer, think he received the pay a few days afterwards

Cross examined by Deft

Int 1st

Do you recollect of Mr Primmer sending word by you that he wanted his money; and that he wanted him to be ready.

ans

Mr Primmer told me to tell him that he wanted his money, but whether I told him or not I cannot recollect

Int 2 State Whether Mr Adams or Mr Crawford tried to borrow money of you to make up the payment, and what he said about not having the money;

Ans He Crawford did get some money of me for that purpose but I dont recollect the amount exactly he said he lacked a little of having enough and I let him have some but I dont know whether it was enough to make out the payment or not, I think this was after I gave the receipt to Crawford

Int 3 Did Mr Adams or Mr Crawford send word to Mr Primmer that the money was not ready but would be in a day or two and if he would take Apart.

Ans They sent word that the money was at Salem and they said to ask Primmer if it would make any difference if he could not get it for a day or two.

Isaac McSholland,

Blakey Pilkington being sworn testified as follows to wit;

Int 1st are you acquainted with the parties to this suit and if so how long.

Ans I am I have been acquainted with them about two years.

(37) 37
Wm Aird being Sworn testified as follows to wit.

Qut 1st are you acquainted with the parties to this suit?

Ans Yes Sir, I have been acquainted with them some time.

Qut 2 State what you may know about the sale of A House & Lot in Sandoval by the Deft to the Complainant State fully all you know about it.

crossed in the copy

Ans I had Mr Crawford say he bought it

Qut 3 State what you may know about Crawford or Adams paying or offering to pay Mr Primmer for that House in Sandoval.

Ans. I think that Adams came to Primmer and Adams said to Primmer to take no advantages of him, that he would be prepared in A day or two to pay him and Primmer said that was all he wanted. It was some time about the time of the trade Primmer said it should have been paid about A week before that, I recollect that Adams stated to Primmer that Crawford had sent Primmers Brother down to tell him that he would be ready in A day or two and that they would pay Primmers expences for his detention for not getting off to Sandalia

Wm Aird

Adjourned till 2 o'clock P M to morrow
Examination resumed.

Logan Shetton being Sworn testified as follows to wit.

(6) 38.

Q¹ are you acquainted with the parties to this suit

ans Yes Sir,

Q² State if you please what you may know about Jabez Adams making a tender of money to the Defendant for a House & Lot in Sandoval and demanding a Deed for the same, also state when and where it was done if at all,

ans I ~~do~~ at Dwyers Mill in Salem I saw Mr Primmer & Jabez Adams together and Adams pulled out some money out of his purse and they set down together on a Saw log and Adams told Primmer that he had the money and wanted to pay him for the Sandoval property and get a Deed for it Adams said that he had had some paper money before and that Primmer would not take it, but that he had the gold for him now, and Mr Primmer said that he was too late about offering the gold, they were sitting down side by side on the log and Adams poured out the gold into his hand and commenced counting it by twenty dollar gold pieces and he picked up as many as five making one hundred dollars and offered it to Mr Primmer as though he was going to pay it all over one hundred dollars at a time, Adams said to Primmer that he had 400⁰⁰ in gold which was the amount of the payment he had to make and proposed paying him witness thinks that he had that much gold in his hand.

(7) 39
Adams demanded A Deed from Mr Primmer
Either to him & Crawford jointly or to Crawford
alone and Mr Primmer said ^{that} he should not
make the Deed Mr Adams then told Mr Primmer
that if he did not take the money and make
the deed that he would have no more to do
with it and that he and Crawford would have
to fight it out by Law it seems to me that this
was the last of March or the first of April of 1836.

Crossexamined by Deft

Int 1st What did Mr Primmer say to Mr Adams when
he offered him the money and how much money
did Mr Adams count out to Mr Primmer?

ans Mr Primmer told him that they had let the day
pass that they should have got the Deed. Mr -
Primmer said to Adams that he had his and
Crawfords Bond for the payment of the money
and they had let the time pass and had not
made the payment, and that he was not obliged
to make them A deed. Adams poured the money
out in his hand and said that he had the money
to pay him and that he wanted the deed he only
counted A hundred Dollars he had the money in his
left hand and he picked up a hundred dollars in
his right hand in twenty Dollar gold pieces and
offered to pay him and Primmer said that he would
not take it that he had not come up to the time
and that he would not make the deed, and he
put the hundred Dollars back into his left hand and
kept it there rattling it for some time and then
dropped it back into his pocket book and kept it

(8.) 49
There shaking it for sometime and kept telling
Primmer several times that he wanted to pay
him and Primmer refused to take it

Int 2 Do you know whether or not Adams counted
more than one hundred Dollars and offered to
Primmer at that time

Ans No did not

Reexamined

Int 1st State if you understood from the parties
during the conversation referred to by you how
many days Adams & Crawford were too late in
making the tender in gold.

Ans Well I dont know how long, not many days
as I understood from the parties

Int 3 State if you can recollect what Mr Primmer said
in reply to Adams when he remarked that he
had had the paper money for him and he
refused to take it?

Ans I cant recollect that he said anything in reply
to it

Reexamined

Int 1st did you hear from Mr Primmer any admission
that any paper money had ever been offered?

Ans So I think not

Joseph Shetton

State of Illinois 41
Marion County

J. H. W. Eagan Clerk of the
Circuit Court within and for said
County do hereby certify that the above Depositions
of Isaac McClelland William Aird & B. Pilkington
were sworn to and signed by the Deponents before
me and in my presence and that the said
Depositions were taken by me on the 20th day
of November A. D. 1857. at my office in the Town
of Salem in the said County of Marion between
the hours of 10 o'clock A. M. & 5 P. M. of said day.



Given under my hand & Seal of office
at Salem on the day and date above
Written J. H. W. Eagan Clerk

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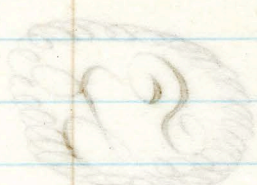
State of Illinois
Marion County J. H. W. Bagan Clerk of
the Circuit Court within and
for the County do hereby certify the the above
Depositions of Logan Shetter was sworn to
and signed by the Deponent before me and in
my presence and that the said Deposition
was taken by me on the 21st day of November
A D 1857 at my office in the Town of Salem
in the said County of Marion between the
Hours of 10 o'clock A. M. & 5 o'clock P. M. of said
day



Given under my hand and
official seal at Salem on the day
& date above written

J. H. W. Bagan Clerk
Pr J. C. Chance

Sept-



State of Illinois ss,
County of Jefferson

I, John S. Bryan,
Clerk of the Circuit Court, within and
for the county of Jefferson and state
of Illinois, do hereby certify that the
foregoing pages contain a full
true and perfect record of the
Bill, answer, depositions and pro-
ceedings in the cause herebefore
pending in our said court
wherein John B. Crawford was
complainant and James W.
Pinner was defendant - care-
fully examined and corrected
from the original files yet re-
maining of record in my office

In testimony whereof I
have hereunto set my hand
and affixed my seal
of office at Mt. Vernon
this 8th day of Decem-
ber, A.D. 1858.

John S. Bryan
Clerk Circuit Court

30

John R. Crawford

vs

James W. Primmer

vs

John B. Crawford

Bill in Chancery for
Specific Performance

Record 8,300 words

\$8.30 - certificate 25 cts. -

Total \$8.55.

Filed Oct. 21. 1859-

A. Johnston Clerk

Prepaid - \$5.00-

November Term - Supreme Court A.D. 1859.
First Grand Division

James W. Pinner

Appellant

No. 30.

vs

John B. Compton

Appellee

} Appeal from Jefferson.

I request that this appeal be dismissed -

November 9. 1859 -

James W. Pinner

30

J. W. Pannun
vs

J. B. Crawford

Order to Dismiss
Appeal -

Filed 9th Nov. 1859

A. Johnston Ck

30

James W. Primmer
Appellant

vs

John B. Crawford
Appellee

Agreement on file.
to Dismiss this
Appeal

No 30

1859

J. W. Primmer

vs

J. B. Crawford

Appeal from Jefferson

8580

Dismissed by agreement, at
cost of Appellant -

See Order Book "B". Page 68.

Costs on Page 372 -