

\*JOSEPH MANDEVILLE and others, Appellants, *v.* RODERICK BURT, Complainant.

The same Appellants *v.* J. and W. SOUTHGATE, Complainants.

The same Appellants *v.* WILLIAM NEALE, Administrator of FRANCIS KEENE, Complainant.

The same Appellants *v.* ALEXANDER SANGSTON, Complainant.

The same Appellants *v.* JOHN and REUBEN WITHERS, Complainants.

The same Appellants *v.* THOMSON MASON, Administrator.

### *Practice.*

In the circuit court of Alexandria, in 1817, several suits were brought against sundry individuals who had associated to form a bank, called the Merchants' Bank of Alexandria; the proceedings were regularly carried on in one of them, brought by Romulus Riggs; and a decree was pronounced by the court, from which the defendants appealed; on a hearing, the decree was reversed and the cause remanded for further proceedings, in conformity with certain principles prescribed in the decree of reversal. It appeared, that decrees were pronounced in all the causes, though regular proceedings were had only in the case of Romulus Riggs; appeals were entered in these cases from the decrees of the court. Under such circumstances, the court can only reverse the decree in each case, for want of a bill.

The whole business appearing to have been conducted, in the confidence that the pleadings in the case of Romulus Riggs could be introduced into the other causes, the cases were remanded to the circuit court, with directions to allow bills to be filed, and to proceed thereon according to law.

APPEALS from the Circuit Court of the district of Columbia, in the county of Alexandria.

These cases were submitted to the court by *Lee*, for the appellants; no counsel appeared for the appellees.

Mr. Lee stated, that the cases depend mainly upon the principles of the decision of the supreme court, rendered at January term 1829, in the case of *Romulus Riggs v. The Stockholders \*of the Merchants' Bank*, [<sup>257</sup> reported in 2 Pet. 482, under the name of *Mandeville v. Riggs*.

In the present cases, there is an additional objection to the decree in each of them, which is, that no bill was ever filed. It appears, from the proceedings, that it was agreed, that the answers in the case of Riggs were to be filed in these cases; it is contended, that that was to be done when bills were filed.

The appellants insist, in these cases, on the same objections to the decree of the circuit court, which were urged in the case of Riggs, with that of a want of a bill.

MARSHALL, Ch. J., delivered the opinion of the court.—This is an appeal from a decree pronounced by the circuit court of the United States for the district of Columbia, sitting in chancery for the county of Alexandria. A *subpoena*, which was regularly issued, was served on some of the defendants; after which, the record states, that the complainant appeared by his attorney, and filed his bill, which was taken for confessed against those defendants, on whom process was served. The clerk certifies, that no bill appears among the papers in the cause. Several answers are then filed, which purport to

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be answers to a bill filed, not by the plaintiff, Roderick Burt, but by Romulus Riggs. The record contains several accounts, and a report by certain trustees of an unchartered bank, the members of which, as may be inferred from the statements on the record, are the defendants in this case, against whom the suit is brought, to recover a note or notes held by the plaintiff. The court then proceeds to render a decree in the cause, from which the defendants have prayed an appeal to this court.

There being no bill, the court cannot inquire into the merits of this decree. The regular course of proceeding would be, on the suggestion of diminution, to award a *certiorari* for a fuller record. But no counsel appears to suggest diminution, or ask for a *certiorari*; and the court is satisfied that no fuller record could be brought up.

In the year 1817, several suits were brought against sundry individuals [258] who had associated to form a bank called the \*Merchants' Bank of Alexandria. The proceedings were regularly carried on in one of them, brought by Romulus Riggs; and a decree was pronounced by the court, from which the defendants appealed. On a hearing, the decree was reversed (2 Pet. 482), and the cause remanded for further proceedings, in conformity with certain principles prescribed in the decree of reversal. It appears, that decrees were pronounced in all the causes, though regular proceedings were had only in the case of Romulus Riggs. Under such circumstances, the court can only reverse the decree for want of a bill. Under the particular circumstances, the whole business appearing to have been conducted in the confidence that the pleadings in the case of Romulus Riggs could be introduced into the other causes, the case is remanded to the circuit court, with directions to allow a bill to be filed, and to proceed thereon according to law.

THIS cause came on to be heard, on the transcript of the record from the circuit court of the United States for the district of Columbia, holden in and for the county of Alexandria, and was argued by counsel: On consideration whereof, it is the opinion of this court, that the decree of the said circuit court, under the circumstances of the case, should be reversed, for the want of a bill; and that the cause should be remanded to the said court, with directions to allow a bill to be filed, and to proceed thereon according to law. Whereupon, it is considered, ordered and decreed by this court, that the decree of the said circuit court in this cause be and the same is hereby reversed for want of a bill; and that this cause be and the same is hereby remanded to the said circuit court, with directions to allow a bill to be filed in this cause, and to proceed thereon according to law.