

12158

No. _____

Supreme Court of Illinois

Chickering & Jones

vs.

Raymond & Ryerson

United States of America
State of Illinois SS
Cook County SS

Shas before the
Honorable John M. Wilson Judge of the Cook -
County Court of Common Pleas within and for the
County of Cook and State of Illinois At a regular
Term of said Cook County Court of Common Pleas
began and holden at the Court House in the City of Chicago
in said County and State on the first Monday being
the sixth day of February in the Year of our Lord one
Thousand eight Hundred and fifty four and of the
Independence of the United States the seventy eighth

Present the Honorable John M. Wilson Judge
Daniel McShay Prosecuting Attorney
Walter Kimball Clerk

Attest

Be it Remembered that on this
ninth day of November in the Year of our Lord
one Thousand eight Hundred and fifty three came
Benjamin W. Raymond and Joseph S. Ryerson Plaintiffs
by Edward and Woodbridge their Attorneys and filed
in the Office of the Clerk of the Cook County Court
of Common Pleas a Petition for Summons which
said Petition is in words and figures as follows
To Wit

Cook County Court of Common Pleas
Joseph S. Ryerson & Benjamin W. Raymond January Term 1854
Trustees of Allen Vane & Thomas S. Byrd
John W. Whiskering & Benjamin F. James
The Clerk

of said Court will issue Summons in the above
entitled Cause returnable at January Term damages
One Thousand, Dollars And Oblige
Garred Woodbridge Plffs Atty

And afterwards Court on the same day and
Year aforesaid a Summons thereupon issued
out of the Clerks Office aforesaid in said Cause, which
said Summons is in words and figures as follows To His
State of Illinois
Cook County 3^{ss}

The People of the State of Illinois
to the Sheriff of said County Greeting!!
We Command you that you
Summon John W. Chickering and Benjamin F. James
if they shall be found in your County personally to
be and appear before the Cook County Court of Common
Pleas of said County on the first day of the next Term
thereof to be holden at the Court House in the City of Chicago
in said County on the first Monday of January next
to answer unto Benjamin W. Raymond and Joseph
J. Ryerson in a Plea of Trover to the damages of the
said Plaintiffs as they say in the Sum of one Thousand
Dollars. And have you this and there this writ
with and Endorsement thereon in what manner
you shall have executed the same

Seal

Witness Walter Kimball Clerk of our said Court and the Seal thereof at the City of Chicago in said County this ninth day of November A.D. 1853

Walter Kimball Clerk

And afterwards said writ of Summons was returned into the Clerks Office with the following Indorsed thereon

Served by reading to the within named John W. Chickering & Benjamin F. James November 11th 1853

L. P. Bradley Sheriff

By J. W. Boston clerk

And afterwards to wit on the third day of December in the year eighteen hundred and fifty three came the said Plaintiffs by Gurned and Woodbridge their attorneys and file in the said Cause in Office of the Clerk of said Court their declaration which said declaration is in words and figures as follows to wit

Cook County Court of Common Pleas

of the January Term in the year of our Lord eighteen hundred and fifty four

State of Illinois

County of Cook

Joseph S. Byerson and Benjamin H. Raymond who are as Trustees of Allen Vane and Thomas S. Byrd Partners under the firm of Allen Vane & Co Complain of John W. Chickering and Benjamin F. James Partners under the firm of Chickering & James duly Summoned by the Sheriff in an Action of Trover

For that whereas the said Plaintiffs on the first day of June A.D. 1852 at said County were lawfully possessed as of their own property

Page (24)

of a certain Promissory note signed by one Samuel Porter dated the twenty ninth day of December A^d 1851 and payable in ninety (90) days (To Wit) in ninety (90) days after the date thereof for the sum of four hundred dollars (\$400.) & being of great value To Wit of the value To Wit of five hundred \$500. dollars and being so possessed thereof they the said Raymond & Myerson Trustees afterwards To Wit on the day & year first aforesaid at Chicago aforesaid Casually lost the said note out of their Possession & the same afterwards To Wit on the day and year first aforesaid at Chicago aforesaid came to the Possession of the said John M. Whimpering & Benjamin F. James partners as aforesaid by finding. Yet the said defendants well knowing that said note was the property of the said Plaintiffs & of right to belong and appertain to them but contriving and intending to deceive & defraud said Plaintiffs in this behalf have not as yet delivered the said note to the said Plaintiffs or either of them although after requested so to do. but have hitherto wholly neglected & refused so to do & afterwards To Wit on the said first day of June A^d 1852 at said Chicago converted & disposed of the said note to their own use.

200 cent
And whereas also afterwards To Wit on the first day of June A^d 1852 at said Chicago the said Plaintiffs were lawfully possessed as of their own property of a certain other promissory note dated at Pekin in said State of Illinois on the twenty ninth day of December A^d 1851 payable in ninety days after date to Allen Vane Heo or bearer for four hundred dollars payable at Chicago at the Office of Verly Lawrence & Co. And being so possessed thereof they the said Plaintiffs afterwards To Wit on the day and

year first aforesaid at said Chicago Casually lost
the said note out of their possession. And the same
Afterwards to wit on the said first day of June A^d 1853
At said Chicago Came to the possession of the said defendants
By finding. Yet the said defendants well knowing
that the said note was the Property of them the said
Plaintiffs & of right to belong & appertain to them but =
Contriving and intending to deceive & defraud the said =
Plaintiffs have not as yet delivered the said note to the
said Plaintiffs or either of them Although after =
requested to do so but have hitherto wholly refused
to do so & Afterwards to wit on the said first day
of June A^d 1853 Converted & disposed of the said
note to their own use to the damage of the said Plaintiffs
of One Thousand dollars & therefore they
bring suit &c

Jarned^d Woodbridge
Attys for Defs

And Afterwards to wit on the Sixth day of December in
the year A^d 1853 Come the said defendants Benjamin
F. James in his own Proper person and files his Plea to
the said Plaintiffs declaration, which said Plea is in
words and figures as follows to wit

Cook County Court of Common Pleas
January Term A^d 1854

Whickering & James

vs

Raymond & Ryerson

And the said Benjamin F. James
in his own proper person Comes

And defends the wrong & injury wh^{ch} is

And says that he is not guilty of the said supposed
Grievances above laid to his Charge or any or either in the
first & second Counts of said Plaintiffs declaration mentioned

or any part thereof in manner and form as the Plaintiffs
hath above thereof Complained Against him. And of this
the said defendant puts himself upon the Country &c
B. F. James per se
and the Plaintiffs do the like by their Attys

And afterwards To Wit on the Same day and Year
Came the said defendant J. McChickering in his own proper
person and files his plea to the said Plaintiffs declaration
herein. which said plea is in words and figures as follows

State of Illinois
Cook County Court of Common Pleas
McChickering & James
vs
Raymond & Ryerson

And J. McChickering one
of the said defendants Comes & defends
&c And as to the first Count of the said Plaintiffs
declaration saith that he the said defendant is not
guilty in manner & form as the said Plaintiffs have in
their said first Count Complained Against him and
of this he puts himself upon the Country J. McChickering
And the Pleas do the like by their Attys

And afterwards To Wit on the
Twenty eighth day of February 1st, 1854 said day
being one of the days of the February Term of said Court
aforesaid the following proceedings were had and entered
of Record in said Cause To Wit

Benjamin W. Raymond & Joseph S. Ryerson
vs
John McChickering & Benjamin F. James
And now at

this day, come the said plaintiffs by Larned Woodbridge their attorney and the said defendants in their own proper persons also come, and issue being joined herein by agreement of said parties this cause is submitted to the Court for trial without the intervention of a jury, and the Court after hearing the evidence argument of Counsel and being now fully advised in the premises finds the issue for the plaintiffs and assesses their damages to the sum of Three hundred and seventy five dollars and thirty three cents, and thereupon the said defendants enter their motion herein for a new trial in this cause.

And afterwards to wit on the fourth day of March in the year last aforesaid. said day being as yet one of the days of the February term of said Court. The following proceedings were had in said cause entered of Record to wit.

Benjamin W Raymond & Joseph I Ryerson	}	In response
John W Chickering & Benjamin J. James		

and now at this day come the said plaintiffs by their said attorneys, and the defendants in person also come, and the said defendants having heretofore entered their motion herein for a new trial in this cause, and the Court after hearing the argument of Counsel on said motion and being now fully advised in the premises overrules said motion.

Therefore it is considered that the said plaintiffs do have and recover of the said defendants their damages of Three hundred and seventy five dollars and thirty three cents in form aforesaid by the Court here ascertained and also their costs and charges by them in this behalf expended and have execution therefor.

And thereupon the said defendants enter their exceptions to the opinion of the Court, and pray an appeal to the Supreme

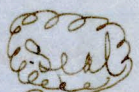
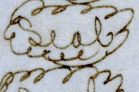
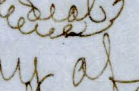
Court of this State which is allowed by the Court on their filing
an appeal bond herein in the sum of Five hundred dollars
with John Brinkhoff as security by the sixteenth day of
March instant and that they file their bill of Exceptions herein
by the fifteenth day of March instant.

And afterwards to wit on the sixteenth day of
March in the year aforesaid the said defendants
filed in said Cause their appeal Bond which said
appeal Bond is in words and figures as follows to wit.

Know all men by these presents. That We
John W. Chickering and Benjamin S. James as prin-
cipals and John Brinkhoff as security are held
and firmly bound unto Benjamin W. Raymond and
Joseph M. Ryerson in the penal sum of Five hun-
dred dollars lawful money of the United States
for the payment of which well and truly to be made
we do hereby bind ourselves our heirs administra-
tors and Executors jointly and severally and firm-
ly by these presents. Dated with our Seals and
Subscribed this fifteenth day of March in the year of our Lord
one thousand eight hundred and fifty four

The Condition of the above ob-
ligation is such. That whereas the said Benjamin
W. and Joseph S. heretofore and at the Febru-
ary Term of the Year Eighteen hundred and fifty
four of the Cook County Court of Common Pleas
State of Illinois recovered a Judgment for
three hundred and seventy five dollars
and thirty three cents

Damages & costs in an action of Trover against the above
Bonden John W. and Benjamin S. and from which
they have prayed an Appeal to the Supreme Court of the
State of Illinois. Now if the above bonden John W. &
Benjamin S. shall pay the Judgment Costs interest
and Damages that may be awarded in Case such
Judgment shall be affirmed. And shall duly prosecute
their said Appeal then these presents shall be void and
of no Effect, otherwise the same shall remain in full
force and effect

J. McWhickering 
Benjamin S. James 
J. Brinckerhoff 

And afterwards to wit on the fifteenth day of
March in the Year eighteen hundred and fifty four
Came the said defendants by their said Attorneys and
file their Bill of Exceptions, which said Bill is in
words and figures to wit

State of Illinois, Cook County Court of
Cook County Common Pleas Terming
Term 1st, 1854

Benjamin W. Raymond & Joseph S. Hyerson
as
John McWhickering & Benjamin S. James } Trover

Be it remembered
that upon this day of February 1st 1854 at the
Term aforesaid of said Court before Hon. S. Mc Wilson
the Judge thereof before whom the said Cause was tried by
Agreement of Parties and a Jury therein having been waived
the Plaintiffs to sustain the issue on their part introduced
to the Court a certain deed of Assignment executed by
Allen Kane and Thomas S. Byrd Partners trading under

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name style of firm of Allen Vane (dec) to the Plaintiffs
in this suit of which the following is a correct copy
having first proved the Execution of said Assignment
by the subscribing witness thereto

This Indenture made this third day of March in the year Eighteen Hundred and fifty two (1852) between Allen Vane and Thomas F. Byrd partners under the firm of Allen Vane & Co of the City of Chicago in the County of Cook and State of Illinois manufacturers of seed Drills and other agricultural implements, Parties of the first Part, and Benjamin W. Raymond and Joseph F. Ryerson of the same place Trustees for the uses trusts and purposes hereinafter mentioned Parties of the Second Part and The several persons creditors endorsers guarantors or sureties of the said Allen Vane & Co who have executed or shall hereafter execute or accede to these presents within from the date hereof Parties of the Third Part

Whereas the said parties of the First Part are at present unable to pay their debts and whereas the said Allen Vane & Co have on hand a considerable amount of seed Drills, and other agricultural implements finished and unfinished, and other stock materials and property composing the assets of the said Allen Vane & Co which if sold off at once in its present condition would be subjected to great depreciation and loss, and it is believed that by careful and judicious management and disposition of the said property the same may be made to realise a sufficient sum to pay the debts of the said Allen Vane & Company; and whereas for the purposes aforesaid it is necessary that the said business of the said Allen Vane & Company should be continued for a space of time not exceeding three

years from the date hereof and long enough to
carry into effect the objects and purposes of this
trust, and to this end it is necessary that the
said Allen Kane & Co should convey assign transfer
and set over all of their said copartnership property
and assets rights and credits to trustees to be held
used and appropriated in conformity with, and
upon the uses and trusts in this instrument set
forth, and further that said trustees should be
clothed with full power and authority to continue
the said business so long not exceeding said term
of three years as they shall deem it advisable
and for the interest of the said creditors as to do,
and to this end that they should be authorized and
X empowered to take possession of all and singular
the said copartnership property and have and
exercise full entire and undisputed control
over the same and every part thereof and with
full power and authority in the premises to do
and perform all and every needful act and thing
to carry into full and entire effect the object
and purposes of this trust;

Now therefore this Indenture Witnesseth
that for the consideration and purposes herein
contained and in consideration of One Dollar
to them in hand paid by the said Parties of the
Second Part (the receipt whereof is hereby ac-
knowledge) the said Parties of the First Part
do by these presents grant bargain sell convey
assign transfer and set over unto the said
Parties of the Second part their successors in
trust or assigns all and singular the stock in
trade goods chattels moves moves and mer-

chandise bills bonds notes backs of account claims
demands choses in action judgments evidences
of debt and property, and also all the real
estate chattels real leasehold interests lands
and tenements and property of every description
real personal & mixed belonging to the said firm
of Allen Vane & Company and constituting the
copartnership assets thereof the said property
being more particularly enumerated and described
in a certain Schedule marked "Schedule A"
bearing even date herewith and signed by the
said Parties of the First Part annexed or
hereafter to be annexed to this instrument and
to be deemed and taken as a part thereof; but
the intention of this instrument being to convey
the entire copartnership assets of the said Parties
of the First Part of every name and nature whether
the same are contained in the said "Schedule" or not

I have and to hold all and singular
the premises herein assigned or otherwise assigned
or intended to be, by these presents to the said
Parties of the Second Part their successors in
trust heirs or assigns to their use and behoof
forever in Trust for the uses and purposes
hereinafter mentioned, that is to say,

The said Parties of the Second Part shall
forthwith take possession of all and singular
the said property hereby conveyed, and collect
all the debts due said firm which are collectible
and may continue to prosecute the said business
of the said Parties of the First Part in the name
of the said Parties of the Second Part for so long a
time not exceeding three years from the date
hereof, as they shall deem it for the interest of

all copartnership
property

No 2

No 3

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provision

the said creditors so to do, and to this end may employ and pay such agents workmen and other assistants as they think proper - hire such additional capital purchase such additional stock and materials - finish such unfinished work - and manufacture such new machine, as in their judgment may seem expedient and for the interest of the said creditors; and to this end shall use have and exercise entire and unlimited control over the property hereby conveyed and may sell and dispose of the same either for cash, or on credit, or for any security by way of promissory note bill of exchange or other security; may sign seal execute and deliver any and all deeds releases and other instruments which shall or may be needed in the premises may sign promissory notes, draw and accept bills of exchange, effect loans of money and pledge or mortgage said property or any part thereof in security for the same and generally may do and perform any and every act and thing which shall or may be necessary expedient or desirable in the premises for the purpose of carrying into full effect the provisions and objects of this instrument it being however understood and intended, that the sole object of this instrument and of the powers and authority hereby conferred is to render the said property and assets as available as possible for the defrayment of the said debts of the said Parties of the First Part and realizing the largest amount possible out of said assets for said purpose.

So soon as the same can be effected in consistency with the objects and purposes of this

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trust and within three years from the date hereof the said Parties of the Second Part shall sell the whole of the copartnership property and assets hereby conveyed remaining on hand at such time and all other property then included under or subject to this trust for cash or on credit as they may deem expedient and forthwith after deducting and retaining all such costs charges damages expenses and disbursements as shall be sustained incurred or reasonably due in for or in relation to the execution of the trusts hereof including the costs and charges of preparing and executing these presents and all reasonable and proper commissions and charges of the said Trustees and all rents taxes and assessments due or to become due on the lands tenements and hereditaments aforesaid until the same shall be sold and disposed of shall divide distribute and pay over all the rest and residue of the said Trust property to and among the creditors of the said Parties of the First Part who shall become parties to these presents within three months after the date hereof in the order and manner hereinafter specified and the remainder if any there shall be after the payment of the said creditors shall divide and distribute among the other creditors of the said Allen Dane & Co in manner as hereinafter provided that is to say

First To pay and discharge in full the several and respective debts due or to grow due from the said parties of the First Part to the several and respective Parties men-

fater
 as to well
 who have not been to

tioned in the schedule hereunto annexed marked
"Class First" "Preferred debts" and if the
proceeds are not sufficient to pay same in full
then to pay the same pro rata according to
the amount of said claims.

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After the payment of the said debts last
mentioned the rest and residue of the said property
shall be divided and distributed among all the
remaining creditors of the said Allen Vane & Co
who shall within three months after the date
hereof become parties to this instrument ratably
and in proportion to the amounts due to each
of them at the date hereof without interest after
date respectively without any preference or
priority

After the payment of the said last mentioned
debts in full the rest and residue of the said
property if any there shall be divided and distri-
buted among all the remaining creditors of
the said Parties of the First Part ratably and
in proportion to the amounts due to each
of them respectively without any preference or
priority

after the payment of all of the creditors of
the said Allen Vane & Co in full according
to the meaning and intent hereof the rest and
residue of the said property whether the same
be in money choses in action or otherwise shall
be paid to the said Vane & Byrd or their per-
sonal representatives or assigns subject to the
same rights and liens of said Copartners and
each of them as they are by law entitled to
under the partnership articles between the
said Vane & Byrd bearing date the ninth

fatal as they are to
property from the same creditors
of the same parties

day of May AD 1837 and the same as they would have been and would to had the said copartnership been this day dissolved by mutual consent of said copartners.

The said Trustees shall have power and it shall be their duty from time to time whenever they shall deem it consistent with and conducive to the interests of this trust to make dividends out of the proceeds arising from the said Trust property and the sale and management thereof among the respective creditors herein named and hereby secured in the proportions in which the said creditors are severally respectively entitled thereto according to the true intent and meaning hereof

And the said Allen and Thomas J. Byrd do and each of them by these presents does name constitute and appoint the said Parties of the Second Part to be their and each of their Attorney irrevocable, with full power of substitution in the name of the said Parties of the Second Part or in the name of the said Parties of the First Part or otherwise howsoever as the case may require but to and for the trusts herein declared, to demand sue for recover and receive the outstanding debts interests trust property and effects and to institute prosecute and defend all suits and to execute perform and transact all such deeds writings acquittances acts matters & things as shall be necessary or expedient to carry into full effect the trusts herein mentioned as fully and effectually as the said Parties of the First Part could do personally if

these presents had not been made

And the said Parties of the First Part do hereby covenant with the said Parties of the Second Part that they the said Parties of the First Part will at all times promote and forward the speedy receipt and recovery of the debts property and effects aforesaid and ratify and confirm all such acts as shall be lawfully done by virtue hereof and will execute and perform all such further and other acts deeds matters and things for the further and better assigning and assuring the premises herein before assigned or otherwise assured or intended to be to the said Parties of the Second Part and for the intents and purposes herein declared as may be reasonably advised or requested

And it is hereby agreed by and between the Parties hereto that the said trustees may at their discretion compound any debt or debts due or owing to the ~~second~~ said Parties of the First Part and enter into sign and execute any bargain or deed of composition or assignment of or with any persons indebted to the said Party of the First Part who shall become insolvent or unable to make punctual payment and also may make any such agreement or arrangement as shall be by them deemed reasonable with any persons releasing any security given by the said Parties of the First Part upon any of the estate hereby conveyed, or holden by such person or persons by way of mortgage pledged collateral security or otherwise, or with any persons having a lien on any such property by virtue of any judgment execution at =

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Musker

J. Bantling

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tachment levy bailment or otherwise in order to procure such property to be exonerated and discharged from the lien or charge created thereon and rendered available for the purposes of this trust and may compromise all matters which may be in dispute and submit the same to reference or arbitration -

// And is further agreed that the schedules of
property and debts herewith attached or to be attached contain as is understood and intended a correct statement of the property hereby intended to be conveyed and a correct list of the creditors of the said Parties of the First Part and of the amounts respectively due to them, but that corrections and alterations may from time to time be made in the said schedule as may be necessary for the more full and accurate specification of the matters and things therein intended to be contained and that the naming of any debt or debts in such schedule shall not prevent the said Parties of the Second Part from calling in question or controverting the amount of the same, or taking any course at law or in equity to have the same disallowed or adjusted and that if any demand has been stated in such schedule greater or smaller than it really is, such creditor shall be entitled to the benefit of these presents upon and for and only upon and for the amount which may be proved to be justly due him -

In case of the death or resignation of either or both of the said Trustees the majority in interest of the creditors executing this instrument shall appoint a trustee or trustees in his or their place -

And the said Joseph T. Ryerson & Benjamin
N. Raymond each for himself his heirs exec-
utors and administrators does covenant to and
with the said Parties of the First Part their
heirs executors administrators and assigns
and with the said Parties of the Third Part
creditors as aforesaid that they will faithfully
execute all the trusts herein and hereby created
and will at the request of the said creditors
or a majority in interest thereof at reasonable
times render an account of their doings and
of the said Trust property and will keep
regular books of account of the said business
which shall at all reasonable and proper times
be open to the inspection and examination of such
creditors and will make a just distribution of
all trust moneys which they may receive under
this instrument amongst the creditors of the
said Allen Kane &c. according to its provisions
and that the said Parties of the Second Part
shall not be liable or accountable for more
money or effects than they shall actually receive
nor for any loss or damage which may happen
to said trust property except the same shall
arise by or through their own wilful default
and that each of the said Trustees shall be
answerable for himself only and not for the
other

The respective creditors Parties hereto do each
and every of them severally and respectively hereby
accept and take the estate and effects herein-
before assigned in the manner and under and
according to the conditions of this instrument

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in full payment satisfaction and discharge
of all their respective debts and demands
aforesaid and do each and every of them abso-
lutely release, and discharge the said Parties
of the First Part of and from all demands
which they now have against them

In Testimony whereof the said Parties
have hereto set their hands and seals the
day and year first above written

In presence of
Edwin Larned

Allen Kane



Parties of the
First Part

Thos.^d J. Byrd



B.W. Raymond

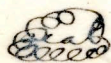


Joseph T. Ryerson

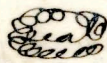


Trustee
Parties of the
Second Part

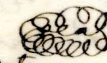
Chas. F. Grey & Co



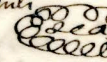
William Blair



Ruggles Nourse Mason & Co



By Starkweather & Stapher their agents
Wm. Wheeler & Co



S. F. Sutherland



Hoagson & Perry



James W. Cobb



Higginson & Co

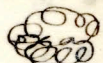


Wheeler Mellick & Co



by Dale Rimey & Co

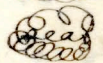
B.W. Raymond



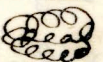
Lake & Brown



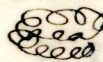
Edwin Hunt



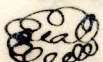
J. A. Mample



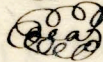
S. R. H. Sutherland



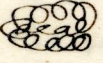
A. D. Titworth & Co



Ryerson & Blaikie



Chavin & Feste



Calvert & Barston



Inventory of the assets of Allen Vane & Co
of Chicago, and constituting "Schedule B"
referred to in the foregoing deed

1. Accounts & Notes Payable to A. Vane & Co

E. H. Senard,	Maungo Illinois		\$ 10.00
	Chicago	"	
Solon Mathew	"	"	2.50
Daniel Lynch	"	"	9.00
Kimball Favor	Amora	"	18.00
Coinier & Co	Chicago	"	5.00
J. C. Outlet	"	"	2.50
M.	Pekin	"	120.00
James	Chicago	"	8.00
Daniel M.	Plainfield	"	10.60
William			3.50
J. D. Webster			2.00
Sal	Pekin	"	120.00
W. Ames	Mich City	Ind	13.00
C. Hunt	Chicago	Ill	2.60
T. J.	Sacon	"	46.50
J. E. Sleight	Mich City	Ind	206.50
Washington C. Moore	Niles	Mich	184.00
do do	"	"	61.53
Geo W Gordon	Amora	Ill	3.50
Amara Lent	Chicago	"	2.50
Goff & Hoag	do	"	6.82
Aaron L. Reer	Michigan		5.75
Banker & De Malf	Mich City	Ind	12.25
Robert White	Beardstown	Ill note	90.00
Saml Porter	Pekin	"	727.65
Dr Apothecary	Virginia	"	120.00
Jacob	Beardstown	"	120.00
Gordon S. Hubbard	Chicago	"	18.33
Peter Neff Jun.	Panis	"	135.50

John Clark	Chicago	Ill	2.50
Kenny Roache	Canton	"	100.00
S. H. Kimball	Chicago	"	5.00
Royal Moore	Naples	"	284.00
Remond & Waldeman	W ^h Canall	"	114.00
Joel Rice & Son	Quincy	"	138.00
T. Bradley	Laporte	Ind	114.00
Billings McGee & Hume	Beardstown	Ill	108.00
P. F. Perkins	Stemmerlin	"	36.00
Hotchkiss & Brother	Peoria	"	72.27
Austin Rockwell	Jacksonville	"	108.00
Knapp & Staats	Jerseyville	"	108.00
Olant & Salisbury	St Louis	Mo.	301.00
Thomas Cobson	Canallton	Ill	83.00
J. B. Taylor	Beardstown	"	154.00
J. & L. S. Metcalf	Alton	"	120.00
J. D. Shelbrick	Griggsville	Ohio	54.00
J. D. Nauman	Peun	"	1044.00
A. R. Miner	Jerseyville	"	95.00
Saml Thomas	Canallton	"	10.00
James Jackson	Peoria	"	65.00
A. Bickerman	Herry	"	36.00
Alex. Tyng	Peoria	"	598.00
Stewart & Scripps	Chicago	"	3.00
C. Hoyt	Aurora	"	54.00
W. C. Kimball	Elgin	"	38.00
Mr. R. Buttle	Chicago	"	100.00
M. Hills	Morris	"	216.00
Wm F Borden	Chicago	"	566.92
L. Hills	Ottawa	"	144.00
Luther Bacon	Chicago	"	152.00
G. Wilcox	Joliet	"	42.00
Joa B. Eddy	Chicago	"	30.00
Ch D Smith	Junction	"	18.00

Walker & Nicklin	Ottawa	Ill.	200.00
Martin & Townsend	Sockport	"	144.00
Rt. H. Anderson	Amora	"	17.80
Nelson Miller	Chicago	"	5.00
M. A. Lord	Bataria	"	108.00
Wm. H. Hathaway	Little Rock		18.00
J. Hammers			96.00
Blair & Badinger			108.00
Funkhameier & Co	St Louis	Mo	364.00
Walker & Hancock	Harana	Ill	18.00
Julien & Co	Lacon	"	28.00
Dr Whitney	Chicago	"	4.00
S. B. Pomeroy	do	"	35.00
M. Phillips			00.00
Jno C. Reed	Chicago	"	2.25
Jno Rogers	do		5.50
Jno Wilson	note	collateral with	20.00
Stephen Carlin	"	Jos Green	20.00
N. Hawkins	"		50.00
Geo. Tiffet	"		10.00
A. B. & Chapman	"		00.00
J. E. Furness	"		15.00
J. Thompson & W. Dowd.	in hands of	Barren	18.50
Rt. H. Anderson	"		74.20
N. Hawkins	"		50.00
Cheever & Gale	"		90.00
Silas Bates	"		60.00
J. Hagan	"		18.00
Reuben Flagg	"		20.00
Spaulding & Parly	"		20.00
Allivell & Bacon	"	in hands of Barren	19.00
John Flager	"		10.00
N. A. Hatchkiss	"		20.00
Hiram Olney	"		19.00

Solomon Leonard	"	20,00
Folsom Dorsey	"	80.00
John N. Velt	"	110.00
Silas Bates	"	60.00
J. D. Kimble	"	20,00
Geo. W. Tiffet	note	90,00
N. R. Thompson	"	200,00
Joseph Vial	"	200,00
C. D. Smith	"	12,00
S. F. Porter	"	400,00
W. H. Manzan	"	7.00
L. D. Kendall	"	20.00
John Hill	"	10,00
August Hacherott	"	57.50
Chaney Beckwith	"	80.00
Stock & fixtures at cranks		926,00
composed of Buildings, Enclosures, Sheds, Engines, Boilers, Lathes, Tools, Shafting, Rams, Wagons, Materials, unfinished stock & everything in and about the premises, as per Inventory taken May 1837. - the same or equal value supposed to be now there & valued at		
		9377,03

note - on this property there is
a mtge to J. W. Newhouser dated
for and also another
mortgage to Grey dated
for which mortgages if valid
will reduce this item of assets to about \$

Manufactured articles on hand in Chicago
12 Drills - Piersons
3 Large Shellers & Separators

106 Double Shellers - Prouty & Co Patent
 108 do do unfinished do.
 30 small shellers Vane & Co
 7 Baton Shellers
 10 small do do.
 25 Horse Rakes
 14 Cutting Boxes
 Sundry Implements at Store &
 Factory including some materials
 valued at this sum 855.42
 19 Seed drills in the hands of
 A. Benhall, Zania Ohio
 1 Seed drill in the hands of
 G. A. Lindley, La Salle Ill.
 5 Seed drills in the hands of
 L. O. Montandon Fort Madison, Iowa.
 1 Seed drill in the hands of Chester Reed
 Burlington Iowa
 1 Seed drill in the hands of
 Lynd & Co Rock Island Ill.
 Two notes held by J. S. Hodges or his
 Attorney W. G. Shumway
 one of for \$ 40.00
 one of for 70.00

Lot one in Block Three (3) Original Town

The foregoing "Schedule A" signed this 3^d
 day of March AD 1852

Allen Vane

Wm T. Byrd.

Class First
Containing "Preferred Debts" of Allen
Vane & Co referred to in the foregoing Instrument

First to pay all sums due to workmen and
mechanics in the employ of said Vane & Co to be
paid in full in preference to all other debts
supposed to amount to about \$300.00

Second to pay Joseph Greene of Chicago
two notes of One Hundred dollars each
and interest thereon on condition of his
surrendering to said Trustees two notes
amounting to about \$240, held by him
as collateral security, said notes being
the notes of John Wilson & Stephen
Carlin for \$120 each

Third to pay August & Owen the amount
of a certain Judgment obtained in the Cook
County Court against Vane & Reed for \$124.36

Fourth to pay the sum of Seventeen
hundred dollars to Mrs M. E. B. Allibone of
Philadelphia for money borrowed with
interest thereon at ten per cent per annum
until paid

Fifth To pay the amount of Seventeen
hundred dollars due George Smith & Co. with
interest thereon - provided that the securities
held by the said Smith to secure the said debt
viz a Trust Deed of said Byrds of the Undivided
half of Lot one (1) in the Block three (3) Original
Town of Chicago be first transferred to the

said Trustees in such manner as to vest in the said Trustees the title to the said Lot for the benefit of the trust herein and hereby created free from any incumbrances thereon subsistent to the said Trust deed

Fifth to pay Bradley Curtis & Co. the amount due to them on a loan to Vane & Bird on which J. V. A. Hemple is held as security with the interest thereon due and to become due and on the renewals thereof, said loan originally being for \$500.00

The debts hereinbefore enumerated in this class excepting the debts due to workmen, to Bradley Curtis & Co and in judgment are to stand on an equal footing and to be paid pro rata in proportion to their respective amounts, The debts due to workmen, to Nugent & Owen in judgment and to Bradley Curtis & Co shall be first paid before any other debts,

It is also understood that the reasonable charges due to James Worley for writing up the books of said Parties of the First Part and the counsel fees due from them to Messrs Morris & Goodrich in and about the getting up and examination of this instrument be paid by the said Trustees and considered as a part of the expenses of this Trust

The foregoing Schedule of Preferred Debts - constituting "Class First" signed this 3^d day of March A.D. 1852
In presence of Allen Vane
O. C. Larned Thos T. Byrd

"Schedule B"

Schedule of the debts of Allen Vane Company
excepting the debts preferred as specified in the
foregoing instrument

		Amount
F. Howe	Chicago Ill	4.26
Thompson & Alston	" "	2.80
Prairie Farmer	" "	12.50
Ferry & Sons	" "	5.63
Whitney & Baker	Ohio	15.14
Gage & Waines	Chicago "	2.00
Brinkerhoff & Benton	" "	131.46
B. W. Raymond	{ notes " " .	1600.00
do		2507.56
William Blain	" "	80.88
Wm Wheeler & Co	" "	86.66
Ruffles Horro Mason & Co	Worcester Mass	271.70
Wheeler Meelick & Co	Albany N.Y.	233.46
J. W. Cobb.	Chicago Ill	45.12
Thomas Haile	" "	33.89
Calvert & Bonston	" "	23.38
J. B. Daggett & Co	" "	118.70
Higginson & Co	" "	40.00
A. D. Titworth & Co	" "	254.74
Chorin & Foote	" "	87.97
Sutherland & Co	" "	462.82
George Steele	" "	5.88
Lake & Brown	" "	865.14
Brush & Lobdell	" "	350.00
Edwin Hunt	Chicago "	399.07
Ryerson & Blairkie on notes	" "	676.94
Henry Webber	" "	12.00
Poirier & Co	" "	
Wannamaker & James	" "	

Transferred to
Clap of Preferred
Debt in Clap First

{ Joseph Greene on two notes of \$100 each \$200.00
secured by two notes belonging to A. Vane & Co
held on collateral amounting to \$240
George Smith & Co for money loaned
secured by Trust Deed of Property of Byrd 1700.00

The foregoing "Schedule B" of the Debt of A.
Vane & Co not preferred signed this 3^d day of
March A. D. 1832

Allen Vane
Thomas T. Byrd

X
The defendants objected to the introduction of said deed in evidence, which objection was overruled by the Court, to which decision the said defendants then and there excepted.

The Plaintiffs then called as a witness in their behalf Edwin C. Zarned who being duly sworn & testified as follows. That he Zarned saw James one of the defendants in the old Court house in the City of Chicago, while Court was being held on or about the 10th day of May A.D. 1852 and handed him this receipt, witness here produced receipt, (which is as follows to wit) Received Feby 10th 1852 of Allen Vane & Co Samuel Porter's note dated December 29th 1851 of four hundred Dollars and payable in ninety days As collateral security for the payment of Allen Vane's note of sixty Dollars & Six Cents & three Dollars and Two Cents last in my hands for Collection in favor of Brinknerhoff & Kenton. When said amount is paid I will deliver to Allen Vane & Co S. Porter's note.

R. A. Goodrich Const
to the introduction of which receipt as evidence, the said defendants then and there objected, which objection was overruled by the Court to which decision the said defendants then and there excepted. Said Zarned further testified that on showing said receipt to the said James he asked him James if Chickering & James or their (your) firm had in their possession the note described in that receipt. Witness could not state positively which, but is certain that it was one or the other. James replied they had. Witness said he came as Attorney of Raymond & Ryerson to obtain said note, and asked if they would give it up to him for them on receiving the amount specified in the receipt. James replied that the agreement

Admission
of Note

As he understood it, and believed it to be, was that the note was held for a further claim of Brinkerhoff Kenton against Allen Vane or Allen Vane & Co and would not deliver the note unless that was also settled. Witness said they knew of no claim for which they could hold said note except the one specified in the receipt and that he wished to make, and did make a tender, on behalf of plaintiffs of the amount due as per ~~plaintiffs~~ receipt. James & witness then looked over the figures made by witness as to the amount due as per receipt and the amount due was then by witness tendered to said James in Gold & Silver. There was no dispute as to the amount due on the receipt. - Some weeks subsequent by Chickerling came to witness' Office and during the conversation then and there had, remarked that he was sorry he was not present, when witness tendered the money to James, that he would have taken the money but not given up the note. Witness stated he should not have given the money until he ~~had~~ got the note Chickerling replied, that would have rendered the tender good for nothing & that it would have been a conditional tender. Witness then told him in reply, he thought he would risk that. Witness subsequently in the month of September Ad 1853 called on Chickerling at the Office of Chickerling & James in Chicago and presented him the same receipt and demanded the note described in it. And tendered the amount then due being about seventy dollars in Gold to said Chickerling, who said he would take the money but could not give the note. As it was not in his possession and that it was in judgment in court. Witness subsequently ascertained that the note was in judgment, but whether it was on file in said court at the time of tender or not

Witness was Ignorant. Upon Cross Examination
Witness Stated that he was positive that he asked James
whether Whickering and James or their firm had the note
and that he did not ask if he James had it. Witness
did not regard James so closely connected with the
matter as Whickering. Said note was never to knowledge
of witness in the possession of Plaintiffs and witness
never saw the same at any time. It was admitted
that Whickering & James were partners in the Saw
business at the time of the Deed. Also that a suit
was instituted by Whickering & James as Attorneys
for Brinkerhoff & Kenton Against Porter the maker
of the note in question at the September Term of the
1852 ¹⁸⁵² West County Court of Common Pleas. And that Judgment
was recovered thereon in the name of Allen Vane & Co for
the use of said Brinkerhoff & Kenton for the sum
of ~~three hundred and twenty five dollars and thirty three~~
^{four hundred and twenty five dollars and thirty three}
cents. which said Judgment has been collected by said
defendants Attorneys as aforesaid. The Plaintiffs after
offering the above testimony to prove the issues on their
part then and there rested their case.

The defendants to prove the issues on
their part then and offered in evidence the records
of said Court from which it appeared that on the Twenty
Sixth day of March A.D. 1852 Brinkerhoff & Kenton
recovered a Judgment on an account against Allen
Vane & Thomas S. Byrd partners Trading under the
name & style of Allen Vane & Co. in the sum of one
hundred and thirty one dollars ^{and thirty three cents} damages upon which
Execution issued ^{on the thirteenth day of April eighteen hundred and fifty two} directed to the Sheriff of West County
and was on the Second day of July A.D. 1852
returned by said Sheriff no property found.

Expt
p-110 -

- X -

Also a further Record of said Court from which it
appeared that said defendants commenced a suit
as Attorneys of Brinckerhoff & Kenton in the name
of Allen Vane & Co for the use of Brinckerhoff & Kenton
vs Samuel Ruter on the ^{sixteenth day of} ~~the~~ ^{first day of} March
A.D. 1853. The said defendants procured a Judgment
on said note, which was then and there filed for
the sum of four hundred and ten dollars & eighty
Cents. Said defendants then and there offered
in evidence the following assignment of the Jud-
gment of Brinckerhoff & Kenton vs Allen Vane & Co

State of Illinois
Cook County 338

John Brinckerhoff & Thomas B. Kenton Partners &c,

vs
Allen Vane and Thomas S. Byrd

Judgment in
the Cook County
Court of Common

pleas February Term A.D. 1853 for \$131.45 + costs
We the undersigned Plaintiffs
in the said Judgment for & in consideration of one
hundred & forty five dollars paid us by John W.
Whickering & Benjamin S. James do hereby sell =
assign and transfer to them the aforesaid Judgment
and all the Benefit and Advantage to be obtained =
therefrom & thereby with force power & authority to
them to settle adjust compromise and release the
Same. As Witness our hands & seals this the
first day of April A.D. 1853

J Brinckerhoff Seal
Thos B Kenton Seal

And rested their Case, and the Judge of said
Court did then and there pronounce Judgment vs

the said defendants for the sum of three hundred and seventy five dollars and thirty three cents upon the rendition of which Judgment a motion was then and there entered for a new trial, for and on account of the reasons set forth in said motion, (which said motion is as follows)

State of Illinois Term
Cook County Court of 1854
Common Pleas 1854

Raymond & Ryerson

vs

Provs

Whickering & James

And the said defendants having heretofore moved the Court for a new trial in this cause now come and assign the following reasons therefor

- 1st The verdict is against the Law
- 2nd The verdict is against the evidence
- 3rd The verdict is against the Law & evidence
- 4th The Court erred in admitting as evidence the assignment of Vane & Byrd to Raymond & Ryerson
- 5th The Court erred in admitting as evidence the receipt signed by R. E. Goodrich

Whickering & James left per which said motion the Court then and there overruled to which said decision of the Court the defendants then and there excepted, said defendants therefore pray that these exceptions to the erroneous rulings & decisions of said Court be signed sealed and certified to the appellate Court

John M. Wilson
Whickering & James
left per se

State of Illinois }
County of Cook } SS

I, Walter Kimball Clerk of the
Cook County Court of Common Pleas within and
for the County and State aforesaid do hereby
Certify that the foregoing is a full true and
correct copy and transcript of all the papers
filed in the aforesaid entitled Cause, and
also of all the Orders and proceedings had
in said Cause as appears from the original
papers and Records of said Court now
on file in my office

In Testimony Whereof I have here
unto set my Hand and affixed
the Seal of said Court at the City of
Chicago in said County this 16th day
of May A.D. 1854

Walter Kimball
Clerk

State of Illinois

Supreme Court

John W. Chubbington
Benjamin F. James
as
Benjamin W. Raymond
St Joseph Raymond } on appeal

and now at
this day come the said appellants in
proper person and show to the said
Court that the following errors appear
in the record & proceedings in the
Court below in this case

1st The Court erred in admitting as
evidence the assignment of Vance &
Byrds

2nd The Court erred in admitting as
evidence the receipt signed by R E
Grover

3rd The Court erred in finding the issues
for the Plaintiffs below

4th The Court ^{erred} in overruling the appellants
motion for a new trial

5th The Court erred in rendering judgment
against the appellants —

For all of which & various other manifest
errors apparent in the above
record & proceedings these appellants
allege. And the Court here that
the judgment rendered in case of the
Cock County Court of Common Pleas
ought to be rendered & annulled

J. M. McKim &
Benjamin F. Jones
Appellants
H. F. White Esqr
&
Henry F. Smith Esqr
Counsel for appellants

There is no error &
appellants ask judgment be
affirmed —
Armed & Landed & Co
attys

#544.

at.

44

1854

Filed June 12. 1854.
L. Nelson Chb.

12/58

Referred

1854