

State of Illinois Gallatin County Set
The President Directors & Company of the Bank of Illinois for the use of A G Caldwell and Ebenezer Ryan
vs
John Melvin & James Melvin
Plas held before the Circuit Court of Gallatin County Illinois, sitting as a Court of Chancery, at the Court House in Sherrington at a special Term held in February 1852

To the Honorable Walter B Seater associate Justice of the supreme court of the State of Illinois and assigned to preside in the third Judicial Circuit. Humbly complaining shewith unto your honor your Orators the President Directors and company of the Bank of Illinois for the use A G Caldwell and Ebenezer Ryan assignees of the said Bank of Illinois under an act of the General Assembly of the State of Illinois approved the February 1845 entitled an act supplemental to an act to reduce the public debt and put the Bank of Illinois into liquidation and who by an assignment thereof are the beneficial holders of the indebtedness hereinafter mentioned. That one John Melvin was indebted to the said President Directors and Company of the Bank of Illinois, your Orators aforesaid by certain promissory notes of tenor and effect following that is to say A note executed by the said John Melvin together with Gabriel Hardison as principal and Peter Slater, David B Wood co-sureties dated day of and due the 13th February 1841 and payable to your Orators for the sum of \$1058 7/100 with interest at the rate of eight per cent per annum from due until paid, Also a further note

executed by the said John Melvin as security together
with Gabriel Merdison as principal and David B Wood
and Bennet Hill as cosecurity which note was dated the
day of 18 due the 3rd day of December 1842 payable
to your orators and for the sum of \$577.¹⁰/₁₀₀ with interest
at the rate of eight per cent per annum from due until
paid - your orators would further represent that they
instituted ^{suit} on the above named notes against the said
parties thereto, at the October Term ^{of the Satisfactory Circuit Court 1844} to wit on the 14th day of
November 1844 and at the said term ~~the~~ ^{the} day of November ~~1844~~
~~1844~~ obtained judgments upon said notes respectively -
that is to say upon ^{the} first note above described judgment
was rendered for \$1394.⁶⁰/₁₀₀ and upon the second
note above described judgment was rendered for \$596.²⁵/₁₀₀
And your Orators further represent that on the 17th day
of March 1845 Executions were issued upon the judgments
and returned no property found - All of which
proceedings remain of record in said ^{Court} and are
prayed to be taken herewith as part of this Bill.
And your orators would further represent to your
Honor that on the 20th day of Oct. 1844 before the rendition
the two aforesaid judgments against the said John
Melvin the said John Melvin was possessed and
seized in fee of the following described real estate
to wit Lot No 54 and ¹/₂ of Lot No 55 in the town of
New Haven and the ~~south~~ S W N E Sec 18 T 7 S R 10 E
containing 40 Acres as well as other real estate to
your orators now unknown also certain goods
and chattels, and should ^{now} in justice and right
still be possessed and seized of the legal estate
in said premises and the same as his absolute
estate should be liable and subject to the said
judgments against him and so execution
thereon -

But now so it is please your Honor that the said John Melvin combining with one James Melvin and divers other confederates to your orators unknown but when discovered prayed to be made parties hereto, pretended that said premises above described are now and were at the the time of the rendition of said judgments the full absolute property of the said James Melvin under and by virtue of the deed of conveyance made and executed on the 22^d day of Octr 1844 by the said John Melvin to the said James Melvin as well as other instruments of conveyance whereby the said premises are alleged to be conveyed to the said James Melvin for and in consideration of \$700, or. whereas your orators for the use afor said charge the contrary thereof to be true and that the aforesaid conveyance ~~in law~~ was made without any good sufficient or valuable consideration in law and with the intent and purpose on the part of the said John Melvin to deceive and defraud your orators another creditors and remove the said premises of the said John Melvin beyond the reach of any executions in favor of your orators under their judgments aforesaid. And your orators further charge that the said James Melvin was aware of the purpose and intent of the said John Melvin in so making such conveyance and receiving the same knowing it to be fraudulent, and executed without any good sufficient or valuable consideration in law. Wherefore your orators submit and insist that the said deed of conveyance ought not to be held valid, but should be set aside in a Court of Equity. All of which actings and ~~deeds~~ pretences are contrary to Equity and good conscience and tend to the injury of your orators

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In consideration whereof and for as much as your
Orators are remedied without the assistance of a court of
Equity - To the end therefore that the said John Melvin
and James Melvin together with their confederates
when discovered may severally upon their oaths according
to the best of their knowledge information and belief
full true and perfect answers make to all and
every the matters aforesaid and that as fully as if the
same were here repeated, and they particularly interro-
gated thereto and more especially that they may severally
answer and set forth in manner aforesaid:
Whether the said John Melvin did not make and
execute the aforesaid conveyance, to defeat the
collection of the aforesaid debts out of his property
thereby conveyed - Whether at the time and before
the date of said conveyance the said John Melvin
did not avow and declare his intention to make
conveyance of said premises to defeat the collection
of the debts aforesaid - whether there was any consideration
passed from the said _____ to the said John
Melvin at and upon the execution of said conveyance
and if so what was specifically and particularly that
consideration - Whether the consideration if any such
were given was paid by the said _____ out of
his own individual funds and if so from whom
did ~~he~~ he obtain such funds - Whether the con-
sideration if any such were given was not provided &
furnished by the said John Melvin or some third
person to the said James Melvin for that purpose.

Whether there was not a secret understanding
& agreement between the said John Melvin and the
said James Melvin, that the premises conveyed as
aforesaid was to be held for the ^{use} of the said John Melvin

or the said James Melvin and other children of
the said John Melvin Whether the said James
Melvin was not aware from knowledge infor-
- mation or belief that the said John Melvin by
the execution of said conveyance did design to
deceive and defraud his creditors and remove
the premises aforesaid beyond the liability of under
the said judgments. Whether the arrangement in
relation to consideration of said conveyance
was not preconcerted fictitious and intended
to deceive. Whether it was not privately
understood and agreed that the said James
Melvin should never come under any actual
liability for and in respect to such pretended
considerations - Whether there is not a private
understanding between the said John Melvin and
the said James Melvin that the said James
Melvin in further conveyance of said premises
shall be guided and directed by the said
John Melvin - Whether the said John Melvin
since the conveyance aforesaid has derived or
is to derive the rents and profits of the premis-
- es aforesaid directly from the tenants or from
the said James Melvin or through any other
person. Whether there was any person or persons
present during the transaction, as above set forth
if any who wear they? and what was dates of such
transactions - And that the said James Melvin shall
fully disclose the amount and kind + description of
property ^{so} conveyed to him - And that the said
Deed of conveyance so made as aforesaid may be
delivered up to be cancelled and the said prem-
- ises as aforesaid or so much of them as is suffic-
- ient be subjected to the payment of your

Orators debts as aforesaid, and under the circumstances
aforesaid that the said James Melvin be in the meantime
restrained by the order and injunction of this Honorable
Court from conveying the said premises until the
matter is heard in this behalf, and that your orators
may have such other and further relief as to your honor
may seem meet and the circumstances of this case requ-
-ire - And may it please your Honor to grant unto
your Orators the peoples most gracious writs of
of Subpoena and summons in Chancery to the
said John Melvin and James Melvin as parties
defendant to this your Orators Bill as in duty
bound &c

Caldwell
for Plaintiff

Endorsed Filed 18th Decr 1843-

Leovth White clerk

Summons

State of Illinois {
Gallatin County} St The people of the State
of Illinois to the Sheriff of White County, Greeting
We command you that you summon John
Melvin and James Melvin if to be found in your
county to personally be and appear before our
circuit court on the 1st day of the next term thereof
to be commenced and holden at the Court house
in Equality in said county on the 4th Monday of
May next then and there to answer the President
Directors and Company of the Bank of Illinois
for the use of A Caldwell & E D Ryan assignees
in a Bill in Chancery Dollars as is alleged and
hereof make return to our said court as the law
directs

{Seal}

Wm. Leo. (White Clerk of our said
Court and the judicial seal thereof
at office in Equity this 15th day of
December 1845

Leonard White Clerk
Executed on the within named John Melvin and James
Melvin by reading and delivering a copy of this writ to
each Decem^r. 30th 1845-

John Phipps Sheff M.C.

Tuesday May 26th 1846 Order of the Court

On motion a rule is awarded against the
defendant to answer by 2^d of June next,

June 4th 1846 Demurrer

The President Directors &c vs John & James Melvin
These defendants by protestation not confessing
or acknowledging all or any of the matters things
in the said bill of complaint contained to be
true in such manner & form as the same are
therein and thereby set forth and alleged doth
demur in law to the said bill and for cause of
Demurrer shew that the said bill charges fraud and
prays for discovery without being sworn to as will
appear by reference to the same and for divers other
good causes of demurrer appearing in the said bill
of complaint these defendants doth demur to the said
bill and to all the matters and things therein contained
and pray the judgment of this Honorable Court
whether they shall be compelled to make any further
or other answer to the said bill and they humbly
pray to be hence dismissed with their reasonable
costs in ^{their} behalf sustained

Filia 2 June 1846

J P Melbanks Clerk

Marshall

for defendant

Baldmele & Ebenezer & Ryan
vs
John & James Melvin } Bill in Chancery June 4th 1846

Tuesday Order On this day comes the parties by
their attorneys and the defendants demurred to the Bill
which demurrer by the court is overruled.
Wednesday 2 o'clock On this day comes again the parties
by their attorneys and on motion time of answering
is extended until Thursday morning—

Answer of John Melvin to the Bill of complaint
Filed 4th June 1846

The President Director & Company of the Bank of Ills
for the use of A G Baldmele & E J Ryan vs
John & James Melvin—

The separate answer answer of John
Melvin to the bill of complaint of the said
complaints sheweth to the court that this defendant
saying and reserving to him self all & all manner
of exception to the said bill of complaint and leaving
the said complainant to make such proof thereof as
they may be able to, so much of the said bill as he is
advised by counsel it is material to answer unto
answering saith that true it is he sold the premises
& property as set forth in said bill to the said James
Melvin for seven hundred dollars (\$700) or thereabouts
that the same was a bonafide sale for the said
consideration without fraud connivance or
collusion of any sort with the said James but agreed
declared & intended to be a true and perfect & absolute
sale of the said premises without any conditions whatsoever
and that there were no reservations in the said sale
whereby this respondent was ever under any circumstances

possible to have a reconveyance of said property or
was to have any control over it or whereby it was to be
divided or to descend to the children or descendants of the
respondent all of which will appear more fully by the said
deed of conveyance which is hereby prayed to be made a part
of this answer & marked (A) but that it was a true perfect
and absolute sale out & out - This respondent utterly
denies any confederacy with other persons or with
the said James for the purpose of injuring or
deceiving or defrauding the said complainants
or any other person whatever & further this respon-
-dent denies ever or at any time whatever having
avowed or declared his intention to defeat the collection
of the debts charged in said bills by making a
conveyance of said property - that the said James
paid this respondent the said sum of \$700, for
the said premises & property that the said James
paid respondent the said \$700 but respondent does
not know out of whose funds he paid it - Respondent
denies that the ~~consideration~~ ^{consideration} of said sale was furnished
by him to the said James and does not know
~~know~~ where he got the money or of whom -
also he denies that there was any secret understand-
-ing or agreement between the parties that the said
premises were to be held by the said James or
considered to be for the use of respondent or any other
of the children of the said John in any shape or
form, that it was never ~~it was never~~ privately under-
-stood that the said James should not come under
any actual liability for and in respect to said
~~consideration~~ ^{consideration} that there was no pre conceived ~~pretensions~~
~~or intentions~~ ^{pretensions} ~~or understanding~~ ^{intentionally} decep-
-tive arrangement as to said consideration -
that there is no private understanding between

the said James & this respondent that the said James
is to be governed & directed by respondent in the
further conveyance of said premises. That the said
John has not received since the said conveyance
nor is he to receive the rents and profits from any
person whatever that there were no person present at the
execution of said contract to the best of his recollection
That the date of the deed was 1844 and
this respondent further answers & says that he has and
had at the rendition of the said judgment in favor
of the Bank one lot in New Haven in Gallatin County
Missouri worth \$100. & two forty acre tracts within half
mile of New Haven situate in White County Missouri
worth \$100 each all of which ^{besides} ~~lands~~ other property and
~~conced~~ have been subjected to the said Executions and said
defendant denies all and all manner of unlawful
combination and confederacy, wherewith he is by
the said bill charged, without this that there is any
other ^{matter} cause or thing in the said complainants bill
of complaint contained material or necessary for
this defendant to make answer unto and not
herein and hereby well and sufficiently answered.
Confessed traverses and avoidances or denials is true
to the knowledge or belief of this defendant all which
matters and things this def^t is ready and willing to answer
maintain and prove as this Honorable Court shall
direct and humbly prays to be hence dismissed
with with his reasonable costs and charges in this
behalf most wrongfully restrained

Subscribed & sworn

John Melvin

to June 3^d 1846

Geo. White

Answer of James Melvin to the Bill of Complaint
Filed 4th June 1846

The President directors & Company of the
Bank of Illinois for the use of A G Caldwell & E J Ryan vs
John & James Melvin

The separate answer of James Melvin to the Bill
of complaint of said complainants sheweth to the court
that this defendant saving and reserving to himself
all & all manner of exceptions to the said Bill of
complaints & leaving the said complainants to make
such proof thereof as they may be able to so much of
the said bill as he is advised by counsel it is material
to answer unto, answering saith that true it is he purch-
ased of the said John Melvin the premises & property as
set forth in said Bill for seven Hundred dollars
(\$700) or thereabouts, that the same was a bona fide
sale without fraud connivance or collusion of any
sort on the part of this respondent with the said John
and he alleges the same to be true perfect and absolute
purchase of the said premises without any conditions
whatsoever of ~~the said premises~~ and that there were no
reservations in the said sale whereby this respondent
was ever under any circumstances possible to make a
reconveyance of said property to the said John Melvin
or whereby he was to have any control over it or to
decend to the children or creditors of said John Melvin
all of which will more fully appear by the said ^{deed}
of conveyance which is hereby prayed to be made apart
of this answer and marked (A) but that it was a true
perfect & absolute sale out & out, this respondent
utterly denies any confederacy with other persons
or with the said John for the purpose of injuring
or deceiving or defrauding the said complainants
or any other person whatsoever, also denies that
there was any secret understanding or agreement

between the parties that the said premises were to be held
by the respondent or considered to be for the use of said
John or any of the children of the said John in any shape
or form. And this respondent denies that he is to be
governed or directed by the said John in any shape
~~or form~~ in the further conveyance of said premises.
That said John has not received the rents since
the said conveyance nor is he to receive rents and
profits from any person whatsoever, that there were
no persons present at the execution of said
contract to the best of his recollection, that the date
of the said deed was 1844 And this defen-
dant denies all and all manner of unlawful
combinations and confederacies wherewith he is
by the said bill charged and this respondent
denies that there was not privately understood &
agreed that this respondent should never come
under any actual liability for and in respect
to the aforesaid consideration. Without this that there
is any other matter cause or thing in the said complain-
-ant's bill contained material or necessary for this
defendant to make answer unto and not herein and
herby well and sufficiently answered confessed
traversed & avoided or denied is true to the knowl-
-edged or belief of this defendant.

All which matters and things the defendant
is ready and willing to aver maintain and prove
as this honorable Court shall direct, and humbly
prays to be hence dismissed with his reasonable
costs and charges in this behalf most wrongfully
sustained

Subscribed & Sworn

to June 4th 1846

Shonover White Clerk

James Melvin

Banks of Mes us of
Ryan &

vs

In Chancery

John & James Melvin &

In this cause the defendant by
Marshall their solicitor submitted a
motion on a former day of the Term to
dismiss the Bill because no replication had
been filed to the answer and complete by
W Thomas submitted a motion for leave to
file replications which motions ~~being heard~~^{being}
being heard that of the Complainants is
sustained and that of the defendants is overruled
and the same replication none filed none
pro tunc

Order made in the Gallatin Circuit Court at the
October Term 1847

The President Directors &c
of the Bank of Illinois

v In Chancery
John & James Melvin

Ordered that this be continued
until the next term of this Court,

Order made in the Gallatin Circuit Court at the
~~March~~ ^{October} Term 1848

The President Directors &c
of the Bank of Illinois

v In Chancery
John & James Melvin

Ordered that this cause be continued
until the next term of this Court

Order made in the Gallatin Circuit Court at the
June Term 1850

The President Directors &c
of the Bank of Illinois

v In Chancery
John & James Melvin

Ordered that this cause be continued
until the next term of this Court

Order made ⁱⁿ the Gallatin Circuit Court at the
January Term 1850

The President Directors &c
of the Bank of Illinois

v
John & James Melvin

Ordered that this cause be continued

until the next term of this Court

Order made in the Gallatin Circuit Court at the
October Term 1857

A. G. Caldwell & E. J. Ryan
assignees of Bank of Illinois

vs

In Chancery

John Melvin & James Melvin

on this day came the complainants
by Thomas their ~~attorney~~ solicitor and suggest
the death of A. G. Caldwell and it is ordered
that this cause stand & be prosecuted in
the name of E. J. Ryan surviving complain-
ant and that this cause be continued with leave
to take depositions &c

Replication filed same pro time as
of June Term 1846

In the Gallatin ^{County} Circuit Court
The President Directors & Co
of the Bank of Illinois

In Chancery

John Melvin & James Melvin

And the said complainants by W
Thomas their trustee and solicitor for Replication
to the answer of said defendants John Melvin say
that the matters and contained and set forth in
their bill are true certain and sufficient to
entitle them to a decree in the premises and that
the matters stated in the answer aforesaid
are untrue so far as they contradict or traverse
the allegations in the Bill all which &c wherefor &c
Wm Thomas solicitor

And the said complaints for replication to the
answer to the ans of the Defendant James Melvin
Say that the matters and things contained in and
set forth in the bill aforesaid are true certain and
~~true~~ sufficient and that the matters and things
stated in the answer are ~~erroneous~~ evasive and
so far as they contradict or traverse the matters
alleged in the bill are untrue all which &c
Wherefor &c
W^m Thomas Solicitor
Filed June Term 1846

Exhibit A

This Indenture made and entered into this
twenty second day of October in the year of our
lord one thousand eight hundred and forty
four between John Melvin and Martha his wife
of the first part of the County of White and
State of Illinois and James Melvin of the same
County and State of the second part,

Witnesseth that the said party of the first
part for and in consideration of the sum of
seven hundred dollars to them in hand paid the
receipt of which is hereby acknowledged have
granted bargained and sold and by these presents
do grant bargain sell and convey unto the said
party of the second part his heirs and assigns
all those certain lots or parcels of land situate
in the town of New Haven and known as on the
recorded plot of said town as lot fifty four and
half of lot fifty five to have and to hold the above
described bargained and ^{granted} ~~described~~ premises
unto him the said party of the second part

his heirs and assigns forever as a good and indefea-
sible estate forever in fee simple and the said
parties and the said parties of the first part
for themselves and their heirs covenant and
agree to and with the said party of the second
part his heirs and assigns that they will forever
warrant and defend the said granted and
bargained premises against all persons claiming
or to claim the same otherwise than under
this Indenture In witness whereof the said
parties of the first part have hereto set their
hands and seals the day and year first above
written

John Melvin *(Seal)*
Martha ^{Wife} Melvin *(Seal)*

State of Illinois }
Gallatin County } Before me the undersigned
Justice of the Peace in and for said County this
day appeared John Melvin and Martha ~~and~~ his
wife both personally known to me to be the real
persons who have subscribed the foregoing deed and
and severally acknowledged the same to be their
free and voluntary act and Martha wife of said
John being made acquainted with the contents of said
deed and examined by me separately and apart from
her said husband according to law declared on
her private examination that she had executed
the said deed and relinquished her right of
dower in the premises thereby conveyed freely
and voluntarily and without the compulsion
of her husband all of which I according
hereto certify under my hand this 23 day
of October 1844

George Heyser *(J.P.)*

Evidence

In Gallatin County Circuit Court

Special term Feb 1852

The President Directors & co
of the Bank of Illinois for the
use of Ebenezer Z Ryan surviving
Assignee of the said Bank of Illinois
Against Chancery
John Melvin & James Melvin

The testimony of witnesses produced and sworn in open court in this cause on the part of complainant First H A Line sworn states that he was acquainted with Gabriel Hardison John Melvin and James Melvin at and before 1844 said James is the son of said John Melvin that in 1841 the said Hardison transferred to the said John Melvin and one Marritt Taylor notes and accounts on various individuals amounting to between 45 + 4700 dollars to be collected by said Melvin and Taylor and applied to the payment of debts due to the Bank of Illinois for the whole or a part of which said Melvin and Taylor were securitys

Witness does not know how many of said debts were collected but thinks the larger part of them were collected. Hardison had been a merchant at New Haven and witness was his clerk and was present at the time of the transfer of the notes and accounts to the said Melvin & Taylor that the fact of this transfer was notorious in and about New Haven - that in fall of 1844 the said John Melvin sold to James Melvin an interest in a Grocery Store owned by the said John & witness for \$342 or about that sum - and shortly thereafter conveyed the lots in New Haven that the said John subsequent to the aforesaid sales ~~conveyed~~

married a widow Lady in White County and has since lived
her on the farm in her possession a few miles from
New Haven - Witness does not know that said John
has owned any real estate since since the sales aforesaid
that in November 1844 the said James Melvin was in
moderate circumstances he was a carpenter⁺ was engaged
working at his trade - owned a house and lot in
New Haven - he was also engaged running a Steam
Mill Witness never saw said James in possession
of as much as \$700 in money though he might have
had that much and been able to have paid the
\$700 to his father the interest in the Grocery store
purchased by said James of his father he the
said James sold to another brother named Charles
Witness stated that said John & James Melvin have
both been considered good for their contracts does not
know the Lots in New Haven could have been sold
in 1844 for \$700 that at that time money was very
scarce and property in New Haven could hardly be
sold at any price for cash - at the time of the said
conveyance by John to James ~~Melvin~~ the said
John Melvin had other real estate in and about
New Haven which ~~which~~ he about the same time
conveyed away apart of it to another son as witness
believes. John Melvin has had no real estate about
New Haven since that witness knows of. John Melvin at the
time of said conveyance was considered solvent and
has always since been responsible and paid his
debts - He lives in White County and has personal
property but whether any real estate witness
does not know. James Melvin was an honest
and punctual man in his dealings, and his
Credit was always good witness at the time of

said conveyance would have given him Credit
for a thousand Dollars readily if he had required it,

Jesse Kirkham being sworn states that he was
acquainted with Gabriel Mardison John Melvin and
James Melvin he lived in New Haven in 1844 and
previous to that time, that he knew the facts by
reputation that Mardison had placed notes due
accounts in the hands of John Melvin & Meritt
Taylor to pay Bank Debts but had no other
knowledge on that subject. was acquainted
with John & James Melvin in 1844 the latter is
the son of the former - they were both solvent up
to November 1844 Witness heard of the sales or
conveyances by John to James in the fall of 1844
that said John has not owned any real estate
since said conveyance to the knowledge of
Witness. Subsequent to that time he married a
widow Lady in White County and has resided
with her on the farm owned by her former
husband - In 1844 the said James Melvin was
in moderate circumstances, ^{owned} a house and lot
in New Haven was a carpenter and worked at
his trade never knew of his having as much as
\$700 in cash - the lot and half lot in New Haven
conveyed to him by his father dont know that lots
could have been sold for more than \$500, cash
and Witness does not know that they could
have been sold for that amount if they had
belonged to Witness he would not have taken less
at that time money was very scarce and
property in New Haven not in demand, or
ready sale at any price. Witness does not
know the lot of land said to have been
conveyed by John to James Melvin

James Melvin has never lived in or occupied the property conveyed to him in New Haven it has been occupied by tenants but to whom the rents were paid witness does not know the said John and James Melvin were considered solvent and good for their debts previous to the fall of 1844 and both have paid their contracts since that time as far as witness knows and both are reputed to be honest men. James Melvin was an industrious hard working man and was considered good for any contract ^{that} he would make. Witness knows nothing about the conveyance from John to James or of any fraud connected therewith. James as Carpenter helped to build the house that was on the lots conveyed by John to him but witness knows nothing about whether John owed him for his said labor or not.

The Records and papers of the two suits at common law referred to in the Bill prove the execution of one note to the President Directors &c. of the Bank of Illinois by Gabriel Hardison & Sator David R Wood and John Melvin dated 10th February 1840 for \$1169.37 credited so as to reduce the amount to \$1038.17cts that suit was brought on that note against the makers process served on John Melvin 16th October 1844 on David R Wood 23rd September 1844 and the appearance of parties being entered judgment was obtained 14th November 1844 for \$1394.60 cents on which execution was issued to the Sheriff of Gallatin County and returned no property found. Also the execution of another note to the said President Directors and company by Gabriel Hardison David R. Wood and Bennett

Mill and John Melvin on the 30th of April 1842 for
\$387.10 cents Suit was commenced on this note and
process served on John Melvin on the sixteenth
October 1844 and on David R. Wood and Bennett
Mill on the 25th September 1844 and judgment
entered 14th November 1844 for \$96.70 cents on which
execution was issued and returned no property.

The testimony of witnesses produced & sworn
on the part of defendants—

Robert Kirschman states that he has
resided at New Haven since 1837 during which time
he has been acquainted with defendants John
Melvin & James Melvin the said James ~~was~~
was a House Carpenter and worked at his trade
for a living previous to 1844 In 1838 or 9 he the
said James and his partner Mr Gallacher
built a frame House for John Melvin on one of
the lots in controversy in this suit the cost of
which witness supposes would have been seven
or eight Hundred Dollars The House was subse-
quently occupied by said John as a residence until
1843 or 1844 when the wife of said John died and
he ceased to keep House In 1844 the said James
and Mr Gallacher & witness took a lease on a mill
above New Haven for five years and run the
mill for about four months when witness sold
his interest in the establishment to said
Melvin & Gallacher for five Hundred Dollars
and after that time said James Melvin and said
Gallacher run and used the mill together for
some years It required but little capital to
keep the mill in operation whilst witness had
an interest in it, the income more than paid
expenses— In 1844 the said James owned a half lot

in New Haven on which he resided previous to that time in a small frame Building - when he said James became interested in the mill he left New Haven and resided at the mill - the said James was an industrious and economical man of moderate means but his credit ^{always} was good and though sometimes Embarrassed he could ^{always} obtain credit because of confidence in his Honesty - Witness knows nothing about the sale of property in controversy at the time it was made - He was absent at that time - ~~does~~ not know but that said James might have raised as much as seven Hundred Dollars at that time out of his individual means, it could have been raised out of the partnership means dont think that property in dispute would have sold for much in cash in 1844 at the time of the sale money was scarce and property in New Haven not in demand nor easily sold for cash at any price dont know that the property would have sold for five Hundred dollars in cash but it was worth more and cost a great deal more property was not in demand and New Haven was going down at the time, the house rented for sixty dollars a year. Witness states that in 1841 Mr Hardison a Merchant of New Haven sold out his stock of Goods on credit and turned over the proceeds of sale to said John Melvin and Merrett Taylor to be collected and paid over to the Bank of Illinois on Hardison debts for which said Melvin & Taylor were securities. Witness thinks the sale notes were made payable to Melvin & Taylor assignees - It was generally known in and about New Haven that Hardison had placed ~~means~~ ^{pay the} in the hands of said John Melvin & Merrett Taylor to ^{pay the} Bank debts and Witness thinks that James Melvin must have known

the facts or had some knowledge of them - Witness does not know ^{any} reason why said James Melvin should have paid \$700 the property conveyed to him by his father the said James never occupied the property - he was a widower at the time of the conveyance as witness thinks and did not keep house in the opinion of witness nothing could have been made by investing \$700 in the property conveyed to said James for the purpose of renting witness thinks that John Melvin still owns a small tract of land in the neighborhood of New Haven not improved cannot state the value - some time after the conveyance of the property by said John to said James the said John married a widow in white county and has since ^{resided} with her on the farm in her possession before the marriage - Witness does not remember of any sale of property in New Haven for cash to the amount of \$700 during the latter part of the year 1844 - don't know of any person buying ^{property} in New Haven in 1844 for speculation except Sheridan who purchased one or two lots don't know wheather James had means enough in 1844 to pay one thousand Dollars in cash ^{for} grocery and lots or not. at the time of said conveyance he had a legacy coming to him from Kentucky.

Alexander Kirkpatrick states that previous to 1844 he sold some Greeries to defendant John Melvin for which said John failed to make payment that he obtained judgment against said John for about \$170 on which execution was issued and returned no property found. Witness believes that said John has had no property in his own name since he made the conveyance to his son James. The lots in controversy in this suit were sold on execution against said James Melvin and when the Redemption was about to expire Witness agreed to furnish and did furnish the means to said James to Redeem from said sale. said James agreed to become responsible for the debt of his father as well as to refund the redemption money and ^{then} executed a deed of trust to witness on the property to secure the said sums. subsequently the said James informed Witness that he had conveyed the property to his Brother Andrew before the date of the deed of trust but the deed to his Brother had not been Recorded - and subsequent to that again paid witness about the amount advanced to redeem the property from the sale on Execution and at his instance witness took the note of said Andrew for the debt originally due from the father with a deed of Trust from him to secure the amount which deed of Trust witness still has in full force & unsatisfied. All of these transactions occurred since 1844. Witness states that he dont know what the house was worth in 1844 the building of it must have cost at least \$700 dont think the seven hundred dollars for the house and lot & half lot would have been an exorbitant price property had diminished some in value in New Haven in 1844 dont know what the property was then worth but would not have supposed it dear

at \$700. think it might be worth that now but cant say as
with any certainty - That in 1844 money was scarce and
property in New Haven was not in demand and
couldnot be sold readily for cash at any price
James Melvin was a House Carpenter in moderate
circumstances witness thinks that no one would have
been likely to have purchased property in New Haven
for cash in 1844 for any other purpose than to secure
a place of residence the Village was not then growing
or being improved but on the contrary ^{was} declining,

The foregoing pages contain a statement of
all the testimony in the case therein Entitled
S. S. Marshall *Exr*
vs
Ezra

Order made in the Gallatin Circuit Court
At the February Special Term 1882
Ebenzer J Ryan surviving
assignee of the Bank of Orleans

vs
In Chancery
John Melvin & James Melvin

on this day came the parties
by their solicitors and this cause being heard
upon bill answer Replication Exhibits and
testimony taken in open court reduced to writing
& filed as a part of Record herein and the court
being sufficiently advised of and concerning the
premises, does hereby order and decree that the
bill herein be dismissed and that the complainant
pay the cost and on the prayer of the said complain-
-ant Ebenzer J Ryan an appeal is allowed herein
from the foregoing decree to the supreme court
upon his executing an appeal bond and filing

the same with the Clerk of this Court within sixty days
in the penalty of one hundred dollars with James
Dunlap or John P. Jones as security conditioned
according to law,

now all men by these presents that we Ebenezer G Ryan
and James Dunlap are held and firmly bound unto
John Melvin and James Melvin in the penal sum of
one Hundred Dollars for the true payment whereof we
bind ourselves our heirs or jointly and severally firmly
by these sealed with our seals and dated this fifth
day of April 1852 the condition of the above obligation
is such that whereas at the special Term of the Circuit
Court of Gallatin County Illinois held for the hearing
of Chancery causes in February 1852 in a suit in
Chancery pending before said court in favor of said
Ryan as survivor of Albert G Caldwell and
Ebenezer G Ryan assignees of the President Direct-
ors and company of the Bank of Illinois against
the said John and James Melvin - It was ordered
and decreed that the bill in said suit be
dismissed and that said complainant should
pay the cost from which decree an appeal was
allowed to said complainant to the supreme
court upon his executing an appeal bond with
the said James Dunlap as security now in
case the said Ryan shall prosecute the said
appeal with effect or in case the decree aforesaid
shall be affirmed shall pay all costs that
may be awarded in the premises then this bond
to be void otherwise to remain in full
force and effect

Filed 28 day of
April 1852

J E Hall clk

E G Ryan *(Seal)*
by his attorney in fact
Wm Thomas

James Dunlap *(Seal)*

State of Illinois
Gallatin County } S.S.

I J. H. Hall Clerk of the Circuit Court
for Said County do certify that the
foregoing twenty seven pages cont-
ain a full true and complete
copy of the record & files of my office
in the before entitled suit to wit the
President Directors & company of the Bank
of Illinois for the use of A. G. Caldwell
and E. G. Ryan vs John Melvin &
Jesse Melvin, all of which appears
from the records & files of my office
Given under my hand and
the Judicial Seal of said Cir-
cuit Court at Shawneetown this
28th day of April A.D. 1852.
J. H. Hall Clerk

Cost in Gallatin Cir Court \$15.63
Copy of Record 8.50
\$24.13

State of Illinois S.S.

In the Supreme Court of said State
First Grand Division

Elvenger Z Ryan Surviving
Applicant of the Bank of Illinois
against

John Melvin &
James Melvin

} Appeal from
} Decree of Gallatin
} Circuit Court,

And the said Appellant by W. Thomas,
his attorney comes and says, That
in the proceedings of the said Circuit
Court, and Grand Jurors, Manifest
Errors have intervened to his
prejudice, and he now sets down
the following errors apparent on the
Record aforesaid, -

First, The Court Erred in not
making a decree in favor of the
complainant instead of defendants,

Second, The Court is not decreeing
that the conveyance from John Melvin
to James Melvin referred to in the
pleadings was void in respect to
the rights of complainant, and
is not decreeing a sale of the
real estate conveyed by said deed
to be sold on the terms presented
at Law, - Wherefore he prays that
the errors aforesaid be removed
set aside and

Doinder in law

W. Thomas
for Appellant.

Wm Marshall
for Melvin's -

E. Z. Ryan
Epigram of
Bk of Illinois

in 3 copy
3 Record

John Melvin
James Melvin

Appeal from
Galena.

Filed the 17th Aug^r
A. D. 1852

J. D. Preston

Prepared Clark