

MVB to James Vanderpoel, 21 August 1815

DSir,

Your case though short in statement is extremely complicated in point of right. The defence if all the facts are legally proved will probably be, either that by the assignment of the Bond & Mortgage to Macon the Judgment was also transferred as incident to the demand, that that assignment was upon valid consideration & that if the payment of part thereof failed Mrs. Vosburgh's only remedy was agt. Macon, treating the notes of Johnson & Pabody as no payment, that therefore the revival of the Judgment by Mrs. Vosburgh was without right, effected through the negligence, of Gay & could furnish no right of action to him, or 2dly The discharge of Pabody in 1811. As to the first there may be difficulty but as to the second I think < *there* > could not because at the time of his discharge their was no debt it being necessary to enable the discharge to operate that the demand should be debitum in presenti although it be solvendum in futuro. These two grounds of difence removed would not our case stand thus, anterior to 1805 the joint debt of Gay & Pabody became by agreement the seperate debt (as between them) of Pabody, in that year a Judgment was recovered agt. both, & in consequence of that Jugment in 1812 in 13 or <11>, a certain amount collected on that Judgment from Gay, which we claim to recover under the count of money paid <issued> out & expended. To entitle ourselves to a verdict we must prove 1st. The joint indebtedness 2d. The engagement by Pabody to pay the whole debt & the consideration on which it was founded 3d. The enforcement of the payment by Gay & the evidence of it & that legal measures were resorted to < *viz* > the Judgment in 1805 & the subsequent revival., Exaction &c. The only difficulty exhists ^is^ as to the First, the regular proof of that will doubtless be the Bond or proof of its contents if the State of the possession of it or its exhistance is such as to render such proofs proper, but I presume it is not lost but most probably in the possession of Macon, where you might have reached it by commission, if it can be got it would be desirable but if that is impossible we must depend on the Judgment of 1805 being conclusive evidence of it as respects Pabody agt. whom the judgment was & in the proceedings of which it was recited—how was the engagement to pay it, in writing or by bond. If in writing that may be evidence of the Bond. If by bond it may refer to the debt generally & perhaps we may derive some benefit from < *that* >. On Saturday Andries L Gardinier

passed to me a new \$10 counterfeit bill under such circumstances as to induce a strong suspicion that it was designedly done. Corns. P. Schermerhorn was in company with him a little while before. How is this? If you have an opportunity let him know that I want to see him.

Yours sincerely

M.V.Buren

Document Information

Date:

21 August 1815

Object Type:

[Correspondence](#)

Author:

[MVB](#)

Keywords:

[Land patents](#)