

property which originally belonged to her should be responsible for the debts of Mitchell.

But the complainants have filed, under the commission, the transcript of the record of a suit instituted in this Court in the year 1838, by the present complainants, against Richard Bennet Mitchell alone, in which that release was impeached, and, by the decree of the Chancellor, set aside, in the year 1840. The admissibility of this record is excepted to upon several grounds, and amongst others, upon the ground that the excepting defendants were not parties to the cause in which the decree was pronounced, and I have no doubt the exception is well taken. It seems to me it would be a most pernicious doctrine to establish that the decree passed in that cause, to which Mrs. Bedford and the other excepting defendants were not parties, should be received in evidence against them. If that bill was filed for the purpose of removing this release out of the way, and subjecting by such removal the property of Mrs. Bedford, to the claim of the complainants against Mitchell, then it was essentially necessary that she and the other parties whose interests are associated with hers, should have been made parties. The decree otherwise would have been fraudulent and void as to them, and of course can have no operation whatever as against them. *Story's Eq. Pl., sec. 427.*

Upon the whole, then, and without expressing any opinion as to the effect of the plea of the act of limitations, I am prepared to sign a decree dismissing the bill so far as it proposes to affect the property which originally belonged to *Henrietta A. Bedford*, and which became vested, by the conveyances mentioned in the proceedings, in *Kennedy and Glenn*. Different considerations may apply to such property (if there be any) as belonged to *Richard Bennet Mitchell* not derived from the said *Henrietta A. Bedford*, and as to such property no opinion is now expressed.

NELSON, for Complainants.

WALLIS, for Defendants.