

Lynch, 1 *Johns. Ch. Rep.*, 370. And it being perfectly clear in this case that *Beard* never was, and the complainant is not now, in a condition to perform his part of the contract, the relief asked for, must on that account be refused.

Upon the whole, I am of opinion, that the injunction must be dissolved, the *ne exeat* discharged, and the bill dismissed.

[No appeal was taken from this decree.]

CHAUNCY BROOKS ET AL. }
 vs. } DECEMBER TERM, 1848.
 JOHN DELAPLAINE ET AL. }

[CONCURRENT JURISDICTION OF THE COURT OF CHANCERY AND THE COUNTY COURTS.]

THE appearance of the defendants to the bill, and their submitting to answer it, would be a waiver of any objection to the jurisdiction of the court. The power of the county courts, within the boundaries assigned them, are equal, in every respect, to the powers of the Court of Chancery. When two courts have concurrent jurisdiction over the same subject matter, the court, in which the suit is first commenced, is entitled to retain it. This rule is vital to the harmonious movement of the courts; and, any other would, unavoidably, lead to perpetual collisions, and be productive of the most calamitous results.

[On the 28th of March, 1844, John Delaplaine, of Carroll county, executed to Wm. P. Maulsby, a deed of trust of all his property for the benefit, firstly of certain of his creditors therein mentioned, and after the payment of their claims, for the benefit of all other persons having any demands against him. In the month of August following, said Delaplaine applied for the benefit of the insolvent laws of Maryland, and the said William P. Maulsby was appointed his permanent trustee; and in the month of October, 1846, a bill was filed on the equity side of Frederick County Court by Basil Norris, one of the preferred creditors, against said Delaplaine, and Maulsby, for an account of the trust fund of the said Maulsby, and for an adjudication