

bill, which, he insists, presents a case cognizable at law—and secondly, upon the act of limitations as a bar to the relief asked for.

The Chancellor is of opinion, that either of these defences is fatal to the complainant's right to recover in this court.

There is not certainly upon the face of the bill a single averment to show that the complainants would encounter any obstacle in a proceeding in a court of law to recover the proceeds of the sales of this stock. Whether the defendant John C. White is himself to be regarded as the purchaser, or as the agent to sell and account to the plaintiffs for the proceeds of the sales, (and there is some ambiguity in the allegations of the bill upon this point,)—still the legal remedy, in either aspect, is complete and ample, without the aid of a court of equity. The bill presents the case of a *single* transaction of the sale of stock, the particulars of which seem to have been known to the complainants, or of which the proof was entirely within their reach, without having recourse to the conscience of the defendant. As between him and them there was unquestionably no such trust as would bring the case within the exclusive jurisdiction of a court of equity. The charge, is, not that this stock was held by the defendant John C. White in trust for these complainants, but that it was so held by Joseph White, and that the transfer and sale was made in virtue of an authority derived from him.

Why then, if John C. White is liable at all, could not a recovery be had against him in a court of law? There is no complication in the accounts which requires the aid of a court of chancery to unravel—no discovery from the defendant to establish the facts upon which the recovery must be founded; nor does the bill profess to place the jurisdiction of the court upon that footing. Nor is there any thing in the relation of these parties, as trustee and cestui que trust, which places the transactions between them under the exclusive control of this court.

The cases of *Adair vs. Winchester*, 7 G. & J., 114, and *Oliver vs. Palmer & Hamilton*, 11 G. & J., 426, are supposed to be conclusive authorities against the complainant's right to proceed in this court upon this bill.