

sumed trust that affords the evidence of an intended fraud against creditors; because it is perfectly evident, that a man who is greatly indebted, cannot, nor ought not, to be allowed to reserve for his own use, or to give away his property to the prejudice of his creditors—and consequently no donation can be permitted to stand against them, where it is at all doubtful, whether or not the remaining property of the grantor will be sufficient to satisfy all his debts; *Walker v. Burrows*, 1 *Atk.* 93; *Taylor v. Jones*, 2 *Atk.* 602; although the fact of the grantors being totally insolvent at the time, would be conclusive evidence of the fraudulent character of the conveyance; yet his being at the time indebted in some small amount, compared with his property and circumstances, and the value of the donation, would not, of itself, and alone, affect the validity of the conveyance; because every man must be indebted for the common bills of his house, though he pays them every week. *Lush v. Wilkinson*, 5 *Ves.* 387; *Kidney v. Coussmaker*, 12 *Ves.* 155; *Nunn v. Wilsmore*, 8 *T. R.* 529.

In the case under consideration, it appears that Alexander B. Hanna was a tradesman, in no very extraordinary affluent circumstances; his household furniture formed a considerable part of his estate, even according to his own reckoning; and, counting up his whole fortune, the house and lot, in controversy, formed a large and important portion of it; yet with debts, then due and still unpaid, amounting to between twelve and thirteen hundred dollars, he made this voluntary conveyance of that very large and important portion of his estate, in trust for the benefit of his wife and children; which donation, however, he had not finally perfected, by \*clearing it of all incumbrances, until after he  
**35** became much embarrassed in his pecuniary affairs, and just before his legally avowed insolvency. I am, therefore, perfectly satisfied, that this deed of the 22d of July, 1817, must be deemed altogether fraudulent and void as against the creditors of the defendant Alexander B. Hanna.

These plaintiffs represent, as well as those who were creditors of Alexander B. Hanna at the time he executed the deed of the 22nd of July, 1817, as those who had become so since that time, and prior to his obtaining the benefit of the insolvent laws. Upon the principle, that an estate obtained by fraud can only be vacated by him who has the prior right; *Twyne's Case*, 3 *Co.* 83; it has been settled, as a general rule, with some few exceptions, that no creditor can have a voluntary conveyance set aside, on the ground of its having been made to his prejudice, unless he was a creditor at the time the conveyance was made. But it has also been long well established, that where a voluntary conveyance has been vacated for the benefit of those who were creditors at the time, all subsequent creditors may be let in to participate of the funds. *Walker v. Burrows*, 1 *Atk.* 93; *Lush v. Wilkinson*, 5 *Ves.* 386, n;