

as the nature of the case might require. To this bill there was subjoined an affidavit of the plaintiff in the usual form. Upon which it was submitted.

BLAND, C., 20th April, 1830.—The plaintiff prays for an injunction of a more extensive operation than can now be granted. He asks not merely, that things may be preserved in their present condition, but that some things which have been done may be undone; in other words, he asks the Court now, and at once, to put forth in his behalf its remedial as well as its conservative powers.

But before imputed wrong can be removed, or any thing like **470** * commutative justice can be administered, it is the duty of the Court to give the party complained of an opportunity of being heard. To restrain a defendant from making any abusive use of the property in question; or from disposing of it past recall, amounts to no more than the imposition of a temporary limitation upon the free exercise of his rights, even if it should eventually appear to be entirely and rightfully his; which is quite as far as any Court can go in the first instance; and as preparatory to a fair and beneficial hearing and final adjudication. To order a defendant to pull down or remove any erection would be obviously and directly to deprive him of a portion of that which then, at least, appeared to be his property, and was so claimed by him; and that too, at once, and without a hearing; for a house, a fence, or the like has a value, as such, which would be totally destroyed by its being pulled down, and which does not belong to the materials of which it was composed, however carefully they may be preserved.

The only object of the conservative power of the Court, as expressed in an injunction of this kind, is, not to determine any controverted right, but merely to prevent a threatened wrong, or any further perpetration of injury, or the doing of any act thereafter whereby the right to a thing may be embarrassed, or endangered, or whereby its value may be materially lessened, or the thing itself may be totally lost. The principal object of an injunction, in cases of this kind, is to prevent irreparable injury by preserving things in their present state; but if the injunction were to order any thing to be pulled down or undone, it is obvious, that it might be, itself used as a means of producing that very kind of irreparable injury to the defendant which the bill charged him with being about to perpetrate against the plaintiff. *Duvall v. Waters*, 1 *Bland*, 569.

There are, however, some cases in which an injunction has been so framed as, apparently, to approach to the very verge of ordering a thing to be undone. As where the regular flowing of a stream of water had been so interrupted by the making, or the interposition of occasional breaches or obstructions, as to be very injurious