

of the complainant, as solicitor of one of his creditors, to dispense with special bail in an action against him. The defendant also denied, that the assignment was fraudulent and void, within the meaning of the insolvent laws; and stated, that immediately after the execution thereof, he had called upon the creditors of the insolvent to inform them of it, and that they had assented thereto, and directed him to proceed in the execution of the trust reposed in him by it. A replication was put in to this answer, and certain papers and an agreement were filed to show the assignment to Hall, the application of Keene, for the benefit of the insolvent laws, and the appointment of the trustee.

The case was subsequently removed to this court, and argued before the Chancellor, who, at this term delivered the following opinion:]

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THE CHANCELLOR:

It has been settled by the highest authority in this state, that a debtor in failing circumstances may prefer one creditor to another, by a transfer of his property, made in good faith; and that in similar circumstances, a transfer by a debtor of his whole estate to trustees, for the equal benefit of his creditors, is free from objection. *State of Maryland vs. Bank of Maryland*, 6 G. & J., 205.

Although, however, a debtor may prefer one of his creditors, to the exclusion of the rest, either by payment, or a *bona fide* transfer of his property, according to the provisions of the common law, yet, in this state, if such payment or transfer, is made with a view, or under an expectation of being or becoming an insolvent debtor—which words are construed to mean, with a view or under an expectation of taking the benefit of the insolvent law—and with an intent thereby to give an undue and improper preference to such creditor, then such payment and transfer are obnoxious to the provisions of our insolvent system, and void, the acts of 1812, ch. 77, sec. 1, and 1816, ch. 221, sec. 6, (this latter act relating to the city and county of Baltimore,) declaring such to be the law of this state. The