

nulled, and the lands purchased by him again sold by the trustee appointed under the decree in this cause; and the matter of the petition having been argued before him, the Chancellor delivered the following opinion :

THE CHANCELLOR :

After reviewing, with the industry and ability for which he was so pre-eminently distinguished, all the authorities upon the question, Chancellor Kent, in the case of *Thompson vs. Brown*, 4 *Johns. Ch. Rep.*, 619, stated, that it was "finally settled in the English Chancery that upon the usual decree to account, in a suit by one or more creditors against the executor, either singly for themselves, or specially on behalf of themselves and all other creditors, the decree is for the benefit of all the creditors, and in the nature of a judgment for all; and all are entitled, and are to have notice to come in and prove their debts before the master; and that from the date of such decree, an injunction will be granted upon the motion of either party, and upon a due disclosure of assets, to stay all proceedings of any of the creditors at law." At one time, and until a comparatively recent period, this remedy would not be given unless where a bill for an injunction had been expressly filed, against the creditor whose action at law was sought to be restrained, but it was subsequently held, in order to save expense, that the executor when sued at law should be permitted upon giving notice to the creditor, to bring him in, and upon motion, to restrain him by injunction. *Paxton vs. Douglass*, 8 *Ves. Jun'r*, 520.

In order, however, to prevent abuse by connivance between an executor or administrator, and a friendly creditor, the practice is to grant an injunction only when the answer or affidavit of the executor or administrator states the amount of the assets, and upon the terms of bringing the assets into court, or obeying such other order of the court, as the circumstances of the case may require. 1 *Story Eq.*, sec. 549; *Gilpin vs. Lady Southampton*, 18 *Ves.*, 459.

The late Chancellor, in the case of *Hammond vs. Hammond*,
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