to devise said land to complainant and said William, and that
he so told said Beale, and was prevented from making said
devise by the persuasion and inducement of said Beale, who
faithfully promised said Plummer that he would hold said
property in trust for complainant and said William, and that
but for such promise and undertaking of said Beale, the said
devise would have been made by said Plummer to complainant
and said William, and was in fact made to said Beale in trust
for them.   The bill contains various other averments relative
to the possession of the property and the declarations of said
Beale Gaither that he held it in trust for complainant and his
brother William, &c., which it is not necessary to state.   The
prayer of the bill is that the deed of 1840 may be annulled
and vacated, and the defendants required to convey said pro-
perty to the complainant in fee.

Besides the complainant, the said Beale Gaither left surviv-
ing him his son, the said William, three daughters above-
mentioned, and two sons, Thomas and James, his heirs-at-law,
all of whom were made defendants to the bill, and severally
answered, denying the averments thereof fully and particu-
larly.   The evidence taken in the case sufficiently appears
from the opinion of the Chancellor.]

THE CHANCELLOR:

The proposition of law upon which the complainant's case
rests, and upon which he has placed it by his bill, appears to
be well fortified by authority.   That proposition is, that if an
heir or personal representative or devisee whose interests
would be prejudiced by the insertion of a provision in a will
in favor of some third person, induces the testator to omit
such provision by assurances that his wishes shall be executed,
as though the provision were made, such assurance will raise a
trust which, though not available at law, will be enforced in
equity on the ground of fraud.   *Barrow* vs. *Greenough*, 3
Ves., 152; *Mestaer* vs. *Gillespie*, 11 *Ves.*, 621; *Strickland*
vs. *Aldridge*, 9 *Ves.*, 516; 1 *Story's Eq.*, sec. 256; 2 *ib.*, sec.
781.   Cases establishing the principle could be multiplied to