

ance was with the consent of respondent, and with the knowledge of his wife. He has, therefore, ever considered his wife as a purchaser for a full consideration, for he alleges that the said lot and improvements were certainly not worth at that time more than the debt due to Mrs. Elliott, if as much.

He denies all fraud, or fraudulent purpose or intent; avers that he was perfectly willing to have conveyed the lot to the Nicholsons, in payment of his debt to them, and agreed to have it conveyed to his wife, in payment of said Nicholsons' debt to Mrs. Elliott, just as he would have agreed if she had demanded it, to convey the same to her. That he considered himself as paying a just debt to Mrs. Elliott, and on her agreeing to the conveyance to his wife, he did not consider his situation, purpose, or act, in any way altered or changed.

He admits that he did pay to Beard the purchase-money with his own labor and money, and built the improvements thereon in the same manner; and that his wife paid no part of the same, except in the manner above stated; that he has never exercised any control over said property, except with the consent and approbation of his wife, as her mother's money was applied to the purchase thereof. He admits that he has no property, except a very small amount of furniture, worth about \$10.

Proof was then taken, the purport of which is sufficiently stated in the opinion of the Chancellor.]

THE CHANCELLOR:

The principle of course is not, and cannot be, disputed, that at common law, and independent of our insolvent laws, a debtor may secure one creditor to the exclusion of others, either by payment or a *bona fide* transfer of his property, *Hickley vs. The Farmers and Merchants' Bank*, 5 G. & J., 377; *Cole vs. Albers and Runge*, 1 Gill, 412.

The deed in this case is not assailed upon the ground that it was made, or caused to be made, under an expectation of taking the benefit of the insolvent laws, and with intent thereby to give an undue and improper preference to one creditor to