

INJUNCTION—*Continued.*

7. The averment in the bill of the infancy of the complainant at the time she executed the mortgage, though not admitted by the answer, and proof called for to sustain it, must, on motion to dissolve, be taken to be true. *Ib.*
8. Where the party against whom a judgment at law has been rendered, did not, before or at the time of its rendition, know of facts which would have constituted a valid defence at law, so that he could not then have availed himself of them, he will be entitled to relief in equity against the judgment. *Iglehart vs. Mayer*, 514.

See PRACTICE IN CHANCERY, 9, 46, 48.

## INSOLVENT DEBTOR.

1. Where the trustee attempts to vacate an assignment of the insolvent, as in violation of the insolvent system, he is not required to offer direct evidence of the facts upon which he relies, but may avail himself of circumstances to establish the intent with which the assignment was made, and if they be sufficiently strong, it will be set aside. *Brooks vs. Thomas & Jerome*, 15.
2. But where the answer or evidence of the insolvent denies such intent, the difficulty of making it out is materially increased, and nothing short of circumstances of the strongest description will justify the court in disregarding such answer or evidence. *Ib.*
3. There must be both the intent to prefer, and to take the benefit of the insolvent laws, or the transfer will not be disturbed. *Ib.*
4. To avoid a transfer or payment, under the 1st section of the act of 1834, ch. 293, *actual notice* must be brought home to the preferred creditor of the insolvency of the debtor; mere technical or constructive notice is not sufficient. *Ib.*
5. Where a party seeks to avoid deeds as fraudulent under our insolvent system, he must allege in his bill and prove, that the grantor was indebted at the time of the execution of the conveyances sought to be vacated, and that the deeds were made or caused to be made by him with a view or expectation of taking the benefit of the insolvent laws. *Faringer vs. Ramsay & Ehrman*, 33.
6. A bill was filed in this case by a vendor for the sale of a certain parcel of land to pay the vendor's lien, and a decree was passed accordingly, which upon appeal was affirmed by the Court of Appeals; after the decree, but before the sale had actually taken place, the defendant, the vendee, applied for the benefit of the insolvent laws, and his trustee in insolvency was duly appointed, who applied to the court to stay execution of the decree upon the ground that by the proceedings in insolvency the right to make the sale is exclusively vested in the trustee of the insolvent. HELD—

That the proceedings in insolvency did not put a stop to the proceedings in this court, and its trustee was still bound to execute the decree by a sale of the property. *Hurt vs. Stull*, 391.

## JUDGMENTS.

1. Two judgments were rendered against a party on the same day, one at