

*facias*, by which the lands in question were taken and sold, as the property of the defendant *Nathan Waters*; and this plaintiff became the purchaser; that *Nathan Waters* had, with intent to defraud his creditors, without any valuable consideration, previously conveyed those lands to the defendants *Nathan I. Waters* and *Samuel Ratcliff*. Whereupon it was prayed, that the conveyance might be set aside as fraudulent and void. The defendants put in their answers to this bill; and commissions were issued and testimony collected. All the material particulars of this case are stated by the Chancellor in delivering his opinion on pronouncing the final decree.

On the 18th of July 1827 this plaintiff filed another bill here against these same defendants, reciting the nature and pendency of the former bill; and alleging, that, since the institution of that suit, the defendants had been committing great waste, by cutting large quantities of timber, with a view of removing it from the land; and by destroying the wood. Whereupon the plaintiff prayed for an injunction commanding the defendants not to commit further waste by cutting, or removing from the lands any timber; or by destroying the wood; and, not to do any act that might be in any wise prejudicial to the inheritance; and for general relief. Which injunction was granted as prayed. The defendants put in an answer to this bill, in which they averred, that the conveyance was made for a good and valuable consideration; and in short denied the plaintiff's title, and all the material facts upon which his equity rested; and thereupon gave notice of a motion to dissolve.

1st October, 1827.—BLAND, *Chancellor*.—The motion to dissolve the injunction standing ready for hearing, the solicitors of the parties were heard and the proceedings read and considered.

It has been urged, in support of this motion, that this was not merely and properly a case of *waste*, but an injunction, in restraint of *trespass*, granted at the instance of a plaintiff who claimed title; which title had been directly and positively denied by the defendants. And that according to the well established law of this court, as deduced from the *English* authorities, no such injunction could be granted or continued where the title of the plaintiff, as in this instance, was admitted to be in dispute, or was altogether denied by the defendant in his answer. This objection is certainly well founded upon the principles of the *English* law; but it is otherwise according to the law of *Maryland*.