

compared with an injunction; which is the only judicial proceeding, that seems to be, in all respects, capable, by its promptness and vigor, of preventing irreparable mischief from being done to real estate pending the litigation, by a provoked and desperate defendant.

When this mode of interposing by injunction to stay waste, pending an action at law or a bill in chancery, was first allowed by this court, I have not been able distinctly to ascertain; but it is evident, that it had been considered as a settled course of proceeding under the Provincial Government; for upon an information in chancery, filed on the 13th of April, 1775, by the *Attorney General*, at the relation of *Josias Bowen*, against *Nicholas Norwood*, to vacate a patent grant for a tract of land, it was alleged, that the defendant in possession was committing great waste; to stay which an injunction was asked and immediately granted until the final hearing. (l) I have seen a case of this kind, in which, in the year

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(l) *THE ATTORNEY GENERAL v. NORWOOD*.—This was an information filed in the High Court of Chancery, on the 13th of April, 1775, at the relation of *Josias Bowen* to vacate a patent which had been obtained by the father of the defendants, for a tract of land, which the relator had previously caused to be surveyed; but was prevented from obtaining a patent for it, by the father of the defendants having fraudulently contrived previously to get a patent for the same land.

The information states, that in confidence of his being clearly entitled to a patent, the relator had brought his action of ejectment against the father of the defendants; pending which action his certificate was caveated, and the *caveat* ruled good, by reason of *Norwood's* producing an elder patent; which patent it is averred he had fraudulently obtained; that afterwards the relator's action of ejectment was *non pros'd* with costs; which judgment he superseded; that *Norwood*, after that, conveyed the land to his son, this defendant *Nicholas Norwood*; and, by his will, appointed his other son, the defendant *Edward Norwood*, his executor, and died; that *Nicholas Norwood* had taken possession of the land, and was committing great waste; and that *Edward Norwood* had, by *scire facias*, revived the judgment for costs in the action of ejectment, and threatened to sue out execution against the relator.

Upon which the information prayed, that the patent obtained by *Norwood* might be vacated, and possession of the land delivered; that *Nicholas Norwood* might, *by an injunction, be restrained from committing waste, &c.*; and that *Edward Norwood* might be prohibited from proceeding at law.

The relator made affidavit to the truth of the facts set forth in the information; and also gave bond to prosecute as in common cases to stay proceedings at law. Upon which, on the same day, an injunction was granted as prayed.

On the 7th of July, 1785, it was decreed, that the injunction be made perpetual, that the patent be vacated, and that the possession be delivered.—*Chanc. Proc. No. 2, fol. 211*.—This case is in other respects more fully reported in 2 H. & McH. 201.

*COALE v. GARRETSON*.—This bill was filed, on the 15th of February, 1791, by *Richard Coale* against *Job Garretson*. It sets forth all the particulars of the plaintiff's case, by which it appears in substance, that on a certificate, bearing date on the 8th of January, 1773, he had in April, 1775, obtained a patent for a tract of land called