injunction was granted in the year 1803, apparently without hesitation, to stay waste until the final judgment in an action of ejectment. In which case, on its being urged that the defendant ought not to be thus deprived of the free use of his property, the court said, that he had no other mode of relieving himself from the restriction than by pressing the action at law to a conclusion as speedily as possible.(*n*) I have met with many other similar cases; but in no one of them does it appear that any objection had been made, grounded upon the principles of the English authorities, against the propriety of granting or continuing the injunction, because the plaintiff had stated, that his title was disputed, or because the defendant had positively denied its validity. And so

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(*n*) GITTINGS *v.* DEW.—The bill states, that the plaintiff James Gittings was seized and possessed of several parcels of land in Baltimore county, into a part of which the defendant Robert Dew had wrongfully entered; that the plaintiff had commenced an action of ejectment against the defendant to recover such parts as he had entered upon, which suit was then undetermined; that the defendant was cutting down the timber and other trees thereon and making great waste and destruction, and the plaintiff apprehended would continue to do so. Upon which the bill prayed for a *subpœna* and an injunction, prohibiting the defendant, his agents, &c. from cutting down or carrying away timber trees or other trees or wood growing and being on the land; *and from committing any waste thereon until the final decision and judgment in the ejectment;* or until further order, &c.

14th January, 1803.—HANSON, *Chancellor*.—Issue *subpœna* and injunction agreeably to the prayer of this bill.

It does not appear that the defendant ever put in any answer to this bill. But on the petition of the plaintiff, stating that the defendant had committed waste in breach of the injunction, accompanied by an affidavit of Archibald Davis, stating the circumstances, an attachment was ordered on the 1st of January, 1807, returnable to February term. The attachment having been issued and served, the defendant Dew appeared and filed his answer on oath, to the petition, in which he states, that he had cut some cordwood as alleged; but that the plaintiff had not, as he ought to have done, caused the surveyor to lay down his claim and pretensions; that this defendant had been assured by his counsel, that after the first term to which the injunction was returnable he had a right to cut wood; that under such an impression, and firmly believing as he then did, that the plaintiff had no right to the land, he had cut the cordwood as stated; but in doing so, he had no intention of setting the authority of this court at defiance; and was ignorant that what he had done was wrong.

26th February, 1807.—KILTY, *Chancellor*.—The suit at law was to decide title and location, and the injunction to restrain waste until those points were decided. Therefore it is no sufficient answer for the defendant to say that the land was his and the location unascertained. If the plaintiff, at law, is tardy, the defendant must urge him to proceed. In consideration of the excuses contained in the answer, and the plaintiff not pressing for a commitment or fine; it is ordered, that the defendant Robert Dew be discharged from the attachment on paying the costs thereof.