

proofs and affidavits have been allowed to be introduced in opposition to the answer of the accused. If, on the other hand, the accused does not, by his answer, fully deny or justify the acts charged against him, he may be fined and imprisoned, or such terms imposed upon him as the justice of the case may require. (k)

In this instance *Gilbert Murdock* has, in the most complete and positive manner, denied all the charges made against himself, and the other two persons, who stand accused, sustain his answer by their assertion that they did not act as his agents, or with his knowledge. This is an injunction intended to do the office of a writ of *estripment*; as to which it is laid down, that if a stranger, of his own wrong, do waste, after the prohibition delivered unto the tenant, and against the tenant's will, then the tenant shall not be punished for that waste. (l) Hence, it is clear, that this tenant, *Gilbert Murdock*, must be discharged with his costs.

But *William Murdock* and *Johnson* admit that they did the act complained of, and that they have no claim whatever to the place where they erected the fence. They must, then, by their own admission, be considered as trespassers, who undertook, at their peril, to meddle with property to which they had no manner of title; and as such they may justly be held responsible, in every way, for all the consequences of their unauthorized act.

It is, in general, true, that this process of attachment for contempt, in violating an injunction, can be directed against no one but a defendant to the injunction bill, or one who acts as an agent, or by some concert with a defendant; and it is also certain, that this court can have no concern with any action at common law, which may be brought against these trespassers. But that very act which these persons have done, this court, by its injunction, prohibited the defendant himself, as a claimant of the property, from doing, until the right should be determined between him and this plaintiff. It is evident, therefore, that these trespassers have altered that state of things which this court had determined should remain unchanged; they have benefitted the defendant by doing that which he himself was not allowed to do; they have injured the plaintiff in doing that which he had complained of as a wrong; and they have, without a shadow of right, impertinently inter-meddled with a matter which is the subject of a controversy de-

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(k) *Childrens v. Saxby*, 1 Vern. 207; *Angerstein v. Hunt*, 6 Ves. 488.—(l) F. N. B. 141.