

bill to stay waste or proceedings at law, to be filed before the *sub-pœna* is issued. (*w*)

Under our government, the federal courts and the state courts have, in many instances, a concurrent jurisdiction; and either may have cognizance of the case, either as a court of common law or of equity. If the plaintiff and the defendant be citizens of different states, the suit may be brought in either; but if the suit be instituted in a state court, its proceedings will not be stayed by an injunction from a federal court; or the reverse; not because the court has not jurisdiction of such a subject between those parties; but because it could not exercise its jurisdiction in that case, without bringing itself injuriously in conflict with another tribunal, with whom it ought not on any account to interfere. (*x*)

The two great co-ordinate courts of equity of England, are the High Court of Chancery, and the Court of Exchequer. The first is the prototype of this court. The Exchequer, as the phrase is, has two sides; it is a court of common law, as well as of equity. It is composed of a plurality of judges; and is, in all respects, a *term court*; being in these particulars, essentially different from the Court of Chancery; which is composed of only one judge, and is most emphatically, *always open*. The Exchequer, like our federal circuit courts, and our state county courts, is so organized, that it can exercise scarcely any of its equity powers, except in term time; and owing to the delays and expense of proceeding with its equity business only from term to term, the continually open Chancery Court, has a most decided advantage over the Exchequer, which, on that account, is almost deserted as a court of equity. (*y*)

In this, and other respects, the analogy between the High Court of Chancery, and the Court of Exchequer of England, as co-ordinate courts of equity, and the High Court of Chancery, and the county courts of equity of Maryland, as co-ordinate courts of the same description, is so close and striking, that the cases in relation to the conflicts of jurisdiction, between those English courts, may be applied as most instructive illustrations of the effects of any similar clashing between our own co-ordinate courts of equity.

It is a rule between those English courts, that where they have both an entirely concurrent jurisdiction of the same matter, that

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(*w*) *Williams v. Hall*, 1 Bland, 193, note.—(*x*) *Diggs v. Wolcott*, 4 Cran. 179; *McKim v. Voorhies*, 7 Cran. 279.—(*y*) *Crowley's Case*, 2 Swan. 11; 1 London Jurist, art. 7.