

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 too in cases of nuisance, although it is necessary in England, that the individuals complaining of the injury should have had their rights first established at law, *Mitf. Plea.* 144, yet here, where an action or the proper proceeding has been instituted to try the right, an injunction may be granted to prevent the repetition or further continuance of the nuisance until the right has been thus determined at law or in the regular mode. *Williamson v. Carnan*, 1 G. & J. 184. (k)

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no intention of setting the authority of this Court at defiance; and was ignorant that what he had done was wrong.

KILTY, C., 26th February, 1807.—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.

(k) PASCAULT v. THE COMMISSIONERS OF BALTIMORE.—HANSON, C., 1st March, 1797.—The motion to dissolve the injunction in this cause issued, being submitted, the bill and answers were by the Chancellor read and considered.

When the bill was presented to him for the purpose of obtaining the injunction, it was not his idea, that this Court ought to control the judgment of the commissioners. It appeared to him, that whenever they exercise their judgment on a subject, over which the law hath invested them with power, and they determine on an act to which that power is competent, they cannot with propriety be restrained. It was not his province to decide, whether or not a street should be proved, or a sewer repaired, or whether or not the intended act of the commissioners would be beneficial to a majority of the persons to be affected by the act. But he considered the power of this Court rightfully exercised, on the application of any person, who is apprehensive of injury, in restraining a proceeding not authorized by law. He conceived, that the power conferred on them by the Act of Assembly referred to in the bill does not extend to the removing a pavement already made, which was not even alleged to want repairs, and lowering a street for the avowed purpose of changing the course of waters, against the consent and remonstrance of any individual citizen, whose property is to be thereby affected. The power conferred on them by the aforesaid Act of Assembly, is to make, amend, repair, pave, and keep clean streets, alleys and lanes; to make, amend and repair bridges; and amend, and repair sewers; and so long as they *bona fide* exercise only that power, they will not be restrained by this tribunal.

Now supposing the extent of their power to be only doubtful, and that the complainants on bringing suit at law, and shewing, that they have been injured by the commissioners' completing their intended act, might recover