

such as a right of soil, alleged to be subject to two several kinds of right of way, which, from the nature of things, must, in some modes of exercising them, be brought into apparent collision with each other; *Ball v. Herbert*, 3 T. R. 253; and an injunction has been granted for the preservation of one of them, the Court will not consider any act to be a violation of such injunction, that is a fair exercise of another of the associated rights, and which leaves the right, under the protection of the injunction, as large a scope, and as free a range as it might have had when the injunction was served and before the act complained of was done. The validity and extent of the right, which, by the injunction, has been temporarily taken under the special care of the Court; and of the other rights with which it stands connected, are matters which can only be determined with propriety at the final hearing; until then, or so long as the injunction is continued, they must be kept, as far as practicable, within their respective modes and lines of use, so as not to be allowed, in any manner to thwart, overlay or obstruct that claimed by the plaintiff.

In this case it could not be said, that the cuttings complained of were not legitimate exercises of the rights of this body politic as holders of the fee simple estate in the land, and as owners of the profits of this highway or canal which they are bound to repair and keep in a proper state for navigation; unless it were shewn, that the plaintiff's right of way, in that condition in which it was found by the injunction, had been thereby in some form or other diminished or substantially impaired. And that, I am of opinion, has neither been admitted by the answers to the petition, on which the attachments were awarded, nor shewn, by the affidavits which have been introduced and read by consent.

69 * Whereupon it is ordered, that the said defendants, the Proprietors of the Susquehanna Canal, and their agents, the said John W. Thomas and James Galloway, be and they are hereby discharged from the said attachments with their costs to be taxed by the register.

PATTERSON v. M'CAUSLAND.

PRESUMPTIONS AS TO THE COURSE OF NATURE.

The law respects the regular course of nature as well in regard to the revolutions of the seasons, as in relation to animals and vegetables.

A man may have an estate of inheritance in land so long as such a tree shall grow.

The oak is said to live more than a thousand years; but the average term of the life of most forest trees seems to be indefinite; although it is evident, that all of them are subject to the law of mortality.