

the equity side of Calvert County Court, where the proceedings for the partition were conducted; and moved for a dissolution of the injunction.

This motion was argued before the Chancellor, who, in his opinion, proceeded first to dispose of the objections above mentioned.]

THE CHANCELLOR :

This objection, [the first,] did not appear to me to be tenable, and therefore I consider it proper to relieve the counsel for the complainants from the necessity of replying to the argument in support of it.

The bill alleges, not only the commission of waste by the defendant, the dowress, but an intention to do so in future, and it seems to me to be conclusively established, that a court of equity in such circumstances, may interfere by injunction. 1 *Roper on Husband and Wife*, 419, 420, 421; *Whitfield vs. Bewit*, 2 *P. Wm.*, 240. Chancellor Kent says, that the ancient remedies for waste by writ of estrepement, and writ of waste at common law, are essentially obsolete, and the modern practice in this country, as well as in England, is ready to resort to the prompt and efficacious remedy by an injunction bill, to stop the commission of waste, when the injury would be irreparable, or by a special action on the case, in the nature of waste, to recover damages. 4 *Kent's Com.*, 77.

[As to the other objections, the Chancellor said:]

The reasoning in support of the objection, would seem to extend to every case in which our equity tribunals are called upon to interfere with the progress of suits, or to stay the execution of judgments at law. The partition was made under the act to direct descents, and the proceedings was on the common law side of the County Court; and no reason suggests itself, why this court should, upon a proper case, abstain from granting relief to the complainants, which would not apply with equal force to every application to it, to enjoin proceedings upon judgments, and suits at law in the county courts.