

late Chancellor appears to have thought, that before the court could interfere in this way, the insolvency of the firm must be shown, and that the property in question is in imminent danger of loss or destruction.

Upon this preliminary question, the court cannot undertake to decide, that the contract of the 25th of August last, dissolving the partnership, is void. And it must, therefore, at this stage of the cause, at least, be permitted to have its proper influence. Whether, in the obtention of that contract, the defendant practised a fraud upon his co-partner, by concealing from him facts material to be known, in reference to which a good deal of ingenious argument has been addressed to the court, it would be premature now to discuss. By this contract, Gibbons, the defendant, purchased of his co-partner his interest in the timber, at certain stipulated rates, and I do not understand, that it is insisted, that Gibbons is unable or unwilling to settle with his co-partner upon the terms of the contract. There is no allegation of his insolvency or inability, punctually and faithfully, to comply with his engagement.

By that contract, the exclusive legal title was transferred to Gibbons, and it is only in very strong cases, that the court will interfere against such a title, as remarked by the late Chancellor: The court is always reluctant to interfere in opposition to the legal title, and will only do so, in case of fraud clearly proved, and of imminent danger. And this is believed to be the well established rule in such cases.

Now, although I confess, I was struck, during the argument, with some of the circumstances attending the shipment of that portion of the timber laden on board the *Henrietta*, and although there appeared to me some other circumstances in the case, which require explanation, yet, I do not find in them that strong presumption of fraud which is indispensable to justify the court in disturbing the legal title. And especially am I unwilling so to interfere, when there is no ground for apprehending, that if the complainant succeeds at the final hearing, the defendant will not be abundantly able to pay any sum which may be recovered against him.

One of the grounds of suspicion charged in the bill, and which grew out of the production of an erroneous copy of the