

to such rights. It is true that no purchaser *pendente lite* 1849.

would gain a title, but it would embarrass the original purchaser in his suit against the vendor, which the court prevents by its injunction. Such are the cases of *Echliff v. Baldwin*; *Curtis v. Lord Buckingham*; *Spiller v. Spiller*,
Attor'y-Gen.
v.
M'Laughlin.

(a) It is true that the court will not so interfere, if it thinks there is no real question between the parties; but seeing that there is a substantial question to be decided, it will preserve the property until such question can be regularly disposed of. In order to support an injunction for such purpose, it is not necessary for the court to decide upon the merits in favour of the plaintiff.

"If, then, this bill states a substantial question between the parties, the title to the injunction may be good, although the title to the relief prayed may ultimately fail. Is, then, the case stated by the bill so clear in favour of the defendants, and so inadequate to support the relief prayed by the bill, as to justify the court in permitting it to be disposed of, and new titles or interests to be introduced, before any decision can be obtained upon the case so made?" Judgment.

The case of *Hills v. Croll*, (b) would seem hardly reconcilable with the current of authority. But the injunction was refused there on a principle which has no application to the present case. It was contended there that the contract wanted mutuality, and that the court, as it *could not* enforce performance by the plaintiff, *would not* enjoin the defendant. We doubt, beside, whether that case has been thoroughly understood, the more so as Lord *Cottenham* in a more recent decision, (c) after a full review of the authorities, takes a different view of the law from that which his lordship would seem to have done in *Hills v. Croll*, according to the note in *Phillips*.

But assuming that the *Great Western Railway Company v. the Oxford and Birmingham Junction Railway Company* lays down correctly the rule of this court, and admitting that the ends of justice would be better attained by the application of that rule to cases of trespass, we are of

(a) Per Lord Redesdale in Dow. 440. (b) As reported in 2 Phil. 60.
(c) *Dietrichsen v. Cabburn*, 2 Phill. 52.