

Case No. 8,071.

{4 McLean, 18.}¹

LANMON ET AL. V. CLARK.

Circuit Court, D. Michigan.

June Term, 1845.

CREDITOR'S BILL—POWERS OF CHANCERY—NEW REMEDY BY STATE—FRAUDULENT CONVEYANCES.

1. The general chancery powers of a court of the United States, are derived under the laws of the United States, and not under the laws of a state.
2. But where a new remedy is authorized by a state, which may be appropriate to the exercise of a chancery jurisdiction, this court will give relief in the mode provided.
3. On this ground, a creditor's bill will be sustained to reach all the rights and credits which a judgment debtor may have, although they can not be reached by execution.

{Cited in Wilkinson v. Tale, Case No. 17,678; Shainwald v. Lewis, 6 Fed. 774.}

4. Fraudulent conveyances, for this purpose will be set aside.

In equity.

Mr. Fraser, for complainant

Vandyke & Harrington, for defendant.

OPINION OF THE COURT. This is a creditor's bill, which states that a judgment was obtained in the circuit court of the United States in this district, by the complainant, against the defendant; and an execution being issued on the judgment, was returned by the marshal, no property, real or personal, to be found. And the complainant alleges that the defendant has equitable interests, things in action, and other property, which can not be reached by execution; and that he has also debts due to him from persons unknown, etc. They therefore ask a discovery, etc., and relief. The defendant demurs to so much of the bill as seeks discovery and relief, touching the equitable interests and rights of the defendant, and to any other part of the bill which prays that the judgment may be satisfied out of them. The creditor's bill is authorized by a statute of this state. No state court can increase or diminish the jurisdiction of the courts of the United States, sitting in chancery. They derive their jurisdiction in this respect under the acts of congress, and it is exercised in the same manner in the states, whether the courts of those states have courts of chancery or not. But where a new mode of procedure is authorized by a state, which is appropriate to chancery powers, relief will be given, in the mode provided, by the courts of the United States. On this principle, this court will sustain a bill, under the creditor's act of this State, which shall reach every description of interest that the defendant may have, and which can not be effected by an execution. This jurisdiction is appropriate to chancery, and may be exercised where there is no special statute. Similar relief is given in England. 1 Vern. 398; 1 P. Wms. 445; 2 Dickens, 575; Amb. 79, 455; 20 Johns. 563; 2 Johns. Ch. 283, 290; 4 Johns. Ch. 671. But these statutes in behalf of creditors adopt

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regulations which facilitate the progress of a cause, and the attainment of equitable relief. It is, therefore, judicious for the courts of the United States to avail themselves of these provisions, which conduce to the attainment of justice. The demurrer is overruled, and the defendant is required to answer.

¹ [Reported by Hon. John McLean, Circuit Justice.]