to show the necessity for its speedy removal, if the purchase had been honestly made.

On the whole, we see no reason to suppose that a case of forfeiture would be made out by the testimony on another trial, as much of that taken *ex parte* by the captors would probably be modified favorably for the claimants on cross-examination.

The decree of the District Court is therefore

AFFIRMED.

WATSON *v.* SUTHERLAND.

The absence of a *plain* and *adequate* remedy at law affords the only test of equity jurisdiction, and the application of this principle to a particular case must depend altogether upon the character of the case, as disclosed in the proceedings.

Hence where a creditor of A. levied on goods, a miscellaneous stock in retail trade, suitable for the then current season, and intended to be paid for out of the sales—in the possession of B., a young man recently established in trade and doing a profitable business, alleging that they had been conveyed to B. by A. to defeat his creditors—the court, upon being satisfied that they had not been so conveyed, held that the execution had been rightly enjoined; that as at law the measure of damages, if the property were not sold, could not extend beyond the injury done to it, or, if sold, to the value of it, when taken, with interest from the time of the taking down to the trial—loss of trade, destruction of credit, and failure of business prospects—commercial ruin, in short—collateral or consequential damages, which might nevertheless ensue, would not be compensated for at law, but were properly prevented in equity.

APPEAL from the Circuit Court of the United States for the District of Maryland; the case being this:

Watson & Co., appellants in the suit, having issued writs of *fieri facias* on certain judgments which they had recovered in the Circuit Court for the District of Maryland against Wroth & Fullerton, caused them to be levied on the entire stock in trade of a retail dry goods store in Baltimore, in the possession of one Sutherland, the appellee. Sutherland, claiming the exclusive ownership of the property, and in-

sisting that Wroth & Fullerton had no interest whatever in it, filed a bill in equity, to enjoin the further prosecution of these writs of *fieri facias*, and so to prevent, as he alleged, irreparable injury to himself. The grounds on which the bill of Sutherland charged that the injury would be irreparable, and could not be compensated in damages, were these: that he was the *bonâ fide* owner of the stock of goods, which were valuable and purchased for the business of the current season, and not all paid for; that his only means of payment were through his sales; that he was a young man, recently engaged on his own account in merchandising, and had succeeded in establishing a profitable trade, and if his store was closed, or goods taken from him, or their sale even long delayed, he would not only be rendered insolvent, but his credit destroyed, his business wholly broken up, and his prospects in life blasted.

The answer set forth that the goods levied on were really the property of Wroth & Fullerton, who had been partners in business in Baltimore, and who, suspending payment in March, 1861, greatly in debt to the appellants and others, had, on the 27th October, 1862, and under the form of a sale, conveyed the goods to Sutherland, the appellee; that Sutherland was a young man, who came to this country from Ireland a few years ago; that when he came he was wholly without property; that since he came he had been salesman in a retail dry goods store, at a small salary, so low as to have rendered it impossible for him to have saved from his earnings any sum of money sufficient to have made any real purchase of this stock of goods from Wroth & Fullerton, which the answer set up was accordingly a fraudulent transfer made to hinder and defeat creditors.

It further stated that the legislature of Maryland had passed acts staying executions from the 10th of May, 1861, until the 1st of November, 1862; that previous to the 1st November, 1862, Wroth & Fullerton had determined to pay no part of the judgments rendered against them; and that from the 10th May, 1861, until the 1st November, 1862, judgments, amounting to between $30,000 and $40,000, had

been rendered against them; that between the date of the suspension, March, 1861, and the 27th October, 1862, they had sold the greater portion of their goods, and collected a great many of the debts due them, but had paid only a small portion of those which they owed; secreting for their own use the greater portion of the money collected, and with the residue obtaining the goods levied upon.

It added that there was no reason to suppose that the levy aforesaid, as made by said marshal, would work irreparable injury to the appellee, even if the goods so levied on were the property of the complainant, as property of the same description, quantity, and quality, could be easily obtained in market, which would suit the appellee's purpose as well as those levied upon, and that a jury would have ample power, on a trial at common law, in an action against the respondents, now appellants, or against the marshal on his official bond, to give a verdict commensurate with any damages the said appellee could sustain by the levy and sale of the goods aforesaid.

On the filing of the bill a temporary injunction was granted, and when the cause was finally heard, after a general replication filed and proof taken, it was made perpetual.

These proofs, as both this court and the one below considered, hardly established, as respected Sutherland, the alleged fraud on creditors.

The appeal was from the decree of perpetual injunction.

Messrs. Mason Campbell and McLaughlin, for the defendants.

We admit that there are cases in which a court of equity would interfere to prevent the sale of personal property, or to cause its delivery; but these cases must have some peculiarity in the character of the property; a peculiarity of value to its owner, or the peculiarity of the right in which it has been held.

The rules governing courts of equity in England in such cases are laid down in all text-writers. One of these clearly states them:*

* Story, 1 Equity Jurisprudence, § 709.

Argument for the defendants.

"But there are cases of personal goods in which by the remedy at law damages would be utterly inadequate, and leave the injured party in a state of irremediable loss. In all such cases courts of equity grant full relief by requiring a specific delivery of the thing. This may occur when the thing is of peculiar value and importance; and the loss of it cannot be fully compensated in damages where withheld from the owner. Thus where the lord of a manor was entitled to an old altar piece made of silver, and remarkable for a Greek inscription and dedication to Hercules, as a treasure trove within his manor, and it had been sold by a wrongdoer, it was decreed to be delivered up to the lord of the manor as a matter of curious antiquity, which could not be replaced in value, and which might, by being defaced, become greatly depreciated. So where an estate was held by the tenure of a horn, and a bill was brought by the owner to have it delivered up to him, it was held maintainable, for it constituted an essential muniment of his title. The same principle applies to any other chattel whose principal value consists in its antiquity, or in its being the production of some distinguished artist; or in its being a family relic or ornament, or heirloom, such for instance as ancient gems, medals, and coins, ancient statues and busts, paintings of old and distinguished masters, or even those of a modern date having a peculiar distinction and value, such as family pictures and portraits and ornaments, and other things of a kindred nature."

Need we say that all other classes,—such as the ordinary muslins, flannels, and other items, the common stock of a retail drygoods shop,—are to be considered as excluded.

The bill contains no averments of the marshal's inability to respond in damages. Besides, he has given an efficient bond with sureties.

The good-will of a business, "or the probability that the old customers will resort to the old place,"* has nothing in it so peculiar as to warrant the interference of Chancery for its protection. Damage adequate to the injury done to it is recoverable at law.†

* Cruttwell *v.* Lye, 17 Vesey, 335.

† Zeigler *v.* Sentzner, 8 Gill and Johnson, 158; Baxter *v.* Conolly, 1 Jacob and Walker, 556; Bozon *v.* Farlow, 1 Merivale, 459.

The books are full of cases brought at law against sheriffs for taking the goods of a stranger on execution; and they show that ample damages are recoverable by the injured plaintiff, according to the circumstances of each case.*

But should the court differ with us on the question of jurisdiction, we still insist that the levy by the marshal was lawful, as the goods levied on were the property of the firm. [The counsel then argued the question of fact.]

Messrs. Wallis and Alexander, contra.

Mr. Justice DAVIS delivered the opinion of the court.

There are, in this record, two questions for consideration. Was Sutherland entitled to invoke the interposition of a court of equity; and if so, did the evidence warrant the court below in perpetuating the injunction?

It is contended that the injunction should have been refused, because there was a complete remedy at law. If the remedy at law is sufficient, equity cannot give relief, "but it is not enough that there is a remedy at law; it must be plain and adequate, or in other words, as practical and efficient to the ends of justice, and its prompt administration, as the remedy in equity."† How could Sutherland be compensated at law, for the injuries he would suffer, should the grievances of which he complains be consummated?

If the appellants made the levy, and prosecuted it in good faith, without circumstances of aggravation, in the honest belief that Wroth & Fullerton owned the stock of goods (which they swear to in their answer), and it should turn out, in an action at law instituted by Sutherland for the trespass, that the merchandise belonged exclusively to him, it is well settled that the measure of damages, if the property were not sold, could not extend beyond the injury done to it, or, if sold, to the value of it, when taken, with interest from the time of the taking down to the trial.‡

* Lockley *v.* Pye, 8 Meeson and Welsby, 133; Whitehouse *v.* Atkinson, 14 Eng. Com. Law, 339; 3 Carrington & Payne, 344.

† Boyce's Exrs. *v.* Grundy, 3 Peters, 210.

‡ Conard *v.* Pacific Ins. Co., 6 Peters, 272, 282.

And this is an equal rule, whether the suit is against the marshal or the attaching creditors, if the proceedings are fairly conducted, and there has been no abuse of authority. Any harsher rule would interfere to prevent the assertion of rights honestly entertained, and which should be judicially investigated and settled. "Legal compensation refers solely to the injury done *to the property taken*, and not to any collateral or consequential damages, *resulting to the owner*, by the trespass."* Loss of trade, destruction of credit, and failure of business prospects, are collateral or consequential damages, which it is claimed would result from the trespass, but for which compensation cannot be awarded in a trial at law.

Commercial ruin to Sutherland might, therefore, be the effect of closing his store and selling his goods, and yet the common law fail to reach the mischief. To prevent a consequence like this, a court of equity steps in, arrests the proceedings *in limine;* brings the parties before it; hears their allegations and proofs, and decrees, either that the proceedings shall be unrestrained, or else perpetually enjoined. The absence of a plain and adequate remedy at law affords the only test of equity jurisdiction, and the application of this principle to a particular case, must depend altogether upon the character of the case, as disclosed in the pleadings. In the case we are considering, it is very clear that the remedy in equity could alone furnish relief, and that the ends of justice required the injunction to be issued.

The remaining question in this case is one of fact.

The appellants, in their answers, deny that the property was Sutherland's, but insist that it was fraudulently purchased by him of Wroth & Fullerton, and is subject to the payment of their debts. It seems that Wroth & Fullerton had been partners in business in Baltimore, and suspended payment in March, 1861, in debt to the appellants, besides other creditors. Although the appellants did not recover judgments against them until after their sale to

* Pacific Ins. Co. *v.* Conard, 1 Baldwin, 142.

Sutherland, yet other creditors did, who were delayed in consequence of the then existing laws of Maryland, which provided that executions should be stayed until the 1st of November, 1862. Taking advantage of this provision of law, the answer charges that Wroth & Fullerton, after their failure, collected a large portion of their assets, but appropriated to the payment of their debts only a small portion thus realized, and used the residue to buy the very goods in question, which Sutherland fraudulently purchased from them on the 27th of October, 1862, in execution of a combination and conspiracy with them to hinder, delay, and defraud their creditors. The answers also deny that the injury to Sutherland would be irreparable, even if the stock were his, and insist that he could be amply compensated by damages at law. After general replication was filed, proofs were taken, but, as in all contests of this kind, there was a great deal of irrelevant testimony, and very much that had only a remote bearing on the question at issue between the parties. It is unnecessary to discuss the facts of this case, for it would serve no useful purpose to do so. We are satisfied, from a consideration of the whole evidence, that Wroth & Fullerton acted badly, but that Sutherland was not a party to any fraud which they contemplated against their creditors, and that he made the purchase in controversy, in good faith, and for an honest purpose.

The evidence also shows conclusively, that had not the levy been arrested by injunction, damages would have resulted to Sutherland, which could not have been repaired at law.

The decree of the Circuit Court is, therefore,

AFFIRMED.