the benefit of the doctrine announced in 4 Md. Ch. Dec. 135, that being a defendant, "a much weaker case will constitute a good defense than would be required if he were a complainant, asking the active interposition of a Court in his favor.

The Complainant in his Bill admits that the legal title to this farm is in Dr. Mobberly. The legal title being in him, he has the undoubted right to enforce it against any one in possession, unless it can be shown that, in the language of the bill, it would be "contrary to equity and good conscience" to do so.

The defendant in the ejectment suit, has himself changed his position to that of Complainant in this case, because as a defendant at law, he admits he is wholly unable to answer the Plaintiff, and therefore comes into this Court and practically asks the "active interposition" of the Court to confirm the gift of the farm by enjoining the plaintiff from enforcing his legal right in the law case. The rule laid down in Hardesty vs Richardson, is, that the proof of those facts done on the faith of the gift which render inequitable any attempt by the owner to avoid it, must be clear, definite and conclusive. John Cook in his bill alleges the gift, and charges that it is inequitable in his father to attempt to avoid it; he must therefore, under the rule just stated, clearly and definitely prove the facts necessary to sustain the allegations he makes.

As I have said, the testimony in this case, is very voluminous, and in many instances quite contradictory. Eight or ten of the witnesses for the Complainant testify that Dr. Mobberly said to them, or in their

presence, that he had given the farm to his son, John Cook. These declarations were made during the year 1868, and in the time covered by several years thereafter. That in several instances after that time, John Cook, to the knowledge of his father rented the farm as his own, and received the rents and profits therefrom.

These acts and declarations are not inconsistent with the theory of Dr. Mobberly, that he permitted his son to live upon the farm and receive the proceeds thereof, merely as a means for his support, and are explained by the following agreement, written by John Cook, and under which he was put in possession of the farm in the spring of 1867.

"I do hereby agree to let my son, J. Cook Mobberly take possession of my farm now occupied by William Poole and farm the same. He to receive all proceeds, beginning at the first of April 1867, said Cook Mobberly doth agree not to drink any strong drink of any kind while upon said farm. If so he forfeits his contract. He is to keep the farm in a good state of cultivation and the fencing in good order, and to keep possession for the term of five years: Witness my hand and seal this 15th day of January 1867."

E. W. Mobberly (Seal)"

John Cook alleges in his bill, and testifies that his father put him in possession of the farm in 1857, under a promise that he would give it to him.

From that period, for several years, he was part of the time on the farm and part of the time away from it, until in January 1867, he is off the premises, and the farm is then in the possession of William Poole, under a renting from Dr. Mobberly. At this time, the testimony