

required, and they refused then to receive the same and give up the negroes, and have since put the defendants to very great expense in recovering their claim, they might well have been justified \* in refusing to allow such credit. And they state, that

**119** a credit for \$392.90, the amount of those two sums, and interest upon them, was endorsed on the *feri facias*, issued on the said decree, and the balance only was required to be made by the said execution, which balance they aver they are justly entitled to, and that no other deduction or discount ought to be allowed against the amount of the claim, as stated in the said decree." And they further deny all fraud, &c., as alleged in the bill, &c.

These defendants, Thomas Burch and others, by their petition allege, that the plaintiffs, William Scott and others, had issued no subpoenas, nor applied for any order of publication against these defendants, who are non-residents, as prayed by their bill; that they, on learning that such a bill had been filed, have answered thereto; and now pray, that the order of the 16th November, 1825, may be revoked.

BLAND, C., 4th May, 1826.—On the foregoing application it is ordered, that the order of the 16th November last be dissolved and revoked, unless cause to the contrary be shewn on the fourth day of the next term. Provided a copy of this order, together with a copy of the foregoing petition, be served on the complainants or their solicitor, on or before the first day of June next.

A copy of this order having been served as required, the case was afterwards brought before the Court for its determination.

BLAND, C., 25th July, 1826.—This case standing ready for hearing, on the notice given in pursuance of the order of the 4th of May last, and the solicitors of the parties having been fully heard, the proceedings were read and considered.

The Chancellor feels every disposition to relieve this case from all embarrassing forms, and to reach its merits, if practicable. It will, therefore, be necessary to disengage the complainants' substantial equity and object from the forms with which they have been clothed; and to examine their bill with a due regard to their equity and object. The substance of their complaint is, that a decree has been obtained against one, which materially affects all of them, erroneously; by fraud, by surprise, for much more than is due; or, to say the least, improperly and to the exclusion of a good and available defence. And upon the truth of these allegations, they ground their equity to have the decree of the 4th of August last set aside, their undenied credits allowed, their defence

**120** let in, and the matters in \* controversy heard upon the merits. This is the object, and the mode chosen by them to