v. *Lee*, 2 *Swan.* 335; (*e*) or where there are many defendants who are widely dispersed, or some of whom are non-residents, and it ap-

---

McMechen answered, and stated his knowledge of the manner in which the judgments had been obtained. And on the 14th of March, 1807, the defendant Story filed his answer; which it appears was sworn to before a notary public of the State of New York, and certified under his signature and notarial seal.

KILTY, C., 21st March, 1807.—This motion came on to be argued on a motion to dissolve the injunction, principally on behalf of Alexander Story, one of the defendants interested in, and claiming for himself or his assignee, Thomas C. Jenkins, the money appearing due by the judgment enjoined; and has been delayed for further notes and authorities for the complainant.

Under the order of 23d of December, the defendants were entitled to make this motion without answering, or giving notice. But whether they cannot also have the benefit of the answers filed, is a question, which it will be important, as to the practice, to determine. It was strongly contended by the complainant's counsel, that at this time no answer could be considered; and that the case rested on the propriety of granting the injunction on the equity appearing in the bill.

The Chancellor has seen several cases, in the time of his predecessor, of injunctions granted on similar terms; and he has found it expedient to follow those precedents, in cases which appeared doubtful; and especially in those in which, from the application having been delayed till the last moment, a further delay, for the purpose of full consideration, would amount to a refusal; as it would have done in the present case, but it may be doubtful, whether, in such cases, a refusal to grant the injunction would not be the most proper course.

When the bill was presented to the Chancellor, his doubts arose as to the effect of the manner of giving the judgment; and of the bond under the ordinance of the Mayor and City Council. For there was not a sufficient charge of fraud, by Story, to justify an injunction against him; and he could not be justly made answerable for the fraud of Yates, as alleged in the bill. But supposing it possible that the law might be as stated in the bill, the Chancellor ordered the injunction to be issued, with the proviso before mentioned.

A defendant who is enjoined from pursuing his legal remedy, by the oath of the complainant to the matter stated in his bill, has a right to appear immediately, without waiting for a subpœna, and to put in his answer, which, if it denies the equity, is generally sufficient to procure a dissolution. And if it comes in, so as to afford a reasonable time, an order is granted, during the vacation, for hearing a motion at the first term thereafter, on notice being given. And where, as in this case, notice is previously given, there is no rule, or principle which can render the consideration of an answer improper. Supposing the hearing to be only for the purpose of deciding, whether the injunction ought to have been granted, ought the Court to disregard an answer which goes to shew, that the complainant was not in

Note (d) continued on next page.

(*e*) WORTHINGTON *v.* BICKNELL.—The General Assembly, by the Act of 1803, ch. 89, appointed Thomas Bicknell, with six others, commissioners to open a road, from a point on the road leading from the City of Annapolis,

Note (e) continued on next page.