

pears, from the statement in the bill, that the facts rest altogether within the knowledge of one or two of them, the Chancellor always,

Note (d) concluded.

fact entitled to what he claimed; or should the injunction be continued in opposition to such an answer, for the purpose of taking it up at the succeeding term? The Chancellor recollects some cases in which answers have been thus put in, and have been considered, without any objection having been made. And he is clearly of opinion, that the answers, as far as they are affected by this objection, form a part of the case now for its determination.

When the bill was presented to the Chancellor, he was not informed of the opinion which had been given by the Court of Appeals. A short copy only of the judgment of that Court was filed, stating the affirmance, without any notice of an opinion having been given. (2 H. & J. 41.) The answer of Story has been filed since the argument; but is not considered as making any difference in the decision.

It is, on the whole, Ordered, that the injunction in this case shall be, after the 30th day of the present month, dissolved without further application or order. Provided, that if the complainant shall, on or before that day, pay the amount due on the said judgment, and the legal costs to the said Alexander Story, or his assigns, or his counsel in this suit; or pay the same into this Court, for the purpose of being immediately so paid, an order for another injunction will be issued, if applied for.

On the 5th of October, 1807, the bill was dismissed by order of the plaintiff. After which, Thomas C. Jenkins, by his petition stated, that he had paid the sum of \$12.99 for postage, notarial seals, &c. in obtaining the answer of the defendant Story, which he prayed to have allowed to him; and, that the register be directed to tax that amount with the costs of the defendant.

KILTY, C., 10th March, 1808.—The Chancellor is not satisfied, that this charge is probably taxable in the costs; and the present state of the accounts is a further objection. Supposing the petition to be intended for an order to have those sums taxed in or added to the costs, it cannot be granted.

Note (e) continued.

round the head of South River, by Waters' mill, and the South River Meetinghouse, to Ashton's ford, on the Patuxent, thence through Ogle's plantation to intersect the road leading to Bladensburg; provided, that they should not run it through the buildings, yards, orchards, gardens, or meadows of any one without his consent. Under the authority of this law, the commissioners surveyed the road, along the route thus described, so as to pass near the mill of John Worthington; upon which he filed a bill in this Court, on the 11th of December, 1805, in which he alleges, that the commissioners had exceeded the authority conferred on them by this law, in locating the road in such a manner as most wrongfully, and ruinously to affect his mill, by so crossing and passing along the mill race, as to obstruct or prevent the water from flowing to it. And thereupon prayed an injunction to prevent the commissioners from opening the road, as thus located by them. Which injunction was granted as prayed. The commissioners answered the bill, and denied the allegations and opinions as therein set forth by the plaintiff.

Note (e) continued on next page.