

tions of his petition, in which he stated that the defendant had discontinued the erection of the fence until the 8th instant, when

defendant's illustrations; and that the said surveyor hath declared to the complainant, that he will not do otherwise than return a separate plot for each party.

The Chancellor thinks proper to declare it to have been his expectation, in passing the said order, that only one plot and certificate should be returned to this Court, on which plot should be laid down any lands which either party should instruct him to lay down. It hath always been the practice for surveyors, on similar occasions, to lay down lands for both parties on the same plot; and it appears to the Chancellor, that unless the lands laid down, by the directions of each party, shall be contained in one plot, it will be extremely difficult, if not impossible, that the matter in dispute can be illustrated.

It is therefore Ordered, that the surveyor of Baltimore do lay down and return to this Court, one plot and certificate containing all the land which both or either of the parties shall direct him to lay down for illustration of the matter in dispute. But nothing herein contained is intended to restrain the surveyor from gratifying either of the parties who shall think proper to direct him to make an additional plot. It is further Ordered, at the instance of the complainant, that the decision of this cause be postponed to the twentieth instant, and that it shall be heard on that day; provided a copy of this order be served on the defendant or his solicitor, at any time before the tenth instant.

Under this order a further survey was made, the lands laid down for illustration as required, and a plot returned; after which the case was set down for hearing, and brought before the Court.

HANSON, C., 5th February, 1799.—The said cause being set down for hearing, and being debated by the counsel in writing, the bill, answer, exhibits, depositions, and all other proceedings, were by the Chancellor read and examined, and the written arguments of the counsel on each side were by him read and considered.

The complainant had three objects proposed by the bill as it stands amended—first, to have an agreement for the division of the land enforced; secondly, to have an account of the profits of a ferry supposed to be on the land in the bill mentioned, conformably to the said agreement, and to be secured in the receipt of one-half thereof in future; and, thirdly, to have the suppression of another ferry, set up near the common ferry by the defendant.

It seems that the defendant considered it of importance, to prove that the ferry-house, &c., are not, as was supposed at the time of the agreement, on the tract of land which was to be divided. He therefore obtained an order for laying down lands for illustration. But if the Chancellor conceived it of consequence to have the precise running of the land ascertained, he certainly could not, without violating the well known established principles of this Court, undertake to decide on the location, but would refer it to a jury. He cannot, therefore, otherwise than regret, that the parties have incurred an unnecessary expense. It appears that they were in possession of the ferry, landing, &c. as part of the tract of land devised to them by their father; that they agreed upon a division of the land as possessed; and that they have since held, according to the agreement. This Court cannot then