

completed the erection of said fence, in direct violation of the said injunction. Whereupon he prayed for an attachment against

whole difference of soil, &c.; and one-half whereof only ought to have been charged to the defendant. Second, for that the auditor had no proof the account of ferriages received and charged to the defendants, but written accounts of the complainants, and which were in no wise authenticated. Third, for that the auditor had not made allowances to the defendant which he was entitled to, and which were specified in the account filed by him.

HANSON, C., 1st August, 1799.—On complainant's motion, Ordered, that the defendant's exceptions be heard on the first week in the following term; provided a copy of this order be served on the defendant, or his solicitor, at any time during the present month.

A copy of this order having been served, the matter was submitted for determination.

HANSON, C., 14th October, 1799.—The order passed on the first day of August last having been duly served, and no argument being offered on the defendant's part, and there being a submission on the part of the complainants, the Chancellor considered the exceptions to the defendants; and it is adjudged and Ordered, that the same be overruled, and that the report of the auditor, and the accounts by him stated, be approved, ratified, and confirmed.

This order having been passed upon a submission of the matter, made under a misapprehension as was alleged, the case was again brought before the Court.

HANSON, C., 5th November, 1799.—The complainant's counsel having admitted that it had been understood between him and the counsel of the defendant, that the argument on the exceptions, which had been appointed to take place during the first week of this term should be postponed; and that in consequence thereof the said defendant's counsel had failed to attend at the appointed time; and the Chancellor having, on the idea of the said counsel's abandoning the exceptions, which were not sufficiently pointed and particular, passed an order ratifying the auditor's report; it was determined that the said order be rescinded, and that the said exceptions be debated. The argument of the counsel on each side was accordingly heard and considered.

The present cause appears to the Chancellor to be one of those cases in which it is extremely difficult, if not altogether impracticable, for him to do complete justice without violating strict law, which he is not at liberty to dispense with, and departing from established principles. He therefore feels himself under embarrassment, and to relieve himself from it, as well as to make an end, in the most eligible manner, of a contest, which hath been attended with much expense, delay, and vexation, he thinks proper, before he proceeds to a decision on the argument, or gives any intimation of his opinion relative to its merits, to make a proposition, on which he requests the parties immediately to determine. His proposition is, that the parties, by writing, to be here filed, shall submit to him, as an arbitrator, all matters in dispute between them in this cause; and that an order be thereon passed by consent, for submitting as, aforesaid, and that a decree be passed on his