

is such as to require a hearing without delay; it being of a public concern, or an extensive work in which a num-

for the use of Alexander Story. It is stated in the bill, that the plaintiff in January, 1799, became bound by a joint and several bond to the city of Baltimore as surety of the defendant Yates as an auctioneer; that afterwards separate suits were brought on the bond against Yates, and the plaintiff, in the name of the city, for the use of Story; that Yates repeatedly assured the plaintiff, that the cause of action should be settled and adjusted, and that he, Yates, would cause those suits to be defended, and had employed a lawyer for that purpose; that the attorney, instead of making any defence, by the fraudulent contrivance and misrepresentation of Yates, withdrew the plea of general performance of all the stipulations in the condition of the bond; and in May, 1803, confessed judgment for the sum of \$4154 30, with interest from the first of January, 1800, and a stay of execution until the first of August, 1803; which judgment was afterwards affirmed by the Court of Appeals; that the claim of Story against Yates, upon which those suits were brought on the bond, was for goods sold by Yates as auctioneer, for Story, the price of which he had not paid over; which, not being a claim covered by the terms of the bond, according to a fair construction of the city ordinance, in conformity with which it was given, this plaintiff cannot be held liable for it; because that ordinance requires a bond from auctioneers to secure the payment of the auction duties made payable to the city, and nothing more. The bill having been filed and submitted,

23d December, 1806.—KILTY, Chancellor.—It is ordered, that *subpœna* and injunction be issued as prayed. But the Chancellor considers it a doubtful case; and therefore will, during the first four days of February term next, or of any term thereafter, hear a motion for its dissolution. And the register is directed to endorse a copy of this order on the injunction.

On the 27th January, 1807, the plaintiff, by his petition on oath, stated that as he had been advised his bill did not contain all the necessary parties; that he could not have the relief he was entitled to, under the general prayer of the bill, without some additional special interrogatories; that William McMechen, the attorney who appeared for the defendants in the suits on the bond, was a necessary party; and that the defendant Story was a citizen, resident of the State of New York, against whom, as such, he wished to obtain an order of publication. Wherefore he prayed leave to amend his bill.

28th January, 1807.—KILTY, Chancellor.—The Chancellor will determine on this petition during the first week of the ensuing February term, which he considers will be in time to do justice to the parties.

The plaintiff, by his petition filed on the 4th of February, 1807, renewed his application for leave to amend his bill.

5th February, 1807.—KILTY, Chancellor.—The Chancellor is still of opinion, that a determination on the petition for amending the bill need not be made before the ensuing term. But as it is pressed by the complainant, leave is given to amend the bill as prayed; with the express proviso, that this leave shall not alter, or do away the order of the 23d December last, that the Chancellor would, during the first four days of February term next, or of any term thereafter, hear a motion for its dissolution.

On the 16th of February, 1807, the plaintiff filed his amended bill, in which he states the fact of the nonresidence of the defendant Story; makes William McMechen a party; and propounds to the defendants a number of interrogatories, which he