

&c.; (*f*) or where there are many defendants who are widely dispersed, or some of whom are nonresidents, and it appears, from

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 affirmation, 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.

10th March, 1808.—*KILTY, Chancellor*.—The Chancellor is not satisfied, that this charge is properly 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.

(*f*) *Crowder v. Tinkler*, 19 Ves. 622; *Winstanley v. Lee*, 2 Swan. 335.

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, 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. And the case was afterwards brought regularly before the court on a motion to dissolve the injunction.

22d December, 1806.—*KILTY, Chancellor*.—The motion to dissolve the injunction in this case having been continued from the September term last, was submitted at this term on notes in writing, which, together with the proceedings, have been attentively considered.