It is an ancient and well settled general rule, that where there are several defendants to the bill, no motion to dissolve the injunc-

---

Hillen and John Marsh. The bill states, that before Baltimore was incorporated as a city, the then commissioners of the town had so graded Baltimore street continued and York street, from Jones' falls to Harford street, as that the water, falling into them, was conveyed in nearly equal proportions in the opposite directions to Jones' falls and Harford run; according to which graduation they had regulated their improvements; that by the act of 1796, ch. 68, s. 9, the grade of no street can be altered without the consent of the proprietors of the lots adjoining such street; that without the consent of these plaintiffs, and contrary to law, the defendants, as city commissioners, had altered the grade of Baltimore and York streets, whereby there is, and will be a very considerable increase of water and filth conveyed to Jones' falls before their property, and that of others in like situation; which, especially in the summer season, is matter of no small moment; and, that the defendants are now actively engaged in cutting down and adjusting those streets to the new graduation. Upon which the plaintiffs prayed for general relief, and for an injunction to prevent the alteration of the grade of those streets.

10*th December*, 1808.—KILTY, *Chancellor*.—From a perusal of this bill, and an examination of the act of Assembly referred to, the Chancellor is at present of opinion, that there is ground for the complaint made; and that the injunction ought to be granted. Whether the act of 1797, ch. 54, makes any alteration of the provisions in the 9th section of the act of 1796, ch. 68, he is not prepared to say. But to prevent the injury which might arise by the interference of this court, in case the commissioners should appear to be acting within their authority, it is to be understood, that a motion to dissolve the injunction will be heard at any time, on such notice as shall be directed, either before, or after answer. The injunction to be issued as prayed, and this order copied thereon.

On the 12th of December, 1808, the defendant Hillen alone put in his answer, in which he stated, that the alteration in the grade of the streets, as stated in the bill, had been made with the consent of the proprietors of the immediately adjacent lots; that the plaintiffs owned no lots nearer than from six to nine hundred feet from those streets; and that these defendants then had employed nearly twenty labourers, with carts, making the alterations in those streets; which, when made, would be highly beneficial to the public in general. Upon which this defendant moved to have a day appointed to hear a motion to dissolve.

12*th December*, 1808.—KILTY, *Chancellor*.—Ordered, that a motion for dissolving the injunction be heard on the 20th instant; provided a copy of this order be served on either of the complainants, or their solicitor, on or before the 18th instant.

The plaintiffs' solicitor admitted the service of a copy of this order, and the motion came on to be heard.

20*th December*, 1808.—KILTY, *Chancellor*.—The motion for the dissolution of the injunction issued on the 10th instant was, according to appointment, argued on this day.

Although the presumption is, and ought to be, that persons acting under the charter and ordinances of a corporation, will conform to the limitations therein contained; yet when a case is stated, on oath, which apparently shews a contrary proceeding, it becomes the duty of this court to interfere. The answer of the defendant, denying the grounds of the application, is, however, entitled to equal attention. The Chancellor was under the impression, from the bill, that some of the parties held property