

tion can be heard until all of them have answered.<sup>(i)</sup> But to this, as to all other general rules, there are exceptions. As where the

immediately, or very nearly fronting on the part of the street in which the work was to be done. And he was not, nor is he now satisfied, that the consent of every person, holding property fronting on Baltimore street and York street, was necessary to be obtained. And, from the exhibits filed with the answer, there is reason at least to doubt whether the commissioners have acted wrong; if not to believe, that they have acted right.

It is thereupon adjudged and ordered, that the injunction heretofore issued in this case be and the same is hereby dissolved; leaving the parties to proceed in equity or at law as they may think proper.

After which, on the 7th of July, 1809, this suit was dismissed, with costs, by the complainants' solicitor. Whereupon the defendants obtained a bill of their costs from the register, and moved, that the plaintiffs might be ordered to pay the amount.

11th March, 1811.—KILTY, Chancellor.—On motion, on behalf of the defendants, it is Ordered, that the complainants, John Diffenderffer, Charles Tinges, and George Smith, pay to the defendants, or either of them, or to their solicitor, or their or his order, the sum of twenty dollars fifty-seven and one-half cents; being the amount of the costs taxed by the register on the dismissal of the bill of the said complainants; or that they shew cause to the contrary on or before the 10th day of April next. Provided a copy of this order be served on the said complainants, or either of them, or left at the place of abode of any one of them, before the first day of April next.

(i) Pra. Reg. 200; 2 Harr. Pra. Chan. 263; 3 Bac. Abr. 658; Eden Inj. 66; Wright v. Nutt, 2 Dick. 691.

STEWART v. BARRY.—This bill was filed on the 31st of August, 1809, by James Stewart, William Lorman, and William Gwynn, as executors of the late William Evans, against Robert Barry, John Stewart, David McMechen, and Thomas Yates; in which it is stated, that the defendants Barry and Stewart were the assignees of the defendant Yates, a bankrupt; that as assignees they set up for sale, at public auction, a piece of land called Springfield, the title to which was represented as clear and unquestionable, and the late William Evans became the purchaser, for the sum of \$29,169 82; that all these transactions took place with the knowledge and concurrence of the defendant McMechen, who held a mortgage on the land, at the time, to secure a large debt due to him; that the late William Evans was put into possession of the land; and, under an impression that the title of the vendors was good, he had paid a part of the purchase money; that it has been since ascertained, that the title is much encumbered and entirely defective; and that since the death of Evans, the assignees of the bankrupt had instituted suit, and recovered judgment against these plaintiffs for the balance of the purchase money. Whereupon the plaintiffs prayed, that the sale might be vacated, &c.; and, that they might have an injunction to stay the proceedings at law against them.

It appears, that at the time when this bill was filed, the Chancellor was absent; and, according to the long established course, under such circumstances, it was submitted to a solicitor of the court, who was in no way concerned in the case; who declared, and endorsed it on the bill as his opinion, that it contained sufficient equity to authorize the issuing of an injunction. Upon which sanction the register issued the injunction as prayed, subject to the opinion of the Chancellor, on his return to the seat of the court. And on the 7th of September, 1809, the solicitor's order for the injunction was confirmed by the Chancellor himself.

On the 5th of December, 1809, the defendant McMechen put in his answer, in