

law, where there are necessarily several defendants, the court will not continue the restriction which has been imposed upon one of

deemed proper to determine the case as it stands, without any argument by the complainant.

The answer of Oliver is not filed. The Chancellor, without giving a positive opinion, is inclined to think, that unless it should be shewn, that he had some knowledge of the transaction, or that his answer might be material, it might be dispensed with, as he was only the nominal plaintiff at law.

But the answers of Berry and Snyder are not considered sufficient. The answers of administrators must always be taken with a view to the reasons for their belief or knowledge of facts. In this case they state such contradictory circumstances as give room to doubt their knowledge of them.

The bill states, that the £300, for which the plaintiff gave his bond, was the half of the purchase money. The answer, without a positive denial of that fact, speaks of it as the whole consideration. The defendants allege, that the £200, received by Oliver from Tong, included the £32 lien on the Pennsylvania tract; and they afterwards state, that Tong purchased the land subject to that incumbrance, and many others; and the argumentative part of their answer, as to the £300, has been already noticed. They further allege, that they believe the £32 was taken into consideration in Tong's bond to Abbot; and, that they knew it was deducted in the bond given to Oliver. So that, according to their statement, this sum has been twice allowed; although the land was sold subject to it.

It appears on the whole, that it will be the most equitable course to continue the injunction till final hearing or further order, with a view to ascertain the real state of the transaction; and it is order to be continued accordingly.

After which the responding defendants, with a view to urge forward the plaintiff to extract an answer from the defendant Oliver, or to bring the case to a final hearing, called on the court to compel him to proceed.

29th December, 1809.—KILTY, Chancellor.—On application of the defendants, rule further proceedings by the fourth day of February term, 1810; provided a copy of this order be served on the complainant, or his counsel, before the first day of February next.

On the part of the responding defendants, the case was afterwards again submitted to the court on notes by the defendants' solicitor, in which it was stated, that this cause stands under a rule further proceedings, which expired on the fourth day of February term; that Oliver had not answered, and the responding defendants had no means of compelling him to answer. Upon this state of the case the defendants, who had answered, prayed a dismissal under the rule; or that the injunction be dissolved, upon such terms as the Chancellor may deem proper.

7th April 1810.—KILTY, Chancellor.—On that part of this application, praying for a dissolution of the injunction on the former notice, the Chancellor refers to his order of the 1st of March, 1809. On that part praying for a dismissal on the rule, the Chancellor considers the session of the court is not at present open for such a motion. And on the application in writing by the counsel for the complainant, it is ordered that a commission issue to the persons named by him, unless commissioners are named by the defendant so as to be struck before the first day of May next. Provided a copy of this order be served on the defendant's counsel before the 20th inst.

After which a commission was issued, testimony taken, and the case submitted for final hearing; without the answer of the defendant Oliver.