he should be held answerable for the delay, and be charged with interests and costs.

In this case *Chase* pleaded, or suffered to be pleaded *nul tiel record*, and *nulla bona*. He thus opposed the plaintiff's right to recover as principal and as ally in the controversy. He assumed the hostile attitude and position of a litigating debtor in every point of view. He comes now, therefore, with an ill grace into a court of equity to ask to be exempted from bearing the burthen of that loss which was the necessary and inevitable consequence of the position he had assumed. This same creditor had, just previously, to obtain satisfaction of this same debt, made a similar demand by attachment upon *John H. Barney*, who brought his debt into court and was thereupon dismissed *without* costs. *Chase* should have profited by the example.

But, it is said, that the attachment placed *Chase* in the condition of a mere stake-holder; and that a stake-holder is never charged with interest. Such, however, is not the case here, in point of fact. These parties have not consented, that *Chase* should stand here between them, and keep this money as a mere stake-holder; nor has the attaching creditor forced him to assume and continue in that position. Because, the court of justice, before which he was cited, was open and ready to relieve him from that situation, whenever he thought proper to ask its protection. If without having had the money attached in his hands, it had been demanded of him by two or more persons, each of whom claimed a right thereto in opposition to the other, he might have filed his bill of interpleader, and been relieved from the risk of paying it to either. But he could only ask for such relief on bringing the money into court; for equity will in no case even listen to any such cause of complaint, so long as the party holds the money in his own hands.(*q*.)

Upon the whole then, it appears, that the rule laid down by the highest judicial authority of Pennsylvania upon this subject, is founded upon principles which have no existence in this State; and that the reasons of it are at variance with many of the well established principles of our law. Consequently, however just and beneficial the rule may be there, it cannot be considered as deserving the least regard in this State.

The case of *Quynn* v. *West*,(*r*) decided by the late General

(*q*) 1 Mad. Chan. 174; Spring *v.* S. C. Ins. Company, 8 Wheat. 268.—(*r*) 3 H. & McH. 124.