

nately over the whole territory of the state. (i) But here no objection of this kind appears to have been made by these witnesses; and, therefore, they must be ordered to attend as prayed.

Ordered, that the said *Charles Waters* and *O'Neal Cromwell*, attend before the said commissioners at their office in the city of Baltimore, on Monday, the 18th day of the present month, and from time to time thereafter, as the said commissioners may appoint, then and there to answer, on oath or affirmation, all such lawful questions as may be propounded to either of them, touching the said matter in controversy; and, on failing to do so, that they or he who shall so fail, be forthwith thereafter, brought before this court to answer the said contempt. Provided that the said commissioners give notice, as usual, to the opposite party, of the time and place of taking the said testimony. And it is further *Ordered*, that the register issue an attachment as prayed to enforce obedience to this order.

After which, these witnesses attended, their depositions were taken, and the commission was returned, together with their and other testimony. Upon which the case was heard; and on the 30th of April, 1833, it was *Decreed*, that the administrator should pay to the plaintiff the balance of the purchase money, other than that due upon the bond, &c.

THE BANK v. DUGAN.

A creditor's suit against an executor alone.—A creditor permitted to come in, on petition, before the defendant had answered.—Where a plaintiff has an interest in books, which the defendant admits to be in his possession, he may be ordered to produce them; but they must be called for by petition, not by way of exception to the defendant's answer.—The answer overrules the plea.

THIS bill was filed on the 22d of May, 1829, by *The President and Directors of the Bank of Maryland* against *Cumberland Dugan*, surviving executor of *James Clarke*, deceased. The bill charged, that the executors of the deceased by their improper, negligent, and illegal conduct had so managed the assets of the deceased, that a large amount of them had been wasted; in consequence of which his creditors had not been paid. Whereupon

(i) Anonymous, 4 Mad. 463; *Dorsey v. Hammond*, 1 Bland, 465.