

of five *per cent.* to the trustees for all sums collected by them by suit as attorneys at law. Without any further controversy as to the rights of the creditors or parties, the case seems to have been, on the 28th of September, 1836, finally closed.

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HALL v. MCPHERSON.

On the filing of a bill for an injunction the defendant may instantly put in his answer, so as thereby to prevent the granting of an injunction as prayed.—A party may be compelled, in a summary way, to pay the costs due to a commissioner.

As by a decree to account the defendant becomes an actor, the plaintiff cannot thereafter dismiss his bill without notice to the defendant by a rule further proceedings.—A person who has been finally discharged under the insolvent law cannot sue or be sued in relation to any property so transferred to his trustee for the benefit of his creditors.—A discharge under the insolvent law of a party to a pending suit, does not operate as an abatement; but the suit becoming thereby defective, the defect must be removed before the suit can be allowed to proceed.

THIS bill was filed on the 21st of April, 1826, by *Thomas I. Hall*, administrator of *Thomas Tongue*, against *Thomas T. McPherson*. It states, that on the first of July, 1822, a partnership was formed under the firm of *Tongue & McPherson*, between the intestate of the plaintiff and the defendant, which was carried on until the first of November, 1825; of the profits of which *Tongue* was to have two-thirds and *McPherson* one-third. That immediately on the dissolution of this firm they entered into another co-partnership, the profits of which they were to share equally under the firm of *Thomas T. McPherson & Co.* which continued until *Tongue's* death; which happened on the 2d of January, 1826. After which letters of administration on his estate were granted to this plaintiff. That both of these firms were largely indebted; that the stock of goods remaining on hand, and in the possession of the defendant, was very considerable; which, with the debts due to them, if properly managed, would be sufficient to satisfy all the claims against them and leave some surplus. That the defendant, although frequently requested, had not exhibited to the plaintiff any statement of the transactions of those firms. That the defendant, since the death of the plaintiff's intestate, had continued to carry on business, and was selling the stock of goods belonging to the two firms without taking any inventory thereof; or in any