

the nature of the case may suggest; and to report his proceedings to the Chancellor.

By consent a commission was issued to *Joseph G. Harrison* to take testimony; who accordingly took the depositions of several witnesses and returned them with the commission. After which he filed a petition in which he stated, that his fees, as commissioner, against the defendant amounted to the sum of \$16, which he had neglected to pay, although repeatedly called on so to do. Whereupon he prayed for an order for payment.

15th May, 1829.—BLAND, *Chancellor*.—Ordered, that the defendant *Thomas T. McPherson* forthwith pay to the commissioner *Joseph G. Harrison*, the sum of sixteen dollars, being for his commission fees as above stated.

On the 9th of March, 1832, the plaintiff filed a supplemental bill in which he stated, that the defendant *Thomas T. McPherson* had on application to Anne Arundel County Court, been finally discharged under the insolvent law, that *Robert McPherson* had been appointed trustee for the benefit of his creditors; and that soon after *Thomas T. McPherson* died utterly insolvent; that no administration had been, or would be granted on his estate; by reason whereof this suit had abated. Whereupon he prayed, that it might be revived against *Robert McPherson*, the trustee of the late defendant, &c. The *subpœna* issued on this bill was returned summoned to March term, 1832.

The plaintiff, by his petition, filed on the 20th of July, 1832, prayed to have leave to dismiss his bill, and for the usual order in such case.

26th July, 1832.—BLAND, *Chancellor*.—This case having been submitted with notes by the plaintiff's solicitor, and no one appearing for the defendant before the close of the sittings of the term, the proceedings were read and considered.

The application of a plaintiff to dismiss his bill is one which is, ordinarily, granted as of course, at any stage of the proceedings, on the payment of costs. (b) But in this case there having been a decree to account, each party has been thereby virtually clothed with the rights of an actor; after which the defendant having

(b) 4 Ann. c. 16, s. 23; Kilty's Rep. 247; Anonymous, 1 Ves., jun., 140; Dixon v Parks, 1 Ves., jun., 402.